

DOCKETED
USNRC

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

82 AUG 23 19:15

Before the Nuclear Regulatory Commission
OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of:)
)
THE CINCINNATI GAS & ELECTRIC)
COMPANY, et al.)
)
(Wm. H. Zimmer Nuclear Power)
Station))

Docket No. 50-358

MIAMI VALLEY POWER PROJECT'S PETITION FOR RECONSIDERATION
OF THE COMMISSION'S ORDER OF JULY 30, 1982

On July 30, 1982, the Nuclear Regulatory Commission issued an order directing the Atomic Safety and Licensing Board ("Licensing Board") to dismiss eight contentions proposed by Intervenor-Petitioner Miami Valley Power Project ("MVPP") and admitted by the Board under its sua sponte authority. 10 C.F.R. § 2.760a.

MVPP petitions the Commission to reconsider its decision and allow reopening of the record in this licensing proceeding to permit consideration of these contentions concerning the adequacy of quality assurance at Zimmer and the character and competence of Cincinnati Gas & Electric Company ("CG&E") to operate the plant safely.

Petitioner MVPP also files today a petition to stop construction, and by this reference incorporates that petition into this Petition for Reconsideration.

DS03

I. BACKGROUND

This petition is brought by the Miami Valley Power Project ("MVPP"). MVPP is represented by the Government Accountability Project ("GAP") of the Institute for Policy Studies.

Applicant Cincinnati Gas and Electric ("CG&E") has construction and operating responsibilities for the Zimmer station, which is 40 percent owned by CG&E. The other joint applicants are Columbus and Southern Ohio Electric Company and Dayton Power and Light Company. The principal contractor at the site is the Henry J. Kaiser Company ("Kaiser"). The architect/engineer is Sargent and Lundy ("S&L").

During 1981 Zimmer was the subject of extensive NRC investigations. In 1981, the Office of Investigation and Enforcement ("IE") began a massive re-investigation of alleged safety problems at the Zimmer plant. On April 8, 1981, the NRC issued an Immediate Action Letter ("IAL") which imposed a Quality Confirmation Project, as well as management reorganization on CG&E. CG&E was also forced drastically to increase its staff for the Quality Assurance ("QA") program on site. The thrust of the IAL was to require CG&E to assume a more direct, active role in the QA program.

During the summer of 1981 the Office of Inspector and Auditor ("OIA") conducted a criminal investigation into intentional violations of 10 C.F.R. Part 50, Appendix B, the NRC QA regulations. Among the issues investigated were alleged falsification of QA documents and intentional failure to conduct quality control inspections. The investigation was suspended due to alleged difficulties of coordinating multiple NRC inquiries at once.

In response to a GAP disclosure on behalf of Thomas Applegate during 1981, OIA also examined a previous IE investigation into Mr. Applegate's allegations about safety problems at Zimmer. On August 7, 1981, OIA completed its report: Special Inquiry re: Adequacy of IE Investigation 50-358/80-9 at the William H. Zimmer Nuclear Power Plant, Office of Inspector and Auditor, U.S. Nuclear Regulatory Commission (August 7, 1981) ("OIA Report"). The OIA Report found that the Region III investigation was unsatisfactory and had wrongly rejected Mr. Applegate's allegations of unacceptable welds at Zimmer.

During the Spring of 1982 MVPP learned that the IE Report identified only a small portion of the deficiencies in the Zimmer QA Program.

On May 18, 1982, MVPP moved for leave to file eight new contentions related to the QA breakdown. The proposed contentions are: 1) CG&E has failed to ensure that the as-built condition of the plant reflects the final accepted design; 2) CG&E has failed to maintain adequate material traceability to identify and document the history of all material, parts, components and welds; 3) CG&E has failed to maintain an adequate QA program for vendor purchases; 4) CG&E has failed to maintain an adequate quality assurance program to identify and correct construction deficiencies; 5) CG&E has failed to maintain adequate controls to process and respond to internal Nonconformance Reports ("NR's"); 6) CG&E has failed to prevent illegal retaliation against QA/QC personnel who diligently attempted to perform their duties or who disclosed problems to the NRC; 7) CG&E's Quality Confirmation Program

fails to address or assure adequate corrective action to remedy the QA breakdown; and 8) CG&E does not have the necessary character and competence to operate a nuclear power plant. On July 8, 1982 MVPP submitted additional documentation in support of its proposed contentions.

On June 10, 1982 the House Subcommittee on Energy and the Environment of the Committee on Interior and Insular Affairs held hearings on the QA breakdown at Zimmer. Witnesses included representatives from the NRC, CG&E, the State of Ohio, the National Board of Boiler Inspectors, and the QA workforce at the site.

On June 16, 1982 representatives from CG&E and MVPP briefed the Commission on their views of the QA breakdown at Zimmer.

On July 15, 1982 the ASLB, sua sponte, reopened the licensing hearings and admitted MVPP's proposed eight contentions for litigation.

On July 30, 1982, the Commission issued an Order holding that the Board had improperly exercised its sua sponte authority to reopen the licensing hearings and admit MVPP's proposed eight contentions, and directed the Board to dismiss the contentions. The Commission stated that it believed the NRC Staff could adequately monitor the applicants' Quality Confirmation Program and the issues raised by the contentions would be resolved in the Staff's ongoing investigation.

II. THE COMMISSION HAS ABUSED ITS DISCRETION BY IMPROPERLY RESTRICTING THE LICENSING BOARD'S CONSIDERATION OF SERIOUS SAFETY PROBLEMS AT ZIMMER.

The Board raised these eight contentions sua sponte after finding that the total QA breakdown at Zimmer had created an extraordinary situation:

The Staff has identified Zimmer as a plant with a serious quality assurance breakdown. Fines have been imposed by Staff and paid with respect to this breakdown. The Commissioners were recently briefed on this situation by Applicants and MVPP, indicating the continuing concern about the matter.

Board Order, at 7.

Under 10 C.F.R. § 2.760a, licensing boards possess the authority to raise issues sua sponte upon making a finding that "a serious safety, environmental, or common defense and security matter exists." Texas Utilities Generating Company (Comanche Peak Steam Electric Station, Units 1 & 2), CLI-81-24, 14 NRC 614 (1981). Licensing boards clearly have responsibilities independent from those of the Commission staff. Judicial decisions have held that it is not only the responsibility, but the affirmative duty of licensing boards to explore in public hearings safety issues of concern. Recently the Licensing Appeal Board for Diablo Canyon held that the Licensing Board was required to look carefully at the applicants' security plan, since it was a matter of concern to intervenor and staff. The fact that the parties to the proceeding wanted it to be litigated was an important reason that the Appeal Board found it needed public airing. The Appeal Board found a full on-the-record hearing required by due process, as well as by the

Administrative Procedure Act. Pacific Gas & Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 & 2), ALAB-580, 11 NRC 227, 230 (1980). See also, Northern States Power Company (Monticello Nuclear Generating Station, Unit 1), ALAB-611, 12 NRC 301 (1980), in which an Appeals Board held that in light of the controversy surrounding the issue of anticipated transients without scram, the Board was not only authorized, but "obligated" to examine the issue.

Commissioner Gilinsky, in his separate opinion, recognized the importance of a public hearing when he wrote, "[a]lthough this is not the most efficient means of handling this matter, it will be needed until the Commission and the NRC staff deal with quality assurance more effectively." CLI-82-20, slip op.

The sua sponte authority of Atomic Safety and Licensing Boards has been continuously expanded in recent times, in recognition of the important role they play in the licensing process. Prior to 1974, they could exercise this authority only in "extraordinary circumstances," and only after overcoming the presumption that the parties had adequately shaped the issues that needed to be heard, and the regulatory staff and the Advisory Committee on Reactor Safeguards ("ACRS") in their reviews had adequately addressed the issues. However, the Commission held in Consolidated Edison Company of New York (Indian Point Nuclear Generating Station, Unit 3), CLI-74-28, 8 AEC 78 (1974), that licensing boards should not be restricted in exercise of their sua sponte authority. It stated explicitly that licensing boards, as "the agency's primary fact-finding tribunal in the hearing process" must be allowed to explore issues that it considers important. To compel the Boards to refer safety matters to the staff for resolution would be insulting to their "stature and

responsibility." Ibid. The Commission also emphasized that each Board was expressly composed of two technical experts and a lawyer to make decisions on technical issues, and that these decisions should be made openly, on the record, after giving the parties an opportunity to be heard. Id., at 8-9. See also, Northern States Power Company (Prairie Island Nuclear Generating Plant, Units 1 & 2), ALAB-419, 6 NRC 3, 6 (1977), in which the Appeal Board held that a licensing board's judgment as to what is in controversy in a proceeding is entitled to great respect.

In order to ensure that the scope of the Board's powers was not unduly restricted, the Commission subsequently deleted the "extraordinary circumstances" criterion of 10 C.F.R. § 2.760a, effective November 30, 1979, and stated explicitly that the amended rule would thereby "eliminate an apparent restriction on boards as well as more accurately reflect current NRC adjudicatory board practice." 44 Fed.Reg. 67088 (November 23, 1979).

The July 30, 1982 Order of the Commission can be seen as an unwarranted attempt to return to the old rule that unduly restricted licensing board's authority to consider safety issues they considered important. Moreover, simply because MVPP, an intervenor, originally proposed the eight contentions, the Board should not be barred from raising these same issues sua sponte. As any adjudicatory body, the Licensing Board must depend in large part on the facts, information, and issues brought to its attention by the parties. It should not be constrained in the exercise of its authority merely because as any adjudicatory body it does not have the resources, nor is it its role, to investigate overall QA problems at Zimmer. Further, as

argued in MVPP's Motion for Leave to File New Contentions, the NRC Staff consistently failed to inform the Board about these matters. The Staff merely told the Board that the IE and OIA Reports, describing in part the major QA breakdown at Zimmer, were located in the Public Documents Room, but provided no further information.

Contrary to the implicit argument by the Commission that the Licensing Board and the NRC Staff would perform identical monitoring functions in overseeing the QCP and CG&E's corrective actions, the roles of the Board and of the Staff are decidedly different. A Licensing Board is authorized to conduct a public, independent review of the Staff's work, on all issues properly raised by the parties or by the Board itself. As a technical body, the Board is authorized to resolve issues raised about whether the plant as constructed is safe, and whether it is cost-beneficial, according to the balancing mandated by the National Environmental Policy Act.^{1/}

The NRC Staff is a party in the licensing proceeding, in part as a representative of the public interest. The Staff also, however, has a dominant role in assessing the radiological health and safety aspects of nuclear reactors pursuant to 10 C.F.R. Part 2, Appendix A,^{2/} and making a recommendation as to whether the utility-applicant should receive a license to operate the plant. The staff makes an

^{1/} Its sua sponte authority has been called "a residual power to delve into any serious matters which it uncovers, even if no party has put them into issue." Consolidated Edison Company of New York (Indian Point, Units 1, 2 & 3), ALAB-319, 3 NRC 188 (1976).

^{2/} At the construction permit stage, where an adjudicatory hearing is mandatory, Boards are authorized to rely on the Staff or ACRS reviews if their conclusions are not controverted by any other party. 10 C.F.R. Part 2, App. A, §§ V(f) (1), V(f) (2).

independent recommendation as to the licensing of the plant on all matters not brought into issue by an intervenor or the Board itself. 10 C.F.R. §§2.760a, 2.105(e), 50.57. See, South Carolina Electric & Gas Company (Virgil C. Sumner Nuclear Station, Unit 1), ALAB-663, 14 NRC 1140, 1156 (1981).

However, the Licensing Board's authority to raise safety and environmental issues sua sponte, regardless of the Staff's position, has been uniformly upheld. Consumers Power Company (Midland Plant, Units 1 & 2), ALAB-132, 6 AEC 431 (1973) (adequacy of quality assurance program); Southern California Edison Company (San Onofre Nuclear Generating Station, Units 2 & 3), ALAB-268, 1 NRC 383, 399 (1975) (acceptability of exclusion area); Pacific Gas & Electric Company, supra, at 230 (adequacy of security plant); Texas Utilities Generating Company, supra, at 615 (quality assurance program).

The Board in this case has especially good reason to exercise its authority to ensure public litigation of these QA and "character and competence" issues. Zimmer may be the most troubled plant in the country. In releasing the IE Report, Region III Administrator James Keppler characterized the QA program at Zimmer as "totally out of control." See, Cincinnati Enquirer Article, November 26, 1981, attached and incorporated herein as Attachment 1. When asked by the Commission at a briefing on June 7, 1982 why Zimmer's problems were not detected earlier, Keppler stated it was a problem of not seeing the forest for the trees, not understanding that the individual nonconformances, harassment of QC inspectors and improper QA records were symptoms of a structural failure of the program. Briefing, June 7, 1982, Tr. at 9. The Board, in raising these QA

and "character and competence" contentions sua sponte has embraced Mr. Keppler's recently-found wisdom, and determined that such serious issues unarguably must be resolved publicly. It is instructive that Mr. Keppler and the NRC Staff supported reopening the licensing proceedings.

Public adjudicatory hearings benefit the public in many ways. The Board recognized the necessity of hearings in this case when it found:

[W]e believe that a full public airing of this matter will not only contribute to public confidence, but will also strengthen the QA program. Subjecting the program to the scrutiny of the Commission's adjudicatory process can only contribute, not detract, to reasonable assurance that the public health and safety will be protected.

Board Order at 7-8.

In March 31, 1981 testimony before the Subcommittee on Nuclear Regulation of the Senate Commission on Environmental and Public Works, former Commissioner Bradford pointed out that--

[W]e look to public hearings to serve two purposes. They should provide a strong and skeptical independent check on the NRC's internal reviews, and they provide the only avenue for citizens to resolve concerns about a new and serious hazard being introduced into their communities.

For example, the Licensing Board denied applicants a full-power operating license on the basis of deficiencies in the emergency planning program. See Initial Decision, June 21, 1982. The Staff, on the other hand, found applicants' overall performance in the full-scale emergency exercises satisfactory while listing some weaknesses in the program. See, Systematic Appraisal of Licensee Performance ("SALP") Report, June 1982, at 9. The Licensing Board's

insistence that the applicants improve their emergency planning program will serve to enhance Zimmer's safety in the event of an accident and increase the public's confidence.

MVPP argues strongly in Part II, infra, that a "strong and skeptical independent check" is precisely what is needed in this case, considering the NRC Staff's long-term failure to monitor the QA program sufficiently to assure the public that Zimmer is being constructed and will be operated safely.

Focusing, however, on Commissioner Bradford's second factor, MVPP believes the Commission must realize the urgency of public hearings on potential safety problems at Zimmer. Both the Cincinnati and national press have examined intensely the QA failures and hardware problems at Zimmer. The House Subcommittee on Energy and the Environment held a hearing on June 10, 1982 on Zimmer, and will hold a second one on September 14. The Commission itself, on June 16, 1982, held an unusual session in which it asked both CG&E and MVPP representatives to discuss the problems at the plant. In November 1981, the NRC issued a massive report on the QA breakdown, and levied an unprecedented \$200,000 fine against CG&E for falsification of records, harassment of QA inspectors, and improper QA/QC procedures. The Staff continues its investigation into allegations of safety problems. A criminal investigation focusing on CG&E's possible involvement in falsification of records was reactivated this past June. See Keppler Briefing, June 7, 1982, at 59. Mr. Keppler now admits publicly that there are "hardware problems" at Zimmer. In response to a request from Congressman Udall about the status of the QCP, Mr. Keppler recently wrote that the following

hardware problems have been found at Zimmer:

(1) Of 259 cable tray foot connections inspected, 253 were nonconforming in some manner. Associated with the 253 nonconforming connections were 975 deficiencies.

(2) Of 161 drywell steel beams inspected, 93 were nonconforming in some manner. About 369 deficiencies were associated with the 93 nonconforming beams.

(3) Of 106 beams inspected of gallery steel in the control rod drive area, 39 were nonconforming in some manner.

(4) About 150 of the 208 structural steel beams inspected in the control room were found to be nonconforming in some manner. About 1835 deficiencies were associated with these nonconforming beams.

Mr. Keppler also reported substantial documentation problems:

(1) A review of 2354 small-bore piping drawings disclosed heat number discrepancies on about 20 percent of the drawings.

(2) Review of over 1900 purchase orders for piping disclosed heat number discrepancies on about 20 percent.

(3) Of 3206 purchase order reviewed, the Program found some unapproved vendors, some upgrading of non-essential material to essential, and unsigned certified material test reports.

The Staff also questions CG&E's preliminary assessment that all welders presently working on site are qualified, and that all material presently being installed has been purchased from qualified vendors. See Keppler Response, attached and incorporated herein as Attachment 2.

Region III has found that the QCP has disproved, rather than

confirmed, the quality of construction. Moreover, the number of workers willing to come forward and risk retaliation to disclose what they believe are potentially serious safety problems at the plant continues. Under these circumstances, the Commission cannot foreclose hearings on the QA issues without denying the public its opportunity to "resolve" their concerns about whether or not Zimmer has been constructed, and will be operated, safely.

Intervenor's due process rights are also implicated in the Commission's reversal of the Licensing Board's decision. MVPP submitted only as much documentation as it believed was required as basis for its proposed eight contentions. Subsequently, the Board raised the eight contentions sua sponte, and MVPP was not required to submit all the documentation and affidavits it had collected to support the contentions. Attached today in support of this Petition for Reconsideration and MVPP's companion Petition to Stop Construction, MVPP has included new information that surely provides sufficient basis for the eight contentions. The Commission cannot now deny MVPP's Petition for Reconsideration on the ground that MVPP failed to provide this evidence at a prior time to the Licensing Board. Relying on the Licensing Board's adoption of its proposed contentions, MVPP was not required to submit all of its evidence. To deny MVPP's petition at this point on the ground it did not originally provide enough information would deny it its due process rights to a fair and rational adjudicatory process.

In the last three months, the public's concern about the integrity and character of CG&E has grown as statements CG&E

officials made to the Commission and Congress have been refuted by internal CG&E and Kaiser memoranda. Contrary to CG&E's claims that it did not interfere with Kaiser's QA program, or deny Kaiser adequate staffing, these documents demonstrate that CG&E has closely monitored and usually controlled the Kaiser QA program since 1973. Moreover, Kaiser requests for more staffing were repeatedly denied since that time. See, MVPP Petition to Stop Construction, Part IV.

The applicant additionally has misrepresented to the Commission the details of the current QCP, including, for example, the In-Process Inspection Deficiency Record ("IIDR") system. See, Devine Letter, July 9, 1982, attached and incorporated herein as Attachment 3.

These statements by CG&E officials have been questioned publicly by MVPP, GAP, Congress and numerous media representatives. There can be little doubt that the public is concerned, with good reason, about the integrity of CG&E and its ability to comply voluntarily with NRC regulations.

The Chief Administrative Judge to the Atomic Safety and Licensing Board Panel, B. Paul Cotter, Jr., has listed additional benefits of the Board hearing not considered by the Commission in its July 30, 1982 order:

- 1) Staff and applicant reports subject to public examination are performed with greater care;
- 2) preparation for public examination of issues frequently creates a new perspective and causes the parties to re-examine or rethink some or all of the questions presented;

- 3) the quality of Staff judgments is improved by a hearing process which requires experts to state their views in writing and then permits oral examination in detail; and
- 4) Staff work benefits from two decades of hearings and Board decisions on the almost limitless number of technical judgments that must be made in any given licensing application.

Memorandum from ASLB Chief ALJ B. Paul Cotter, Jr., to Commissioner Ahearne on the NRC Hearing Process, May 1, 1981, at 8.

In this case the NRC Staff at Zimmer is making important policy decisions about the extent to which applicants must re-examine and certify the quality of completed construction, and about whether CG&E, as lead applicant, has the character and competence to operate Zimmer safely and in compliance with NRC regulations, when CG&E officials may be questioned in connection with a criminal investigation for falsification of QA records and intentional violations of the Atomic Energy Act. The NRC Staff should be accountable to the public for these decisions, especially when there are deep differences of opinion within the agency itself. Mr. Keppler, the NRC Staff and Licensing Board advocated reopening the proceeding for consideration of MVPP's eight contentions. Other NRC Staff are known to oppose hearings. Under these circumstances, the Commission must choose a public airing of the controversy to dispel the public's doubt about the Commission's commitment to make Zimmer safe. As discussed in Part III, infra, the NRC Staff had serious differences of opinion about the final form of the IE Report. Mr. Keppler also disagreed with his investigative staff about whether or not to stop construction at Zimmer pending some progress on the mass of QA problems at the

plant uncovered by April 1981. See, Part IV, infra.

The QCP and the needed corrective actions by CG&E are part of a lengthy process. Certainly the record built at adjudicatory hearings will aid the Staff in determining the quality of construction at Zimmer. As Judge Cotter noted,

The NRC hearing process builds permanent records in an organized fashion on a host of managerial and scientific issues for future reference. There is little, if any, merit to the argument that some other system, such as informal meetings or discussions, could replace the completeness, continuity, and consistency that the present system has built over the last two decades and permanently records in licensing and Appeal Board decisions.

Id., at 17-18.^{3/}

It is only through public participation in the licensing process that those who live in the vicinity of Zimmer will accept the plant or recognize legitimacy for the NRC's authority to grant or deny CG&E an operating license.

The public's contribution to the licensing process has already been recognized by the NRC Staff. MVPP, as intervenor, and its counsel GAP disclosed to the NRC many of the original allegations that forced Region III to re-examine the CG&E QA program. Mr. Keppler recognized in testimony before the House Subcommittee on Energy and the Environment that it was GAP and not his own investigators who first uncovered Zimmer's problems. See, Cincinnati Enquirer Article, June 11, 1982, attached and incorporated herein as Attachment 4. In this licensing proceeding, as in many others, intervenors can make a substantial contribution to the airing of important safety issues.

^{3/} The Kemeny Commission, and the NRC's internal (Rogovin) investigation in the aftermath of the TMI-2 accident recommended greater public participation.

The Joint Committee on Atomic Energy recognized long ago that the boards would provide a "more searching, more authoritative evaluation of safety factors than is possible under the appellate court type of review...." S.Rep. No. 1677, 87th Cong., 2d Sess. (1962), at 75.

III. THE NRC STAFF HAS DEMONSTRATED IT IS NOT CAPABLE OF ADEQUATELY MONITORING APPLICANTS' QUALITY ASSURANCE PROGRAM BY ITSELF.

The NRC Staff has failed to assure the public that on its own it is capable of monitoring CG&E's conduct to ensure that Zimmer is and has been constructed so as to protect public health and safety. In 1981 the Office of Inspector and Auditor ("OIA") and the Office of Investigation and Enforcement ("IE") conducted major investigations of Zimmer. Nonetheless, their reports have not adequately addressed the scope of the QA breakdown or the causes of serious safety problems. Moreover, their reforms do not address the root causes of the breakdown or the most serious problems. OIA found that the original IE investigation on Thomas Applegate's allegations (IE Report 50-358/80-09) failed to observe fundamentals basic to all government investigations. See, Memorandum from OIA Director Cummings to Chairman Palladino, October 8, 1981, at 2. The OIA Report found also that Region III had improperly rejected allegations of unacceptable welds brought forward by Mr. Applegate.^{4/} A second Region III Report on interim findings of a "reinvestigation" of Zimmer, IE Report 50-358/81-13, issued on November 21, 1981, identified 40 new noncompliances. Yet, as will be discussed below, this report was severely censored and its conclusions are subject to question.

^{4/}

In a November 16, 1981 letter to Congressman Udall, Chairman Palladino agreed with OIA's assessment. See Palladino Letter, November 16, 1981, attached and incorporated herein as Attachment 5.

The Commission must reestablish its credibility in the eyes of the public, and its commitment to ensuring a thorough investigation of the quality assurance and construction problems at Zimmer.

- A. Since 1977 the NRC has failed to monitor adequately CG&E, even after NRC inspectors discovered severe, fundamental deficiencies in Zimmer's QA Program and CG&E's management structure.

Terry Harpster, an IE reactor preoperations specialist, worked at Zimmer from October 1977 until March 1979, as a preoperations start-up inspector. Harpster informed his superiors at the NRC of the following, according to an interview that was obtained by GAP under the Freedom of Information Act:

- 1) CG&E had no understanding of the resources needed for a nuclear plant and barely met staffing criteria required under ANSI Standard 18.1. CG&E personnel in important positions were not properly trained.
- 2) When Harpster left in 1979, one of Zimmer's major problems was that there was no quality assurance program for operations.
- 3) CG&E had minimal involvement with the construction of Zimmer and therefore no CG&E staff had the expertise necessary to operate the plant after turnover from Kaiser.
- 4) Harpster characterized Zimmer as "out of control" due to the problems that CG&E and Kaiser employees could not handle.
- 5) William Schwiers, CG&E QA Manager, was a friend of Earl Borgmann and appeared to be assigned to keep the plant manager Schott under control; Schwiers had tried to have IE Reports changed.
- 6) One assistant plant manager told Harpster that he was

afraid to tour the plant because of the convicted felons who worked on the site.

7) Pressure was put on inspectors not to find deficiencies because of the tight schedule for construction and the licensing process. Because of the high financial stakes, they usually did what they were told.

8) CG&E plant manager James Schott misrepresented certain facts to the ACRS and agreed to correct the misimpression; instead Schott made the misrepresentation even worse, and more misleading. See Harpster Interview, attached and incorporated herein as Attachment 6.

Harpster, in this six-page interview, neatly summarizes the problems Region III investigations were to find de novo in 1980 and 1981. Mr. Keppler, questioned by Commissioner Gilinsky during the June 7, 1982 briefing about why the NRC was discovering these problems so late in the licensing process was told, "We were not able to make connections of seeing the forest for the trees.... I think we were focusing on symptoms and not on the root causes of problems." Transcript at 9. Mr. Keppler also suggested that Applegate's allegations, forwarded to the NRC in 1979, were the first inkling he had of any problem. Yet Harpster spoke to Mr. Keppler and others at Region III about the QA breakdown at Zimmer fully two years before.

Some NRC inspectors agree with MVPP that the problems at Zimmer should have been detected three to four years ago. Reactor inspector Fred Maura, in a memorandum to Robert Warnick dated April 22, 1981, concluded, after writing up his investigation of Zimmer diesel generator subsystems:

The NRC shall determine why it failed so miserably during its routine inspection program in identifying and correcting the problems now surfacing at the Zimmer site. These are problems which should have been detected or corrected two or three years ago. Either our inspection program, the inspectors, our management, or a combination of all three allowed these problems to exist for so long.... Our findings raise the question whether Zimmer's problems are an isolated case or whether our program has allowed similar problems to develop in other plants within our region.

See Maura Memorandum, April 22, 1981, attached and incorporated herein as Attachment 7.

B. The NRC's Comprehensive IE Investigation of Zimmer Issued in November 1981 Was Severely Censored and Its Conclusions Changed After Internal Policy Debate Within the Staff.

On November 21, 1981, Region III issued an interim report on a massive investigation of Zimmer, IE Report No. 50-358/81-13 ("IE Report"). The IE Report identified noncompliances that violated 12 of the 18 criteria that define the requirements for an adequate quality assurance program. 10 C.F.R. Part 50, Appendix B.

The NRC also proposed a \$200,000 fine, the largest in history for a nuclear plant under construction. The fine was levied for the following reasons:

- (1) \$50,000 for falsified quality assurance records;
- (2) \$50,000 for harassment of and retaliation against QC inspectors; and
- (3) \$100,000 for failure adequately to document and implement the QA program.

On July 26, 1982, CG&E paid the fine.

A criminal investigation to look into possible criminal violations concerning intentional falsification of QA records and

violations of the Atomic Energy Act was begun. At least one top CG&E official, Mr. Schwiers, was questioned in connection with this criminal investigation. IE Report, at Exhibit 52.

During the Spring of 1982 MVPP discovered that the IE Report identified only a small portion of the deficiencies at Zimmer and did not include some of the most significant affidavits and statements that were taken by investigators. One of the excluded affidavits is of a former Butler employee, attached to this petition as Attachment 11. Another is the affidavit of an unidentified witness, attached to this petition as Attachment 10.

More importantly, MVPP learned that the final IE Report had changed significantly from an earlier draft and its basic conclusions were changed to justify less drastic action by the NRC against CG&E. MVPP learned of these deficiencies through discussions with confidential sources within the NRC, official inquiries, and information disclosed to MVPP by former and present Zimmer employees concerned about Zimmer's safety. Counsel for MVPP also made numerous FOIA requests to obtain the underlying documentation to the OIA and IE Reports.

In short, although the utility was subjected to apparently severe sanctions, the NRC investigations and the unexpurgated reports contained information much more damaging to CG&E. They originally documented more serious deficiencies at Zimmer with greater specificity; began to probe the causes of the QA breakdown; suggested knowledge and involvement of CG&E in possibly criminal activities, including intentional violations of the Atomic Energy Act and falsification of QA records; and stated that some hardware problems had been found at the plant. MVPP will detail some of

these differences between the draft and final versions of the Report. However, the differences in the two can be seen in capsulized form by comparing the introductory summary of facts of the draft version with the summary of the final Report:

DRAFT:

The current investigation has identified a number of quality-related problems at the Zimmer site.... Although some actual construction deficiencies have been identified, the majority of the problems identified to date focus on the ineffectiveness of controls implemented by the licensee and its contractors for assuring the quality of work performed. In addition, ...numerous problems have been identified with respect to the accuracy of quality-related records. This matter is being reviewed by the NRC Office of Inspection and Auditor for possible criminal considerations. Draft IE Report, at 6-7.

FINAL REPORT:

The impact of the identified quality assurance deficiencies on the actual construction has yet to be determined. ...Although a few problems requiring corrective action were identified, the majority of the tests and examinations disclosed no hardware problems.

Recognizing the significant quality assurance problems identified during the investigation, the NRC has required the licensee to establish a comprehensive Quality Confirmation Program to determine the quality of the system's importance to safety. The NRC will confirm the adequacy of the licensee's program. ...Deficiencies...will require resolution prior to issuance of an Operating License. IE Report, at 7.

Overall the final IE Report omitted some of the most damaging interviews that explained how CG&E had great control over Kaiser's QA program and QA staffing. Moreover, the final report did not mention the criminal investigation of CG&E officials for falsification of QA records; it suggested that there were no hardware problems, although the latest reports to Congress indicate that

the QCP has found numerous hardware problems; and tried to discredit GAP and Mr. Applegate. It did not quantify deficiencies, did not attempt to determine the root cause of noncompliances, and did not follow up on leads. Numerous employee interviews were edited or rewritten to weaken their statements that indicated CG&E knew of, and were involved in, violations of NRC regulations.

1. CG&E had a dominant role in the QA Program at Zimmer

A major conclusion of the IE Report was that CG&E did not know about the Kaiser QA practices. Mr. Keppler told the Commission as late as June 7, 1982, that he believed the root cause was CG&E's lack of oversight and abdication of responsibility to Kaiser at the site.

Yet the following deleted portions of the Draft IE Report directly contradict that conclusion:

(a) A July 8, 1981 interview of Phillip Gittings, former Kaiser QA Manager, conducted by OIA and sent to Region III, but excluded from the Final IE Report, indicates CG&E denied Kaiser adequate QA/QC staffing even though the utility knew Kaiser could not comply with 10 C.F.R. Part 50, Appendix B. See Gittings Interview, attached and incorporated herein as Attachment 8. Gittings told the investigators that prior to his tenure at Kaiser the company's QA/QC organization had failed to comply with NRC regulations. He also stated that Schwiers had refused his predecessor Robert Turner's frequent requests for additional QC personnel. Gittings also suggested that he had difficulties obtaining adequate personnel for Kaiser QA because of CG&E's control over staffing. He said Kaiser was "doing the work for a very tough client" who had

to approve all additional manpower requests. Although Gittings was not afraid of Kaiser's site construction manager Schwiers, he stated that his top priority on the job was to get along with Mr. Schwiers.

An interview the next day with William Schwiers, included as Exhibit 52 to the IE Report, confirmed Gittings' statements in part. Schwiers said if documentation established that CG&E refused Turner's requests for additional QA staff, these CG&E decisions would have been made at CG&E management meetings. Schwiers further said that in attendance besides himself were Project Manager Barney Culver, and supervisors for the Generation and Construction Departments. Schwiers said he did not remember if Vice President Earl Borgmann, to whom he reported, attended these meetings.

Both these interviews were forwarded to IE under cover of a November 18, 1981 memorandum from OIA Director James J. Cummings that explained these interviews were taken in connection with an OIA investigation of potential falsification of QA records. Also included under cover of this memorandum was a November 7, 1981 joint memorandum signed by three CG&E officials and one Kaiser representative that instructed Kaiser to eliminate the requirement that all QA documentation be reviewed prior to release of systems from the construction department to the Electric Production Department for preoperational testing. See Cummings Memorandum and Joint Memorandum, attached and incorporated herein as Attachment 9.

The Cummings' cover memorandum, Gittings' interview, and the CG&E-Kaiser memorandum all demonstrate CG&E's refusal to allow Kaiser to staff its QA program adequately to meet NRC requirements. All directly contradicted the Report's conclusions that CG&E had

abdicated control for the QA program to its contractor.

(b) Improper voiding of nonconformance reports ("NR's") occurred even after NRC inspectors met on December 2-3, 1980 with CG&E and the Kaiser QA Manager and told them that improper voiding of NR's was a violation of NRC regulations, including 10 C.F.R. Part 50, Appendix B, Criterion V.

The QA Manager on three occasions after that meeting directed NR's to be voided (CN 4309, NRC 0001 and CN 5412) and did not enter one other NR into the Kaiser NR Reporting System.

The draft report concluded that CG&E had failed to take corrective action to prevent recurrence of improper voiding of NR's or failure to record NR's even after the December 1980 NRC investigation.

(c) An affidavit by an unidentified, former Kaiser Assistant QC Manager stated definitively that in November 1976, Kaiser QA Manager William Friedrich was replaced due to longstanding disputes with CG&E QA Manager Schwiers. Friedrich, according to this affidavit, insisted on hiring more inspectors and wished to conduct the QA program in accordance with accepted standards of the nuclear industry. Schwiers, on the other hand, did not want to increase QA staffing because he did not believe CG&E should spend the money. According to the affidavit, Friedrich's replacement Robert Turner also had the same problems at the site. The affiant claims that Zimmer only had 25 in-process line inspectors at the site whereas other plants had 300 to 350 inspectors; Zimmer had eight or nine QA engineers, whereas other plants had from 30 to 50. He also said that CG&E management was unwilling to commit

itself to a QA program meeting nuclear industry standards as shown by the following:

- (1) Receipt inspections were inadequate;
- (2) In-process inspection was inadequate and documentation was poor;
- (3) Source inspection was inadequate;
- (4) Vendor audits were inadequate;
- (5) As-built designs were not available to craft personnel; and
- (6) Vendor-supplied items had poor quality welds.

See Affidavit, attached and incorporated herein as Attachment 10.

The final Report included strong evidence in the interviews accompanying the Report of CG&E's directive role in Kaiser's QA program. However, some portions of these interviews were never mentioned in the text of the IE Report. For example, Stewart Tulk gave investigators specific examples in which Kaiser Construction Superintendent Robert Marshall and Schwiens ordered a "hold tag" to be changed to a "rework tag" in the cable room so construction would not be stopped. Tulk said he reinspected this room 18 months later and found the same nonconforming conditions. IE Report at 134-35.

2. Retaliation and harassment were not adequately investigated.

NRC investigators uncovered intriguing leads on the physical harassment of QA/QC personnel at the Zimmer site, and evidence of retaliation by Kaiser management against conscientious QA/QC inspectors. Yet this significant information was either omitted from the final Report or its importance denied.

(a) Kaiser had contracted with Butler Services Group, Inc. ("Butler") for personnel to staff the QA program. The contract was terminated in November 1980, and Kaiser itself hired 17 of the Butler inspectors for its own QA organization. Gittings, in the interview excluded from the final Report, stated that the reason for eliminating 34 Butler inspectors was at least in part "cost cutting" and "eliminating 'over inspecting'." The Butler employees who were not rehired by Kaiser and left Zimmer claim that Kaiser was attempting to exert control over the QA program to ensure QC inspectors did not delay construction. Affidavits from all former Butler employees except one were included in the final IE Report, but the text of the Report did not mention these Kaiser actions. See Butler Affidavits, attached and incorporated herein as Attachments 11-A through 11-F. Moreover, eliminated from the final IE Report was a statement by Rex Baker, former Kaiser Engineer, that concluded inspectors hired from Butler Services were fired because they were critical of Kaiser's QA inspection procedures and techniques. After terminating the contract, Kaiser offered jobs to those who were not critical and would go along with Kaiser procedures, Baker added, in a statement included in the draft report.

(b) At least three Zimmer employees gave NRC investigators nicknames of construction workers suspected of dousing QA personnel. The investigators evidently never followed up to interview these construction workers. See Tyree, Price and Hamm, Sr. Interviews, IE Report, at 127-29.

Three other inspectors said they had been harassed by searches by security personnel. See Pallon, Jr., Miller and Sullivan Interviews, IE Report, at 126-27.

The investigators apparently never interviewed the security guards who did these searches.

Inspector David Hang said a pipefitter threatened him with bodily harm if he did not pass a weld. IE Report, at 133. No evidence is offered that the NRC interviewed that pipefitter.

Finally, Jesse Ruiz said Robert Marshall told his workers that anyone throwing water on a QC inspector would be fired, but none of these incidents were ever investigated by management. IE Report, at 129.

(c) Retaliation by Kaiser management against conscientious inspectors was ignored or buried in the final IE Report. The Report quotes Gittings' suggestion that Baker transfer QC inspectors James Ruiz, L. Q. Hendley and P. S. Wimbish for, among other things, nit-picking inspections. IE Report, at 130. Included in the draft report was a clearer explanation for Gittings' actions, explained by Rex Baker. Baker states simply, in the draft, that Gittings suggested that he reassign QC inspectors Ruiz, Hendley and Wimbish because they were "nit-picking" during their inspections and writing up too many nonconformance reports. Baker disagreed, and said

that he believed that the three inspectors were writing valid nonconformance reports and following Kaiser procedures. Baker said he did move Ruiz and Hendley from weld inspections in the reactor building to inspections in the fabrication shop.

The final Report suggests that Gittings wanted the three to be moved to avoid "future foreseen problems" and that Hendley was moved to the pipe support fabrication shop because of his proven ability in this area. IE Report, at 130.

3. Understating the extent of the problem.

The final IE Report failed to quantify many of the noncompliances investigators found, or to explain the significance of the noncompliances.

(a) CG&E procedures required that surveillance reports ("SR's") be transferred to nonconformance reports within 30 days if the nonconforming condition were not satisfied. Although the recording of nonconforming conditions solely on SR's was a major problem at Zimmer and included in the QCP, the final IE Report gives no indication in quantitative terms of the severity of the problem. It states merely that "[t]wo examples of one item of noncompliance were identified." IE Report, at 140-42.

Nor did the Report quantify the number of DDC's for which QA inspection may be inadequate. It merely states that the problem will be addressed in the QCP. Id., at 145.

The final IE Report identified a large number of problems with electrical cable trays, including inadequate separation of

cables and misrouted cables. IE Report, at 147-51. Yet the Report concluded that it had found only "six examples of three noncompliances." Id., at 8g.

(b) The final Report states that several thousand feet of structural hangar beams were purchased from vendors not on the approved vendor list and therefore in violation of 10 C.F.R. Part 50, Appendix B, Criterion VII. IE Report, at 146. It includes little other information about CG&E or Kaiser's problems with inadequate "approved vendor lists." However, the QCP contains a specific item that requires CG&E to survey all vendors for inclusion on approved vendor lists, and therefore indicates the NRC's focus on the deficiency. IE Report, Exhibit 17 at 13.

A memorandum from investigator James E. Foster dated July 28, 1981 demonstrates that the NRC understood that it was understating deficiencies in the IE Report, but did so deliberately. Foster notes that the NRC formerly had approved the practice of purchases from "unapproved vendors" and upgrading of materials from Class I to Class II in 1976 and 1977. Therefore, Foster wrote that the NRC should prepare an answer to explain the inconsistent philosophies. See Foster Memorandum, attached and incorporated herein as Attachment 12.

The Nolder Report, an independent investigation conducted by Kaiser Corporate Supplier QA Engineer Sherrill S. Nolder in July 1981, concluded that perhaps the NRC and CG&E had agreed that Kaiser's failure to comply with vendor survey requirements would not be found in violation of 10 C.F.R. Part 50, Appendix

B. See Nolder Report, at 12, attached and incorporated herein as Attachment 13.

(c) The final Report mentioned that 1,500 NR's had been voided or superseded. IE Report, at 8-A. Yet the Report does not examine the number of NR's which were reported missing, or placed in drawers under other names and may have been irretrievably lost from the system. At least some Zimmer employees also told investigators they maintained copies of voided or "accept-as-is" NR's to protect themselves. IE Report, Exhibits 5 and 39.

4. Failure to explain investigative and reporting methods

The NRC Staff gives no explanation in the IE Report for including particular interviews and excluding others. Investigators interviewed about 128 witnesses. Id., at 9-12. Only 38 interviews were included as exhibits to the final Report. In some cases one witness was interviewed up to six times. No explanation was given for inclusion of particular interviews or only portions of interviews. In at least 30 instances references were made in the text to witness interviews that were not included in the final Report.

The interview techniques of the NRC investigators were often sloppy. For example, Victor Griffin said investigator James Foster spoke to him for only two hours, compiled no formal statement, and spent a large part of the interview arguing with him about the nuclear industry. See Griffin Affidavit, attached and incorporated herein as Attachment 14.

Richard Reiter said that only a small portion of the infor-

mation he gave NRC investigators was included in the final IE Report. In illustration, he stated that only two of the 200 to 300 NR's he wrote during his tenure at Zimmer were covered in the IE Report. Although Mr. Reiter agreed to talk to the Federal Bureau of Investigation about possible criminal activity at Zimmer, he was never contacted. He also stated he was never asked whether he had information about CG&E's knowledge of improper QA practices. See Reiter Affidavit.

5. Failure to uncover the root causes of problems at Zimmer; split in the Staff on policy grounds.

The IE Report does not indicate whether individual, unquantified noncompliances have affected the quality of construction at Zimmer. Nor does it give the public any idea about the number or significance of individual examples of noncompliances. In part this is due to the Staff's failure publicly to report on the root or structural causes for the problems.

Comparison of the draft IE Report with the final version also demonstrates the deep policy differences that existed within the NRC. The draft documents more serious deficiencies and examines CG&E's deep involvement in the QA program, as well as the ongoing criminal investigation of CG&E officials in connection with falsification of QA records. Further, it states that some hardware problems have been found.

The final Report, as described above, eliminates key references to CG&E's role in the Zimmer QA program and retaliation by Kaiser QA management against QA/QC personnel who are seen as hindering

construction.

The final version also states that the QCP will resolve the problems and that CG&E is capable of reforming itself. Only the final and not the draft of the Report could permit Region III Administrator Keppler to tell the Commission on June 7, 1982 that the reason for the QA breakdown at Zimmer was CG&E's abdication of responsibility to its contractor.

IV. REGION III FAILED TO STOP CONSTRUCTION AT ZIMMER IN APRIL 1981 EVEN THOUGH ALL NRC INVESTIGATORS RECOMMENDED THAT ACTION.

On March 26, 1981, an exit interview was held among middle and senior management of Region III about the IE investigation. On March 27, 1981, Good Friday, NRC investigators met with Region III Administrator Keppler to report to him their findings. The investigators and inspectors overwhelmingly recommended to Keppler that the NRC halt construction at Zimmer.

On March 31, 1981, Keppler and Robert Warnick, then Chief of the Reactor Projects Section, met with CG&E Vice President Earl Borgmann. After that meeting, Keppler announced that an Immediate Action Letter ("IAL") would be sent to CG&E detailing required corrective measures, but the NRC would not order that construction at Zimmer be stopped. IE Report, at 158-59.

On May 11, 1981, GAP petitioned Region III to stop construction at Zimmer in order that past construction problems could be examined and corrected, and so that future work would not be compromised. On May 14, 1982, in a memorandum to the file, NRC Deputy Director A. Bert Davis noted that Tom Daniels, Zimmer's resident inspector, believed construction should be suspended pending correction of all the problems. See Davis Memorandum, attached and incorporated herein as Attachment 15. The NRC denied GAP's request.

Despite the strong recommendation of his staff, Mr. Keppler agreed to allow construction to proceed at Zimmer in the Spring of 1981. He later denied GAP's request to suspend construction even though the NRC's resident inspector believed this action was

necessary. It is clear that the decision to suspend construction at Zimmer was a major NRC policy decision which was made in closed-door meetings with NRC officials and CG&E executives.

In a case where the NRC Staff itself is deeply divided over the corrective action that should be imposed to ensure the future safe construction and operation of Zimmer, public input and oversight are of critical importance.

Licensing hearings will develop a sound public record on the problem and the corrective actions to be taken at Zimmer. Moreover, from recent information about problems with the QCP at Zimmer, Region III's decision to place CG&E in charge of the program should be re-examined publicly. It is appropriate that the public oversee what progress, if any, CG&E has made to determine the quality of construction of Zimmer and reform its QA program. It may be that the licensing hearings will lead to modification of the QCP or conditions placed on any operating license issued to CG&E.

V. DELAYS IN THE NRC'S REINVESTIGATION OF ZIMMER AND THE CRIMINAL INVESTIGATION OF FALSIFICATION OF QA RECORDS CAST DOUBTS ON THE STAFF'S ABILITY TO MONITOR CG&E'S REFORMS.

In the Summer of 1982, the NRC conducted interviews that were intended to gather evidence on potential criminal offenses concerning falsification of QA records. The investigation was suspended until June of this year. On February 25, 1982, investigator James McCarten urged the Director of Enforcement and Investigation Staff, Robert Warnick, to guarantee that NRC personnel with adequate training were brought into the investigation to conduct the criminal portion, instead of ceding control to the comparatively unqualified Staff of Region III. See McCarten Memorandum, attached and incorporated herein as Attachment 16.

However, on March 19, 1982, it appeared little progress had been made when the United States Attorney for the Southern District of Ohio, Christopher K. Barnes, issued a press release stating that the NRC would complete its civil investigation prior to restarting its criminal investigation. See Barnes' Press Release, attached and incorporated herein as Attachment 17. Since then Mr. Keppler announced at the June 7 briefing that the criminal investigation was re-opened in June.

The NRC therefore effectively suspended its investigation into possible criminal conduct on the part of an applicant and its contractor, for at least eleven months, a time frame in which the utility had control of nearly all the evidence that could eventually be used to prosecute it.

Region 'II also suspended its investigation into the large number of unresolved allegations about construction and QA deficiencies at Zimmer. At least 100 allegations remained to be investigated when the IE Report was issued last November. Nine months later, as construction proceeds at Zimmer, the NRC has yet to complete this reinvestigation, and the backlog of allegations has expanded to 200.

The NRC also has difficulty keeping adequately informed about the QCP. A month after asking for information from Region III about the status of the QCP, Congressman Udall had to renew his request. See July 12, 1982 Udall Letter, attached and incorporated herein as Attachment 18.

The Commission cannot, therefore, claim that the Staff is capable of both monitoring corrective action at Zimmer and continuing the reinvestigation into the numerous allegations that remain unresolved at Zimmer. Each day construction proceeds at Zimmer, the NRC Staff's job becomes more difficult, since prior construction work is covered over with new construction work.

MVPP also petitions the Commission today to stop construction at Zimmer pending a complete investigation of all outstanding allegations. Given the deep divisions within the Staff about the proper course for ensuring that Zimmer is constructed safely, and given the inability of the NRC to complete its criminal and civil investigations expeditiously, all construction should be stopped pending an evaluation of the QCP and the effect of corrective actions taken by CG&E thus far under the IAL.

MVPP believes a portion of the re-evaluation of Zimmer's progress should be public. Licensing hearings, in which the public can question CG&E about its compliance with NRC directives, are now the only way the public can be convinced that CG&E will operate Zimmer safely and the NRC has a commitment to ensure enforcement of its regulations to protect the public health and safety.

VI. NRC STAFF ENFORCEMENT AND INCONSISTENCIES DEMONSTRATE
SUSCEPTIBILITY TO CG&E PRESSURES THAT MAY COMPROMISE
THE PUBLIC HEALTH AND SAFETY.

In the Spring of 1981 Region III imposed on CG&E the Quality Confirmation Program ("QCP"), a reinspection and review effort intended to determine the quality of existing construction work at Zimmer, which is theoretically 97 percent complete.

The QCP is labeled a realistic way to determine the plant's safety. Yet CG&E has successfully pressured the NRC to weaken the program since its inception. On June 2, 1981, CG&E and Region III representatives met to discuss a draft of the QCP. Mutual agreement was reached to make certain changes. CG&E's W. D. Waymire went further, however, and made more handwritten changes. The final version of the Plan incorporated substantial CG&E modifications. See Waymire Memorandum and Draft, attached and incorporated herein as Attachment .

For example, while the original June 2 QCP required CG&E to make 100-percent visual reinspection of structural steel welds, the final version requires 100-percent reinspection of accessible structure steel welds unless CG&E can "justify less."

Although the QCP is uncovering significant hardware problems, the scope of the QCP has been recently reduced by the NRC. Region III authorized a 50-percent reduction of the 100-percent reinspection program for constructor and subcontractor QC inspections. According to the NRC, CG&E requested this reduction based on its own, Kaiser's and contractors' "revised quality assurance program[s]." See

Preliminary Notification of Event or Unusual Occurrence, PNO-III-82-72, August 3, 1982, attached and incorporated herein as Attachment 20. The 50-percent reduction was allowed because "Region III is satisfied with the licensee's effort thus far." Ibid.

Moreover, MVPP has discovered that the NRC and CG&E, over the last nine years, have come to an accommodation about certain practices that appear to violate NRC regulations. For example, as described in Part III, supra, the NRC and CG&E apparently have agreed between themselves that purchase of materials from vendors not on the approved vendor list and upgrading of materials to essential would be deemed permissible, in spite of 10 C.F.R. Part 50, Appendix B.

Similarly, the current IIDR system is being used to violate requirements about recording nonconforming conditions on NR's, and circumvents the post-IAL commitment to implement a working NR reporting system. Although MVPP brought the inadequacy of the IIDR system to the Commission and Staff's attention, and documented misrepresentations made by CG&E officials about IIDR's to the Commission, there has been no response. See, Attachment 3.

MVPP counsel has also sent an emergency letter to Mr. Keppler about the NR Action Plan, which appears to be another CG&E attempt to reduce NR's, and retaliate against those who issue them. The letter also enclosed an affidavit describing a collective decision by top CG&E and Kaiser management to deceive the NRC about welder qualification records. Region III has not yet answered counsel's letter. See July 15, 1982 letter, attached and incorporated herein as Attachment 21.

Further, NRC investigators have leaked information about their findings to CG&E officials, even though their investigations were intended to be confidential. For example, CG&E received sufficient information about the original IE investigation to make informal repairs while the investigation was being pursued. The OIA Report found that copies of welding records documented that rework on weld RH-42 was being conducted shortly after the NRC reviewed and found a nonconforming condition in the vendor sheet for weld RH-42. OIA Report, at 34-35.

CG&E can, in this way, discredit the final conclusions of the NRC Staff and stifle an investigation of greater scope that could expose serious deficiencies.

Although the NRC promised confidentiality to witnesses during its investigations, it was clear that the identities of at least some witnesses were disclosed to Kaiser and CG&E. In some cases these disclosures led directly to retaliatory personnel actions against these employees.

For example, Rex Baker, former Kaiser Inspection Supervisor of all QC inspectors, told OIA that in January 1981 he spoke to Region III investigators about allegations of improper voiding of NR's, reassignment of QC inspectors due to pressure by Kaiser construction, and changes in QC inspection procedures. The day after the interview Baker said he was with Marshall and R. P. Ehas, CG&E QA Engineer, when they were reviewing a list of employees the NRC intended to interview. Marshall, after reading the list, asked why Baker's name did not appear. Ehas replied, according to Baker, "They don't need him. He went down there yesterday and spilled his

guts to them." Baker was soon reassigned to the position of Supervisor for Nondestructive Examination. Shortly after, when the President of Kaiser Company was touring the plant with Marshall, Marshall introduced Baker by saying, "Here's Rex Baker, the source of all my problems." See Baker Interview, at 3, attached and incorporated herein as Attachment 22.

Finally, it is absolutely clear that CG&E receives secret reports on the current IE reinvestigation. To substantiate their claim that harassment and retaliation were not a major problem at the Zimmer site, CG&E officials wrote Congressman Udall that Region III's most recent findings disclosed no significant evidence of intimidation. Congressman Udall wrote to the NRC asking, in essence, how CG&E found out about NRC findings before Congress did, and before a final report had been issued. See CG&E Letter of July 21, 1982, and Udall Letter of August 3, 1982, attached and incorporated herein as Attachments 23 and 24, respectively.

The long delays and the gaps in the current reinvestigation, as well as in the prior NRC investigations, are further evidence that the NRC is simply unable to monitor adequately the applicants' progress in assuring the quality of the plant's construction or in remedying problems for the small percentage of ongoing new construction work.

Mr. Warnick has admitted to the Public Utilities Commission of Ohio ("PUCO") that Zimmer is the "biggest problem" of all nuclear plants Region III oversees. See PUCO Hearings, July 14, 1982, Vol. XI, Tr. at 51. Therefore, it seems not only sensible but necessary that the Commission open itself to suggestions from the

public, including MVPP in open licensing hearings, about how to ensure that Zimmer is constructed safely after nearly ten years of mismanagement and poor construction and QA practices.

VII. THE NRC'S ARBITRARY AND CAPRICIOUS REFUSAL TO IDENTIFY, AND EITHER DISCLOSE OR WITHHOLD UNDER AN EXEMPTION, NRC DOCUMENTS REQUESTED UNDER THE FREEDOM OF INFORMATION ACT BARS PUBLIC EXAMINATION OF NRC DECISIONS.

On June 30, 1982, MVPP's counsel brought suit against the NRC to obtain documents it had requested under the Freedom of Information Act, 5 U.S.C. § 552, et seq. On November 23, 1981, MVPP requested copies of all "notes, memoranda, telephone logs, tapes, diaries and/or other records prepared by U. S. government employees in connection with the August 7, 1981 OIA Report entitled 'Special Inquiry re: Adequacy of IE Investigation 50-358/80-9, at the William H. Zimmer Nuclear Power Station,'" or the investigation leading up to the Report. The request specifically included early drafts or proposed supplements to the OIA Report. None were produced; nor was there even an admission of their existence. At no time was the Harpster interview, Attachment 6, identified by the NRC. Only after MVPP filed suit against the NRC was the Harpster interview produced as an interview prepared in connection with the OIA Report. See August 10, 1982 Letter of Richard Parrish, attached and incorporated herein as Attachment 25. MVPP and its counsel believe the NRC arbitrarily and capriciously refused to identify documents clearly responsive to a proper request under FOIA.

This conduct illustrates further why the NRC should not be allowed to monitor the reinvestigation and QCP at Zimmer without public input. The Freedom of Information Act ("FOIA" or "Act") was enacted explicitly to allow citizens access to information about government processes. The NRC apparently is unable to

comply with the basic principles of open government encompassed in the Act. As the government agency responsible for regulating nuclear power plants, it should not conduct its regulatory activities in secret. The NRC's recent refusal to identify the Harpster interview simply shows that it has made policy decisions in secret for too long a period.

VIII. MVPP HAS MET THE LEGAL STANDARD TO REOPEN THE LICENSING PROCEEDINGS FOR CONSIDERATION OF ITS PROPOSED CONTENTIONS ON QUALITY ASSURANCE AND APPLICANTS' CHARACTER AND COMPETENCE TO OPERATE ZIMMER.

The Licensing Board held that MVPP did not carry its burden to reopen the licensing hearings for admission of its eight proposed contentions. See Board Order at 6. The Commission concurred, finding that "MVPP did not in its motion to the Board or elsewhere sufficiently identify new information, its source, or say when it became available." Commission Order at 3.

MVPP did not submit to the Licensing Board all the evidence it had collected to support its proposed contentions. It did not believe it was needed, given the substantial amount of information on the public record in support of the contentions and given that the information on the public record had never been considered by the Licensing Board. As noted above, the Staff did little more than mention to the Board that the OIA and IE Reports were in the Public Documents Room.

In addition, the major focus of MVPP's contention is the structural failings of applicants' QA program, the continuing structural failings of the QCP, and CG&E's demonstrated lack of honesty, integrity, character and technical competence to operate a nuclear power plant.

In many instances, MVPP interpreted the evidence in the IE Report in a different way than the NRC staff, in light of other internal Kaiser and CG&E records MVPP obtained, and affidavits MVPP took from former and current Zimmer employees. Moreover,

MVPP did submit a substantial number of Kaiser and CG&E internal memoranda that demonstrated CG&E executives' dominant role in the QA program at Zimmer since 1973, which directly contradicts the public statements of CG&E management and the premise of the Staff's current enforcement effort. Both the ASLB and the Commission have totally ignored the new evidence and its import to the "character and competence" contention, while calling for more evidence on the other contentions.

It is not reasonable to expect an intervenor to authenticate all documents through a sponsoring witness, when it first brings the information to the Board's or the Commission's attention. The Commission's rules provide that contentions are merely issues supported by some evidence deemed sufficiently significant by the Licensing Board to be admitted for litigation. 10 C.F.R. § 2.714. After contentions are admitted, all parties are allowed a period of discovery in which to prepare their case, and determine their position on the contentions. 10 C.F.R. §§ 2.740-2.744. The "source" of any documentation by MVPP in support of its contentions is simply irrelevant at this stage. Unless there is a serious doubt raised by a party that the documentation or affidavits have been fabricated, the Commission's concern about the "source" of the evidence is misplaced. MVPP notes that neither CG&E nor the NRC Staff has ever challenged the authenticity of the internal memoranda submitted by it in this proceeding. In fact, it appears CG&E is concerned about finding out the source of the documents for reasons other than to verify the information contained in them.

Today, in its Petition to Stop Construction, MVPP submits extensive new documentation and new affidavits providing basis for its proposed eight contentions.^{5/}

The Commission, after examination of these new documents and affidavits, simply cannot seriously conclude that MVPP has provide insufficient basis for its proposed contentions.

A. MVPP Has Met the Standard for Reopening the Record.

MVPP meets the standard for reopening the record, most recently enunciated by the Commission in the Diablo Canyon case. In that case the Commission said the record may be reopened only upon a showing, by the moving party, of significant new evidence not included in the record which would materially affect the decision. Pacific Gas & Electric Company (Diablo Canyon Nuclear Power Plant, Units 1 & 2), CLI-81-5, 13 NRC 361 (1981), citing with app'l, Kansas Gas & Electric Company (Wolf Creek Generating Station, Unit No. 1), ALAB-462, 7 NRC 320 (1978).

As can be seen from the extensive documentation and numerous affidavits submitted in support of this petition and MVPP's Petition to Stop Construction, MVPP has provided significant new information which demonstrates the longstanding, structural problems in Zimmer's QA program since 1973, and CG&E's direct responsibility for these failures. Most of this evidence is not on the public record, and it will affect the Licensing Board's decision about whether or not to grant CG&E an operating license.

^{5/}These documents and affidavits have been incorporated by reference into this Petition for Reconsideration.

B. MVPP Has Met the Standard for Admission of New Contentions.

The Licensing Board and the Commission both determined that MVPP did not meet the standard for admission of late contentions. MVPP, however, disagrees and would point out the following regarding the five criteria of 10 C.F.R. § 2.714 for admission of late-filed contentions:

1. Good cause for failure to file on time: MVPP moved to reopen the licensing proceeding only after it decided that the NRC staff could not adequately monitor CG&E's progress in remedying the serious deficiencies at Zimmer. Counsel thoroughly studied the IE Report, identifying discrepancies between the text and exhibits, as well as significant data in the exhibits not discussed at all in the text. Counsel shared concerns with the NRC Staff that the report did not address the causes or full scope of the issues. There was no commitment to correct these flaws. Through congressional hearings and FOIA appeals counsel confirmed that a criminal investigation had been stalled. Throughout this period, witnesses contacted MVPP to complain confidentially or, on the record, about NRC failure to act on their evidence, or about the lack of substantive reform at Zimmer. These witnesses taught counsel what has occurred since the IAL.

Throughout this period, the NRC Staff showed no indication of addressing these structural problems. Therefore, MVPP conducted its own investigation, the results of which are largely encompassed in its Petition to Stop Construction. The NRC Staff

took almost a year to make "interim findings" in its reinvestigation. MVPP cannot be faulted for spending six months from release of the IE Report to file its motion to reopen. MVPP began its investigation only after realizing that the NRC was not capable alone of monitoring Zimmer, conceded to be the worst plant in Region III.

2. Availability of other means to protect petitioner's interests: MVPP moved to reopen the licensing hearing only after it concluded the NRC Staff could not adequately protect the public interest and ensure the safe construction and operation of Zimmer. As explained above, the IE Report did not examine the root causes for the QA breakdown; the QCP is not an adequate way to determine the quality of construction at Zimmer; and current staff efforts to investigate outstanding allegations of safety problems and possible criminal falsification of QA records have fallen behind. Traditionally Staff decisions on Zimmer have been the subject of sharp internal debate, to which the public is not privy. For these reasons, there are no means other than full participation in licensing hearings to protect MVPP and the general public's interest in resolving questions about Zimmer's safety.

3. Petitioner's assistance in developing the record and the extent to which petitioner's interest will be represented by existing parties: MVPP and its counsel are in a unique position to develop a sound record on QA practices at Zimmer and CG&E's character and competence to operate the plant. The evidence in the attached Petition to Stop Construction

contributes significantly to the public record.

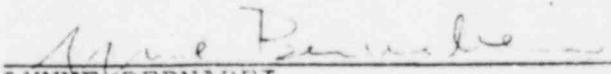
Finally, none of the other parties has a similar interest or expertise in these issues. Numerous Zimmer employees who have worked with counsel confidentially will testify at a hearing but will not commit themselves solely to an NRC investigation, in light of the Staff's previous breaches of promise to conduct thorough investigations.

4. The extent to which reopening will broaden the issues or delay the proceeding: MVPP believes that although reopening the licensing proceeding for consideration of its eight contentions will broaden the issues before the Licensing Board, it will not unduly delay the proceeding. Mr. Keppler has stated repeatedly that he does not believe the QCP will identify all the outstanding problems with construction at Zimmer until January 1983. After that, CG&E must undertake corrective actions necessary to remedy those problems, and it is generally conceded that the plant cannot possibly open until late 1983 or early 1984. Current NRC reports on the status of the QCP show significant hardware and documentation problems at Zimmer that will require extensive rework and repairs. See Attachment 26. Therefore, it is unlikely that reopened licensing hearings will delay the licensing of Zimmer beyond the delay CG&E will undoubtedly encounter in complying with NRC-mandated repairs.

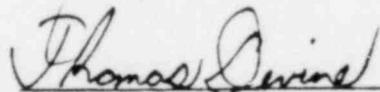
IX. CONCLUSION

For the above reasons, MVPP respectfully requests the Commission to reconsider its Order of July 30, 1982, and allow reopening of the licensing proceedings in this case for consideration and litigation of MVPP's proposed eight contentions concerning the adequacy of quality assurance at Zimmer and CG&E's character and competence to operate a nuclear plant.

Respectfully submitted,



LYNNE BERNABEI



THOMAS DEVINE

Counsel for Intervenor -Petitioner
Government Accountability Project
of the Institute for Policy Studies
1901 Que Street, N. W.
Washington, D. C. 20009
202/234-9382 x. 54

DATED: August 20, 1982

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing MVPP's Petition for Reconsideration and Petition to Suspend Construction have been served upon the following by mailing class postage prepaid, this 20th day of August, 1982

DECLASSIFIED
USNRC

23 AUG 23 09:16
OFFICE OF SECRETARY
OF DOCKETING & SERVICE
BRANCH

- *Chairman Nunzio J. Palladino
U.S. Nuclear Regulatory Commission
Washington, DC 20555
- *Commissioner John F. Ahearne
U.S. Nuclear Regulatory Commission
Washington, DC 20555
- *Commissioner James K. Asselstine
U.S. Nuclear Regulatory Commission
Washington, DC 20555
- *Commissioner Thomas M. Roberts
U.S. Nuclear Regulatory Commission
Washington, DC 20555
- *Commissioner Victor Gilinsky
U.S. Nuclear Regulatory Commission
Washington, DC 20555
- *Leonard Bickwit, Esquire
General Counsel
U.S. Nuclear Regulatory Commission
Washington, DC 20555
- *Judge John H. Frye, III
Chairman, Atomic Safety and Licensing
Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555
- *Charles A. Barth, Esquire
Counsel for the NRC Staff
Office of the Executive Legal Director
U.S. Nuclear Regulatory Commission
Washington, DC 20555
- Dr. Frank F. Hooper
Sierra Nevada Aquatic Research
Laboratory
Route 1
Box 198
Mammoth Lakes, CA 93546

- Dr. Stanley M. Livingston
Administrative Judge
1005 Calle Largo
Sante Fe, New Mexico 87501
- *Chairman, Atomic Safety and
Licensing Appeal Board Panel
U.S. Nuclear Regulatory Commission
Washington, DC 20555
- *Chairman, Atomic Safety and
Licensing Appeal Board Panel
U.S. Nuclear Regulatory Commission
Washington, DC 20555
- Robert F. Warnick
Director, Enforcement and
Investigation
NRC Region III
799 Roosevelt Road
Glen Ellyn, IL 60137
- Deborah Faber Webb, Esquire
7967 Alexandria Pike
Alexandria, KY 41001
- Andrew B. Dennison, Esquire
Attorney at Law
200 Main Street
Batavia, Ohio 45103
- Troy B. Conner, Esquire
Conner and Wetterhahn
1747 Pennsylvania Ave. NW
Washington, DC 20006
- John D. Woliver, Esquire
Clermont County Community Council
Box 181
Batavia, Ohio 45103

Signal's
Ghost
A-Plant

Page B-12

Meeker's
Littles
Crusader

Page C-1

ANNATI ENQUIRER

THURSDAY, NOVEMBER 26, 1981

A GANNETT NEWSPAPER

Zimmer Incurs \$200,000 Fine Over Foul-Ups

BY BEN L. KAUFMAN
Enquirer Reporter

The Nuclear Regulatory Commission (NRC) Wednesday confirmed it will fine Cincinnati Gas & Electric Co. (CG&E) a record \$200,000 for foul-ups at Zimmer nuclear power station.

The sum is open to negotiation, but James G. Keppler, administrator of NRC's midwestern Region III, made his feelings clear when he announced the violations and civil penalty: "In terms of quality assurance, Zimmer was totally out of control."

The penalty, which Keppler told a news conference was the highest against an unfinished facility, reflected NRC findings since January. The probe is not complete.

The results of the NRC investigation and unprecedented fine were a "setback" to the troubled commercial nuclear power industry, he conceded.

CG&E PRESIDENT William H. Dickhoner responded, calling the fine excessive, unjustified and unnecessary, but he said the "unusually high degree of scrutiny" will assure Zimmer meets the highest safety standards.

CG&E will talk with its Zimmer partners—Dayton Power & Light and Columbus & Southern Ohio Electric—before telling the NRC whether it will contest any part of the penalty.

"In the event we pay the fine," Dickhoner said, "no portion of it will be charged to our customers."

Keppler grouped the violations into "false quality assurance documents, harassment and intimidation of quality control personnel, and numerous examples of failure to implement an adequate quality assurance program."

(See ZIMMER
back of this section)



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

ATTACHMENT 2

July 15, 1982

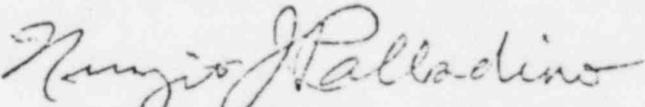
The Honorable Morris K. Udall
Chairman, Subcommittee on Energy
and the Environment
Committee on Interior and Insular Affairs
United States House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

As you requested in your June 14 and July 12, 1982 letters, the information relating to the Zimmer Quality Confirmation Program is enclosed. This information is current as of May 30, 1982.

I hope this information is responsive to your request. Additional details of the Quality Confirmation Program results are contained in the licensee's May 30, 1982 status report which we provided to Dr. Henry Myers of your staff on June 16, 1982. If you have further questions on this matter, please do not hesitate to contact me.

Sincerely,


Nunzio J. Palladino

Enclosure:
As Stated

cc: Rep. Manuel Lujan

RESPONSES TO INFORMATION REQUESTED
BY REPRESENTATIVE MORRIS K. UDALL

1. The number of structural steel welds inspected to date, the number of structural steel welds known not to conform to the Commission's requirements, and the current estimate of the quantity and quality of work necessary to bring these welds into conformance with requirements.

Response

Quality Confirmation Program (QCP) Task I, "Structural Steel," includes the inspection of structural steel "weldments" and "connections." The "weldments" and "connections" generally involve more than one weld. The emphasis of the licensee and the NRC is being placed on the number of weld deficiencies identified with those "weldments" and "connections" rather than on the number of deficient welds. One weld could have multiple deficiencies (e.g., undercut, lack of fusion, undersize, profile) due to nonconformance with different aspects of the applicable specifications. Although we are concentrating on the number of weld deficiencies rather than the number of deficient welds, we have estimated the number of welds affected to be responsive to your request.

The licensee committed in the Preliminary Safety Analysis Report (PSAR) and Final Safety Analysis Report (FSAR) to the American Institute of Steel Construction Specification (AISC), "Specification for the Design, Fabrication and Erection of Structural Steels for Buildings" - 1969, and "Structural Weld Code," AWS D1-1-1972. The Sargent and Lundy specifications, which meet or exceed the PSAR and FSAR commitments, establish the requirements for "weldments" and "connections" including the structural welds. Failure to meet the PSAR and FSAR commitments is considered to be noncompliance with the Commission's requirements. Failure to meet the Sargent and Lundy specifications without an appropriate evaluation and review is also considered to be noncompliance.

The licensee must resolve identified noncompliances by determining if the deficiencies are acceptable as is based on engineering evaluations or by reworking the welds. Where possible, the licensee has decided to resolve deficiencies with the "weldments" and "connections" by rework to bring them into conformance with the specifications rather than attempt to disposition the nonconforming conditions through engineering evaluations. "Rework" as used in this report means physical effort to correct deficiencies.

The QCP Task I, "Structural Steel," is approximately 53 percent complete (May 30, 1982) with an estimated completion date of December 1, 1982. The task includes the following sub-tasks:

a. Cable Tray Foot Connections

The inspection of the cable tray foot connections is complete with 259 connections inspected. 253 of those connections were nonconforming in some manner. Each of the connections involves a number of welds (2 to 6). Based on an average of 4, we estimate that 1000 welds were involved.

975 deficiencies associated with the 253 nonconforming connections were identified. 242 of those deficiencies have been dispositioned. 103 of the dispositioned deficiencies are to be reworked as necessary to correct the nonconforming conditions and the rework is in progress. The other 139 dispositioned deficiencies were determined by the licensee to be acceptable as is.

The NRC is reviewing the licensee's evaluations of the deficiencies.

b. Drywell Steel

The inspection of the drywell steel (excluding the 525' elevation) is 49 percent complete with 161 beams inspected. 93 of those beams were nonconforming in some manner. Each of the beams involves a number of welds (8 to 16). Based on the average of 12, we estimate that 1900 welds were inspected.

369 deficiencies associated with the 93 nonconforming beams were identified. 181 of those deficiencies are to be reworked as necessary to correct the nonconforming conditions and the rework is in progress. The other 9 dispositioned deficiencies were determined by the licensee to be acceptable as is.

The NRC is reviewing the licensee's evaluations of the deficiencies.

The beam connections in the 525' elevation of the drywell are being cleaned of paint to allow inspection of the welds.

c. Gallery Steel

The inspection of the gallery steel (control rod drive area) is complete with 106 beams inspected. 39 of those beams were nonconforming in some manner. Each of the beams involves a number of welds (8 to 16). Based on the average of 12, we estimate that 1200 welds were inspected.

126 deficiencies associated with the 39 nonconforming beams were identified. All of those deficiencies have been dispositioned. 108 of the dispositioned deficiencies are to be reworked as necessary to correct the nonconforming conditions and the rework is in progress. The other 18 dispositioned deficiencies were determined by the licensee to be acceptable as is.

The NRC is reviewing the licensee's evaluations of the deficiencies.

d. Control Room Structural Steel

The inspection of the control room structural steel is partially complete with 208 beams inspected. Approximately 150 of those beams were nonconforming in some manner. Each of the beams involves a number of welds (8 to 16). Based on an average of 12, we estimate that 2500 welds were inspected.

1835 deficiencies associated with the nonconforming beams were identified. All of those deficiencies have been dispositioned. 1818 of the dispositioned deficiencies are to be reworked as necessary to correct the nonconforming conditions and the rework is in progress. The other 17 dispositioned deficiencies were determined by the licensee to be acceptable as is.

The NRC is reviewing the licensee's evaluations of the deficiencies.

The inspection of activities regarding the control room structural steel have recently been expanded to include auxiliary steel and hangers.

With respect to the quantity of work necessary to bring deficient welds into conformance with the requirements, the amount of rework which will be performed is considered by the NRC to be significant. An indication of the amount of rework involved is that an average of 32 person-hours has been required to bring a nonconforming beam into conformance. Based on this average, 9000 person-hours will be necessary to correct the beams alone. However, neither the licensee nor NRC knows the total impact the rework will have on the project completion date. This impact will not be known until the full magnitude of the rework is determined by the completion of the QCP.

With respect to the quality of the work necessary to bring deficient welds into conformance with requirements, the rework activities are being performed under the conditions established by the April 8, 1981 Immediate Action Letter (IAL) including 100 percent reinspection of all contractor inspection activities at this time. The NRC's Region III Office is monitoring the rework activities. Although some problems have been encountered, no significant concerns have been identified with the rework activities.

2. A quantitative statement concerning findings regarding the traceability of piping and the implications of such findings.

Response

Quality Confirmation Program (QCP) Task III, "Heat Number Traceability," is approximately 55 percent complete and includes review of drawings and field installation of small-bore and large-bore piping, heat number log, and purchase orders.

A large number of problems have been identified during the reviews of piping documentation, installed conditions, heat number records, and purchase orders. The problems are:

- a. Review of 2354 small-bore piping drawings and comparison with installed piping revealed heat number discrepancies on approximately 20 percent of the drawings.
- b. Review of over 1900 purchase orders and associated certified material test reports for piping revealed heat number discrepancies on approximately 20 percent of the documents.
- c. A number of the 3206 purchase orders reviewed have unsigned certified material test reports, some vendors were unapproved, and some non-essential material was upgraded to essential.
- d. For large-bore piping, drawings have not been kept current and indications suggest field modifications of spool pieces have been made without proper documentation.

A determination as to whether piping of unacceptable or unknown quality was installed has not yet been made by either the licensee or the NRC. That determination will be made after QCP Task III is completed.

The potential impact of the loss of traceable piping is that a substantial amount of piping may have to be replaced. As noted above, a quantitative determination as to the amount of such piping will be made following completion of QCP Task III.

3. The NRC staff assessment of the findings of the review of welder qualification records and the implications of such findings.

Response

Quality Confirmation Program (QCP) Task II, "Weld Quality," is approximately 58 percent complete and includes the review of welder qualifications for 1800 welders (approximately 4600 records).

A large number of problems have been identified during the review of welder qualification records. Of the 942 records reviewed to date for 391 welders, deficiencies have been identified including the use of correction fluid, improper performance of qualification tests, and lack of objective evidence for test specimens. The licensee stated, based on a preliminary assessment, that these problems do not render the qualifications of the welders indeterminate and that all welders presently working on site are qualified. As the NRC has questions as to the validity of this licensee determination, this matter will be pursued on a priority basis.

The NRC staff has not yet made an assessment of the findings of the review of welder qualifications. The staff will make such an assessment after the licensee completes a review of the matter.

The potential impact of the welder qualification records is that a substantial number of welds may have to be replaced. A quantitative determination as to the number of such welds will be made by the staff after completion of licensee review efforts.

4. The NRC staff assessment as to the extent and significance of problems resulting from materials having been purchased from unqualified vendors.

Response

Quality Confirmation Program (QCP) Task I, "Structural Steel," and Test III, "Heat Number Traceability," include the review of material purchases concerning structural steel and ASME piping systems. These tasks will be expanded to include the review of purchases from unapproved vendors in other areas.

A problem has been indentified within the above QCP tasks and also by a separate H. J. Kaiser Company document review group related to nonessential material purchased from unapproved vendors being upgraded to essential material without appropriate documentation. The licensee has determined that all material presently being installed has been purchased from qualified vendors. As the NRC has questions as to the validity of this licensee determination, this matter will be pursued on a priority basis.

The NRC staff has not yet made an assessment of the findings of the review of material purchases from unqualified vendors. The staff will make such an assessment after the licensee completes a review of the matter.

The potential impact of the material purchases is that installed materials may have to be replaced. A quantitative determination as to the amount of such material will be made by the NRC staff after completion of licensee review efforts.

5. The NRC staff assessment of the findings that have emerged from the review of Nonconformance Reports.

Response

Quality Confirmation Program (QCP) Task VII, "Nonconformances," is approximately 60 percent complete.

Voided Nonconformances (NRs)

A large number of problems have been identified with approximately 400 of the 1031 voided NRs reviewed to date. These approximately 400 voided NRs will require additional investigation to resolve questions as to acceptability of conditions. The investigation efforts are in progress.

Completed Nonconformances

The licensee's review of 290 of a random sample of 300 NRs has revealed problems with 10 NRs and may result in the reopening of those 10 previously closed NRs.

Punchlist

The licensee maintains a "punchlist" which is a list of unfinished items with systems. The licensee's review of the "punchlist" revealed 100 items which may be issued as NRs.

The licensee activities are being monitored by the NRC. An assessment by the NRC staff of the findings has not yet been made. The staff will make such an assessment after completion of QCP Task VII.

GOVERNMENT ACCOUNTABILITY PROJECT

Institute for Policy Studies
1901 Que Street, N.W., Washington, D.C. 20009

(202) 234-9362

July 9, 1982

The Honorable Nunzio J. Palladino
Chairman
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Dear Chairman Palladino:

At the June 16, 1982 briefing on the William H. Zimmer nuclear power station, you requested additional explanation of "what you get on an NR that you don't get on an IIDR." Please excuse the delay in presenting this explanation, which compares In-Process Inspection Deficiency Records ("IIDR") with Nonconformance Reports ("NR").*

One reason for the delay was my concerns over possible material false statements by Cincinnati Gas and Electric ("CG&E") officials who responded to questions posed by the Commission at the briefing. A search of our files revealed serious inaccuracies in the responses of Messrs. Sylvia and Borgmann. As a result, the Miami Valley Power Project ("MVPP") requests an investigation by the Commission's Office of Investigations into possible material false statements which will be identified below.

I. QUALITY DOCUMENTATION CONTAINED
IN NR'S AND MISSING FROM IIDR'S

IIDR's sacrifice numerous basic principles of 10 C.F.R. 50, Appendix B, and the professional codes. The deletions permeate the entire system from identification through disposition:

- 1) A Nonconformance Report identifies the cause of the problem. (See Henry J. Kaiser Co. Quality Assurance Manual, Quality Assurance Procedure No. 16, Rev. 8, Figure 16-1 (March 24, 1982); attached as Exhibit 1.) An IIDR does not. (Zimmer

*IIDR's will be references to Zimmer Procedures Manual ZAPO-5, which was the subject of extensive debate at the June 16 briefing. Since ZAPO-5 also rewrote and gutted the NR system (see June 16, 1982 prepared statement of Thomas Devine, at 6) unless otherwise noted, NR's will be references to ZAPO-5's predecessor, Quality Assurance -- Construction Methods Instruction ("QACMI") G-4, R.15.

Procedures Manual, Procedure No. ZAPO-5, Rev. 1, Exhibit B (June 2, 1982); attached as Exhibit 2.) This omission violates 10 C.F.R. 50, Appendix B, which requires that for significant conditions "the measures shall assure that the cause of the condition is determined...."

2) NR's fully identify the nature of problems. IIDR's, on the other hand, barely provide for abstract reference to the deficiency. To illustrate, the NR control log includes "[d]escription" of the problem. (Id., Exhibit C.) The IIDR log, on the other hand, merely references to "number of the work package or the punchlist ticket that the IIDR applies to...." For any nonconforming condition, the NR form itself provides the location, name of the item, contract or purchase order number, supplier/contractor, inspection plan, specification number, and status under ASME. (Exhibit 1, Figure 16-1.) An IIDR, on the other hand, does not provide for any of that information. The only common identification category between the two forms is problem "[d]escription," for which an NR has approximately twice as much space as an IIDR.*

3) A Nonconformance Report cannot be closed out through a Design Document Change ("DDC"). A DDC merely revises design requirements to permit the condition. (Exhibit 2, §4.2.3 note.) The IIDR form, on the other hand, permits DDC's to "correct" the problem. (Id., § 3.2.1.) This loophole ignores previous NRC noncompliances on this practice that led in part to the April 8, 1981 Immediate Action Letter ("IAL") at Zimmer. (See, e.g., NRC IE Reports No. 50-358/80-05 and 50-358/80-25.) In other words, CG&E has responded to the NRC citation by "legalizing" the illegality.

4) An NR has instructions and a written justification for how to correct the problem. (Exhibit 1, Figure 16-1.) By contrast, ZAPO-5 states unequivocally: "IIDR's shall not be used to provide procedural instructions." This gag order on QC guidance for repair procedures obliterates a key premise of professional quality assurance ("QA") codes. As ANSI §16 states, "[N]onconforming items...shall be accepted, rejected, repaired or reworked in accordance with documented procedures."

*While an IIDR does not prohibit additional identifying information, that is not a significant reassurance. A blank sheet of paper does not prohibit anything, either. But neither a blank sheet nor an IIDR guarantees that when a QC inspector finds a problem it will be fully identified. In practice at Zimmer, the identification on IIDR's is as vague as the form permits.

5) A Nonconformance Report goes to the Material Review Board if the disposition is "repair," "accept-as-is," "rework" or "reject." (Henry J. Kaiser Co. Quality Assurance -- Construction Methods Instruction ("QACMI") G-4, R.15, § 5.6.10 (October 7, 1981); attached as Exhibit 3.) An IIDR can never go beyond the quality engineering manager. (Exhibit 2, §§ 3.3.4 and 3.3.5.) This loophole eliminates institutional oversight and accountability.

6) All Kaiser NR's must be distributed to CG&E at some point. (Exhibit 2, at 25.) There is no similar requirement for IIDR's. The loophole belies CG&E's commitment to maintain close oversight and control of QA until Zimmer is completed.

7) With an NR, a QC inspector can apply a "hold tag" to stop work on a nonconforming item that needs to be isolated. (Exhibit 3, § 5.6.7.1.) Under ZAPO-5, however, the inspector must permit work to continue while disputes with construction are appealed. (Exhibit 2, § 4.1.10.) This change leaves it up to construction personnel's discretion whether to comply with 10 C.F.R. 50, Appendix B, Criterion XV, which requires appropriate segregation of nonconforming items. Further, it means that the QC position may be moot by the time any dispute is resolved. Traditionally, failure of construction personnel to respect hold tags has been one of the most common QA abuses at Zimmer. Under ZAPO-5, construction no longer has to worry about hold points.

8) An NR dispositioned "accept-as-is" must be supported by a Registered Professional Engineer if stress analysis is required by ASME. (Exhibit 2, § 3.7.1.) There is no similar requirement for an IIDR.

9) An NR dealing with specified ASME items can only be cancelled with the approval of the Authorized Nuclear Inspector. (Id., § 3.8.1.) There is no similar requirement for an IIDR.

10) NR's are sent to the NRC for review. (Id., Exhibit E.) IIDR's are not. (Id., Exhibit F.) Region III's apparent tacit acceptance of IIDR's belies its repeated public commitments to strictly monitor ongoing work at Zimmer. Rather, IIDR's institutionalize Region III abdication of oversight for repair of nonconforming conditions at Zimmer.

In a May 21, 1982 CG&E audit, Science Applications, Inc., gave a clear example of the comparative inferiority of IIDR's to NR's for QA documentation of weld repairs:

IIDR's do not provide direct traceability of welder, weld procedure and revision, weld filler material type, size and heat/lot numbers; do not verify inspection for defect removal; and do not identify acceptance inspection procedure and revision used.

The Honorable Nunzio J. Palladino
July 9, 1982
Page Four

The audit's "recommended corrective action" flatly rejected IIDR's as acceptable QA documentation:

HJK should discontinue the use of IIDR's for weld repairs and should identify all welds for which IIDR's have been used to document weld repairs.

On balance, the audit rated Kaiser's IIDR QA Program Procedures as "unsatisfactory":

HJK procedural requirements and program controls for usage, documentation, and disposition of IIDR's is [sic] not adequate.

(Relevant excerpts from Science Applications, Inc. "Semi-Annual Management Audit Report of Cincinnati Gas & Electric Company, William H. Zimmer Nuclear Power Station (Audit Report No. MA-82-1 May 21, 1982) are attached as Exhibit 4.)

The controversy over IIDR's or their equivalents is not new. Even when QA was "out of control" before reform at Zimmer, Kaiser and CG&E could not agree on this issue -- either within or between their organizations. In a November 30, 1976 memorandum, Kaiser Construction Executive E. V. Knox reported that CG&E's William Schwiers "expressed his opinion on organization that inspection personnel should report to Construction Engineering for control and Quality Engineers should audit and surveil for assurance that things are done properly." This is precisely the subordinate QC role adopted by ZAPO-5 with IIDR's.

In the same memorandum, Mr. Knox reported his response: "I disagree with this type of organization and so does 10 C.F.R. 50, Appendix B." (The November 30, 1976 memorandum from E. V. Knox to D. H. Williams is attached as Exhibit 5.) Surely the NRC would not approve a practice flatly rejected by Kaiser construction management during the "pre-reform" period at Zimmer.

Apparently Mr. Schwiers was convinced, because he reversed his opinion. In a March 11, 1981 written exchange with Kaiser QA Manager Phillip Gittings, Schwiers' QA liaison Robert Ehas stated unequivocally, "In process deficiencies or outright deficiencies must go on the NR Forms. Surveillance Report Forms should be discontinued." Gittings rejected the suggestion: "I disagree with you regarding in-process deficiencies. Outright deficiencies certainly should be on an NR. I have no intention of discontinuing S/R's...." (The March 11, 1981 exchange is attached as Exhibit 6.)

Today one of the Quality Confirmation Program tasks is to review Surveillance Reports for nonconformances that should have gone on

The Honorable Nunzio J. Palladino
July 9, 1982
Page Five

NR's. Ironically, the same improper shortcut simultaneously has been reborn through the IIDR.

The IIDR system appears to be deteriorating even further. For instance, the original version of ZAPO-5 did not permit IIDR's to be used when DDC's were required. Due to several violations, the SAI audit rated Kaiser unsatisfactory on this restriction. (Exhibit 4, supra.) Rather than stopping the abuse, ZAPO-5, Rev. 1 legalized it by permitting DDC's to respond to IIDR's. (Supra, at 2.)

The above example is revealing: it recreates a practice condemned by CG&E in Mr. Ehas' March 11, 1981 "pre-reform" position:

Do not change a procedure just because people do not follow the procedure. Fred Mauri has examples where procedures are changed because something was not being done. Very bad.

(Exhibit 6, supra.) Apparently CG&E's "post-reform" position has discarded this premise.

At the June 16 briefing, CG&E contended that other nuclear construction sites use IIDR's, which were introduced to Zimmer by new management recruits. That position casts doubt on QA practices in the rest of the nuclear industry, as well as on the caliber of "post-reform" management recruiting. Even if IIDR's were acceptable at smoothly functioning sites, they should be out of the question for a program supposedly recovering from a total QA breakdown. At Zimmer more than anywhere else, QA documentation must be able to prove the quality of the work. IIDR's inherently cannot accomplish that goal. If the Commission accepts this device, the safety and quality of the plant will remain what it is today -- indeterminate.

II. CG&E MATERIAL FALSE STATEMENTS AT THE JUNE 16, 1982 BRIEFING

At the June 16 briefing CG&E Vice President of Nuclear Operations B. R. Sylvia gave detailed responses to questions on the IIDR system. CG&E Senior Vice President Earl Borgmann attempted to rebut charges that he had presented inaccurate testimony to Congress. Each gentlemen provided inaccurate responses to the Commission.

A. Mr. Sylvia

Mr. Sylvia offered a number of specific distinctions for specific circumstances when IIDR's can and cannot be used. Curiously, none of these distinctions are included in ZAPO-5. As ZAPO-5, § 3.4.1 note explains:

Deficiencies in construction work identified up to and including final inspection, which are documented on an In-Process Inspection Deficiency Record (IIDR) form according to approved procedures, or other deficiencies that are corrected in accordance with other applicable corrective action procedures, do not require identification on an NR.

Mr. Sylvia's distinctions do not exist in practice, either. For instance, he stated that IIDR's are only used for new work and are excluded from the Quality Confirmation Program with a specific exception in the drywell. Witnesses have told us, however, that IIDR's are the most common approach to record deficiencies in the Quality Confirmation Program. The witnesses would like to pinpoint specific examples with appropriate representatives of the Commissioners, after obtaining written confidentiality assurances.

Second, Mr. Sylvia asserted that IIDR's are only used for problems that do not require an engineering solution. The assertion was inherently inaccurate, however, since IIDR's can be dispositioned through DDC's. DDC's definitionally require an engineering solution. Further, Mr. Sylvia should have already known that almost a month earlier the SAI audit disclosed: "No approvals are required to accomplish weld repair by IIDR although QAE and Weld Engineer approvals are required for use of KEI-Weld-1A forms." (Exhibit 4, supra.)

Third, Mr. Sylvia asserted that IIDR's were not used until the QA Manual had been amended to reflect the practice. A look at the relevant dates is instructive. ZAPO-5, Revision 1 was issued on June 2, 1982. (Exhibit 2, supra.) At that time, the relevant QA Manual procedure, QAP 16, Rev. 7, did not mention the concept of IIDR's. The QA Manual was not changed to incorporate IIDR's until June 8, 1982, after ZAPO-5 had already gone through a revision. (QAP 16, Rev. 9 is enclosed as Exhibit 7.)

Fourth, Mr. Sylvia claimed that IIDR's are a hold point type of inspection. As explained earlier, however, QC no longer has the authority to enforce the hold point. (Supra, at 3.)

Fifth, Mr. Sylvia claimed that IIDR's provide the same kind of documentation as NR's to resolve discrepancies. A comparison of the two forms, however, demonstrated that IIDR's only require a shadow of the documentation contained in an NR. (Supra, at 2-3.)

The Honorable Nunzio J. Palladino
July 9, 1982
Page Seven

Finally, Mr. Sylvia asserted that the same type of people resolve both IIDR's and NR's. That is categorically false. NR's are processed by the Quality Assurance Department and can go to the Material Review Board. Disposition of IIDR's, on the other hand, is largely controlled by construction. The only contact with QA is a single appeal to the Quality Engineering Manager. IIDR's cannot go to the Material Review Board. (Supra, at 2-3.)

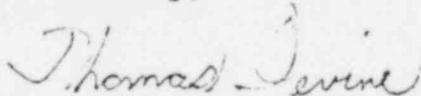
In short, Mr. Sylvia's June 16 responses to questioning by the Commissioners was drastically inaccurate. It appears that either he was not responding in good faith, or else did not understand the IIDR structure CG&E is theoretically monitoring.

B. Mr. Borgmann

At the June 16 briefing Mr. Borgmann attempted to explain that while CG&E may have overruled personnel requests, there was no attempt to direct the program or to tell Kaiser what to include in documentation. Unfortunately, that statement was not accurate. MVPP's July 8, 1982 Reply Brief, enclosed as Exhibit 3, noted eight examples of direct CG&E participation in Kaiser QA activities besides hiring staff. In some cases, CG&E directly instructed Kaiser what inspections to perform and what documentation to include. All but one of the relevant documents to establish this point had been distributed to Mr. Borgmann when they were issued.

Material false statements to the Commission on matters of public concern are serious offenses. The inaccurate statements of CG&E officials had the effect of clouding, rather than clarifying, the issues. The Commission should direct its new Office of Investigations to determine how and why CG&E mischaracterized its own reform program so severely.

Sincerely,



THOMAS DEVINE
Legal Director

TD/my

THE CINCINNATI ENQUIRER

FINAL EDITION/NEWSSTAND PRICE 25¢

FRIDAY, JUNE 11, 1982

A GANNETT NEWSPAPER



EARL BORGMANN
CG&E vice president

NRC Plans To Reopen Zimmer Hearings

BY RICHARD WHITMIRE
And DAVID SHAPIRO
Gannett News Service

WASHINGTON—New doubts about construction defects at the Zimmer nuclear power station triggered an announcement Thursday that the staff of the Nuclear Regulatory Commission supports reopening licensing hearings for the plant.

That makes a hearing reopening inevitable—a major setback to Cincinnati Gas and Electric Co. (CG&E), which is building the plant at Moscow, Ohio.

James Keppler, director of the NRC's Region III office in Chicago, told the House subcommittee on energy and the environment Thursday that further hearings are needed to consider recent disclosures of serious quality control problems at Zimmer.

identified to date . . . we thought it was best to have us be counted in the public arena," Keppler said.

"There will not be a recommendation by me or my staff that this plant should be licensed until we are convinced that this plant is built properly," said Keppler.

Keppler said the hearings would center on possible flaws in the quality confirmation program ordered by the NRC last year after CG&E, the managing partner of three utilities building Zimmer, was fined \$200,000 for faulty record-keeping and harassment of quality inspectors.

That massive effort to prove Zimmer's safety is already seen as virtually certain to push the plant's opening well beyond the mid-1983 date planned by CG&E.

Earl Borgmann, senior CG&E vice president, said the utility will continue to oppose new hearings.

"I'M VERY disappointed," Borgmann

said. "We don't feel it is necessary because all of the items brought up (by the request to reopen) are old items that are covered by the quality confirmation program."

The request to reopen the hearings came from the Government Accountability Project, a Washington-based organization that triggered the 1981 investigation into Zimmer's problems.

At the hearing, Keppler agreed that it was the Government Accountability Project, and not the NRC, that discovered Zimmer's problems.

In other major developments at Thursday's hearing:

•Committee Chairman Morris Udall, D-Ariz., said the NRC should have taken the quality confirmation program away from CG&E and turned it over to independent auditors, as was done at the Diablo Canyon plant in California.

•A former quality assurance analyst for

Henry J. Kaiser Co., the construction firm building Zimmer for CG&E, charged that he was demoted to a clerical job for aggressively pointing out deficiencies at the plant.

•NRC officials disagreed with CG&E's suggestions that its structural steel welding problems involved only minor repairs.

•The National Board of Boiler and Pressure Vessel Operators called for CG&E to submit a plan outlining how CG&E will correct the problems discovered by the board.

The NRC's Atomic Safety Licensing Board concluded its hearings on Zimmer last year, and its staff has already recommended a license for the plant.

(See ZIMMER,
back of this section)

"WITH THE problems that have been



CONTINUED FROM PAGE A-1

TOM DEVINE, an attorney for the Government Accountability Project, told the Udall committee that the quality confirmation program at Zimmer does not cover all problems at the plant—only those identified by the NRC in last year's report.

Udall also questioned the wisdom of putting CG&E in charge of its own quality confirmation program.

"Since quality assurance was neglected for many years by the same company that is now charged with untangling the results of its neglect, I would have hoped that the NRC would have insisted on an audit by an independent concern," he said.

"I would like to know what the NRC and CG&E are doing to assure that the Zimmer quality confirmation program is structured so that significant problems cannot be swept under the rug."

CG&E's Borgmann insisted that his company's quality confirmation program will identify and correct any safety-related problems at Zimmer.

He said the program is 86% complete, and that while some minor deficiencies have been found, "none of . . . these deficiencies has proven significant, relative to impacting the safe operation of the Zimmer station.

"WE ARE very confident that our actions to upgrade our quality procedures at Zimmer will provide complete assurance as to the safety and integrity of the Zimmer station.

"The company has directed (Kaiser) to take necessary steps to assure the independence of the quality assurance-quality control organization from construction personnel, particularly to eliminate complaints that quality inspectors had been intimidated or harassed in performance of their inspections."

Borgmann took issue with a recent Gannett News Service story reporting that CG&E has been forced to repair 5% to 10% of its structural welds at Zimmer because the original work was faulty.

"This was somewhat a mischaracterization and an exaggeration of the hardware problems that are being encountered at Zimmer," he said.

But the NRC's Keppler disputed Borgmann's assertion, telling the committee, "The NRC views findings on structural steel as more significant than the utility has represented before this committee."

The surprise witness at the hearing was Dave Jones, a former senior quality assurance analyst for Kaiser who was recently demoted, but still works at Zimmer.

JONES HAS filed a complaint with the U.S. Department of Labor asking for reinstatement to his former job. In the complaint, he charges that he was demoted for insisting on proper inspections at Zimmer.

The incidents Jones cited include:

In February, 1981, Jones said he wrote a memo suggesting that the qualifications of some inspectors were suspect—and their work might need review.

Jones said his boss replied he wasn't hired to write memos. "He warned me if I wrote another one I would find myself on Route 52 (the road outside Zimmer)."

In April, 1981, Jones says he began a project to analyze how modifications are made to the reactor steam system. After discovering problems with the program Kaiser was using, Jones said he was pulled off the project.

Around June of 1981, Jones decided that since CG&E itself was providing materials to Kaiser, the utility needed to qualify as an approved vendor—those suppliers of safety-related materials with approved quality control programs.

After reporting that CG&E was unable to provide the necessary documents for the audit, Jones said he was pulled off the project. Later, Jones said another auditor was called in for the job. "The standards were relaxed and CG&E passed," he said.

THAT JULY, Jones said he and two others completed an audit that criticized Kaiser's program to identify and trace materials used on the job. Jones said no action was taken on the audit, and the audit was called "invalid."

In April, 1982, Jones said he was told that auditors should not write memos, make recommendations, or record observations. "I explained to him that I had no intention of respecting any gag order," Jones said.

Later that spring, Jones said he and others completed an audit of a supplier they said was not following the Kaiser quality assurance memo.

Jones said the Kaiser quality assurance manager responded: "I don't want to see any more of these types of memos. They tend to embarrass us and cause more accusations and allegations."

Last May, Jones said he was demoted to documents reviewer, and later found the demotion was triggered by suspicions he was an NRC informant. Jones said his first contact with the NRC came later that month.

Borgmann said he hasn't had a chance to research Jones' charges. But Borgmann did say, "He (Jones) was always a documents reviewer . . . He is making statements and accusations much

broader than his area of experience and expertise."

JONES, HOWEVER, says he was working as a senior quality assurance analyst before he was demoted to a documents clerk position last May.

"I've been an assistant quality assurance manager; I've been a quality control manager. I was a quality assurance engineer on that site. How much broader do you want to get?"

Jones attacks the heart of CG&E's defense—the quality confirmation program the utility says can catch all of Zimmer's problems.

"The quality confirmation program," he said, "will not work because there is not the freedom at Zimmer to make independent judgments. It takes an act of courage to do your job right there."



CHAIRMAN

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20545
ATTACHMENT 5

November 16, 1981

The Honorable Morris K. Udall
Chairman
Subcommittee on Energy and the Environment
Committee on Interior and Insular Affairs
United States House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

You recently inquired about the adequacy of the investigation by our Office of Inspection and Enforcement (OIE) into quality assurance/quality control problems at the William H. Zimmer Nuclear Power Station. The OIE investigative effort at Zimmer is not yet complete. However, a recent report of our Office of Inspector and Auditor (OIA) was critical of an earlier OIE investigation. My own inquiry into this matter convinces me that, while there are inadequacies in the initial OIE investigation of Zimmer and in its investigatory program generally, the findings presented to the Commission to date do not indicate that these problems have contributed to an adverse public health and safety situation at the plant. The pertinent documents are enclosed.

Early last year, OIE investigated and reported on allegations of improprieties in quality assurance/quality control activities at the Zimmer plant. OIA was asked to evaluate the adequacy of that OIE investigation. In its report of August 7, 1981, OIA concluded that the OIE investigation was unsatisfactory. OIA's fundamental criticisms were that OIE failed to adequately document its investigation and failed to follow through on significant leads. I requested interactive comments from OIA and OIE and, thereafter, met with the main participants on October 9, 1981. My conclusions are as follows:

1. I agree with OIA's finding that OIE's original investigation should have been more comprehensive. The Commission is considering the necessary internal reforms.

I believe we need criteria to determine the instances which require such full-scale investigations. The NRC does not have the resources to conduct in-depth investigations in all instances, and such in-depth investigations are not called for by the circumstances of every case. However, when a full investigation is called for, as for example in the case of possible criminal conduct, NRC needs to conduct that investigation consistent with fundamental standards

that govern investigations by any agency. I have requested the Executive Director for Operations to develop guidelines for determining when to conduct investigations, and to establish more formal investigative standards and procedures for such investigations.

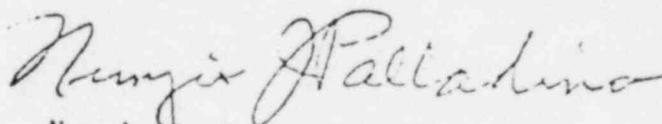
2. I am satisfied with the steps we are taking at the Zimmer Nuclear Power Plant to protect public health and safety. A follow-up OIE investigation is nearly complete. OIE's final report should be available shortly. In addition, I note that the licensee has recently committed to a Quality Confirmation Program to address the problems that have been found at the Zimmer plant.

In summary, shortcomings in the earlier OIE investigation of Zimmer reveal a generic problem. Steps are being taken to remedy that problem. In addition, OIE will shortly release its final report on the Zimmer plant. The Commission will look closely at that report. Finally, the licensee is committed to a verification program to provide further assurances to public health and safety.

The Commissioners have been informed and do not disagree with the conclusions set forth in this letter.

If you have further questions on this matter, please do not hesitate to contact me.

Sincerely,



Nunzio J. Palladino

Nunzio J. Palladino

Enclosures:

1. Memo fm James J. Cummings, IA, to Commission dtd August 7, 1981 transmitting OIA report: "Adequacy of IE Investigation 50-358/80-9 at the William H. Zimmer Nuclear Power Station"
2. Memo fm William J. Dircks, EDO, to the Commission dtd September 17, 1981
3. Memo fm William J. Dircks, EDO, to the Commission dtd September 17, 1981
4. Memo fm James J. Cummings, IA, to the Commission dtd October 8, 1981

cc: Representative Manuel Lujan

Interview of Terry Harpster

Terry Harpster, Reactor Preoperations Specialist, IE, on detail as a Special Investigator to the Subcommittee on Energy, Environment, and Natural Resources, Government Operations Committee, U.S. House of Representatives, was interviewed on March 6, 1981, by Investigators David Gamble and John Sinclair, OIA.

Harpster said he worked in Region III of NRC from 1974 through 1979. He said he was a technical support inspector initially for all plants in

Region III. He later became a project manager for particular plants: first for DC Cook Unit 2, then Monticello, then both Zimmer and Monticello at the same time. Harpster said he began his inspection activities at Zimmer in October 1977 as a preoperations start-up inspector. He said he was assigned to this position until he left Region III in September 1979; however, he had no real involvement with Zimmer after the Three Mile Island (TMI) accident in March 1979. Harpster said that a pre-operations inspector picks up a plant when construction is far enough along, i.e., about 60 percent completed, to review certain programs, e.g., the quality control program for preoperational work. Harpster said that Tom Vandel was his counterpart as the lead construction inspector. Vandel had inspected Zimmer prior to Harpster's arrival but there was a period of overlap when they both worked there. Harpster said John Menning worked with him as a preoperations inspector who he was training. Harpster said that Menning "took one look" and left the NRC because the program was so bad. He related that one of Menning's reasons for leaving was that he saw how little support the inspectors got on the job. Harpster understood that Menning left to attend the University of Arizona where he is working on his Ph.D. in metallurgy.

Harpster said that when he picked up Zimmer the licensee (Cincinnati Gas and Electric Company) had little appreciation for the amount of resources needed for the plant. He said they barely met ANSI Standard 18.1 which is the criteria for staffing. Harpster explained that even this standard is a loose one which has since been upgraded. Harpster said that one of his jobs was to show the plant management what was required to get the plant off the ground. He said that his inspections documented a number of problems at Zimmer. Harpster said that, for example, the employee who was being placed in charge of the start up operation only had about three months of actual experience in the plant. He explained that the licensee counted as nuclear experience the amount of time operations employees were onsite during the construction of Zimmer. Another example was his impression that the plant personnel felt that, once the parts were bought for the plant, they did not need any support from their corporate offices. He also believed that many plant personnel felt a nuclear plant was similar to the operation of a fossil fuel plant. Harpster said that he tried to resolve some of these problems informally; including going up through the licensee management chain to Vice President Earl Borgmann, but with no luck.

Harpster said he was successful in getting a meeting set up in Bethesda to discuss apparent weaknesses with licensee's organization and staffing. He said this meeting was held on July 13, 1978, only after he "screamed" at licensing officials in Bethesda, particularly Irv Peltier who was then project manager in NRR responsible for issuing the safety evaluation report (SER). Harpster said that he presented his concerns at that meeting and the utility agreed to upgrade their program. He recalled that the specific response was to "buy" an engineer from General Electric to assist them.

Harpster said that the overall problem was that NRC's licensing process was rolling much faster than he could "ratchet" improvements at the plant end. Harpster said that NRC's requirements were a "joke." He said that NRR was about to issue the SER and they set up a meeting of the Advisory Committee on Reactor Safeguards (ACRS) to which he was not invited.

Harpster said he went up the Region III management chain and presented his concerns. He said he attended the ACRS meeting anyway. He recalled that when licensee officials were questioned by ACRS Chairman Bender, they said several things that were not true. Harpster noted that not only did he feel they were not true, but Manning also believed they were not true. Harpster said he presented this conflict to his boss, Robert Warnick, when he returned to the regional office. He said that he and Manning later talked with one of the licensee officials who had testified to the ACRS (Jim Schott who was the plant manager of Zimmer). During their conversation, Harpster had Warnick read Schott's testimony to Schott over the phone. He said that Schott then agreed that the testimony did not convey the correct impression. Although Schott assured Harpster and Manning that he would clarify this at the next ACRS meeting, he did not. Harpster believed that Schott's subsequent testimony even aggravated his earlier statements.

Harpster said he briefed his management on this matter. He recalled that his Regional Director, James Keppler, sent a letter to the ACRS informing them of the situation. Harpster understood that this letter was later forwarded to the Atomic Safety and Licensing Board (ASLB).

Harpster explained that, after the ACRS meeting, he also informed Peltier (in Manning's presence) of his concerns. He said that Peltier later claimed that he did not recall Harpster's expressing his concerns to him. Harpster explained that Peltier is a "pro-nuclear" "pro-licensing" employee. He also explained that during a start-up of a nuclear plant, NRR is on a very tight schedule; the IE inspector is often viewed by NRR as an adversary when he uncovers deficiencies which NRR has already "blessed."

Peltier told Harpster that he had informed the licensee about an IE investigation underway on the subject of the licensee's testimony before the ACRS. Peltier also informed Harpster that Charles Barth (attorney with the Office of the Executive Legal Director) had called James Yore (Chairman of the ASLB Panel) and told Yore to throw away Keppler's letter describing the discrepancies. Harpster pointed out that these latter two matters were the subject of a recent investigation by OIA. Harpster said in summary that this was a situation where the system broke down: NRR viewed IE as the "bad guys" trying to hold up plant licensing.

Harpster said that Borgmann was also putting the heat on him by, for example, sending a letter to Keppler. Harpster also understood that the Chairman of the Licensee sent a letter to President Carter and others. Harpster said that it was about this time that the TMI accident occurred. He said he was assigned to TMI and he has not been back to Zimmer since. Harpster said that, when he left, Zimmer still had problems. A principal one was that, as a practical matter, there was no QA program for operations. He said that all Zimmer had was one person assigned to this function and that person could not possibly do all that the job required.

Harpster said that realistically the IE modular inspection program does not deal with the things you have to focus on early in a plant's life. He said that an inspector must deal with the problems he knows are important and then deal with other problems in addition. Harpster said that he had to deal with the construction people somewhat at Zimmer. He said that the licensee had minimal involvement with the construction at Zimmer: everything was controlled by its contractor. He said that this is a problem because, after the plant is built and the contractor leaves, the licensee would not have any expertise to handle the plant. He said that for example there was no one on the licensee's corporate staff for reactor instrumentation and control systems. Harpster felt that this licensee was "in over its head."

Harpster said that people often bring matters to an inspector's attention. He said that an inspector can deal with some of these matters, but there are some which he cannot. Harpster said that sometimes so many things are wrong that a plant is out of control. Harpster concluded that "Zimmer was out of control." Harpster explained that a licensee's ability to get money for the construction of a nuclear power plant (by, e.g., the sale of bonds) is based upon the percentage of completion of the plant. He said that this results in a situation where the construction personnel attempt to turn things over as completed before they are ready. Harpster said that what then happens is that the licensee staff is not properly prepared or trained to handle them. He said when the licensee finds things that are wrong, they cannot fix or test them properly. What they must do is give the problems back to construction to be remedied. Harpster said this is indicative of a construction QC program that does not work. He said this is a situation which an NRC preoperations inspector tries to head off. He said that one example of this was that the licensee had not ordered any spare parts. According to Harpster the time required to obtain additional or replacement equipment is so long it causes a major problem to licensees trying to resupply or obtain back-up equipment.

Harpster said that sometimes plant management puts so much pressure on their personnel that the personnel cannot get things done. He said that these personnel then sometimes use NRC inspectors to accomplish the same things: they feed inspectors information so it appears that the inspector found the deficiency rather than the plant personnel. Harpster said that, from what he could see, it appeared that the construction program

had defects and he was about to inherit them. Harpster explained that he was not directly familiar with the construction activities but he saw the results - including the QA problems. Harpster said that Inspector Fred Maura has documented much of these problems from the operations side.

Harpster said that both the site construction manager, Mr. Gear (phonetic) and the site QA manager Mr. Schweirs were friends of Vice President Borgmann. Harpster believed that Schweirs was assigned by the licensee to keep the plant manager (Schott) under control. Harpster said Schweirs even called the regional office to try to get some of the IE inspection reports changed. Harpster said Schweirs also asked him to send IE inspection reports to him (Schweirs) so he could decide which matters would be sent on to Schott.

Harpster said part of the problem was that NRC does not have explicit regulations to inspect against. He said that the preoperations inspector is faced with the task of trying to get control of the site and helping the licensee to solve its problems. He said that the inspector only documents a small percentage of this "helping work." Harpster said the licensee had no people involved with preoperations and test acceptance. He said that everything was bought under contract so the contractor was able to do whatever it wanted. Harpster said the licensee then had no one who knew how to handle the problems that were "built-in."

Harpster said he tried to get the plant managers out to take tours of the plant. He said that one assistant plant manager said he was scared to tour the plant because of the convicted felons working out there. Harpster said that sometimes the licensee's own security force could not handle disturbances and they had to call the local sheriff's office. Harpster explained that there is some drinking of alcohol on all nuclear construction sites. However, the licensee at Zimmer did not have much control of things. Harpster said there were a lot of "tough guys" working at the plant and the situation got worse when they were drinking.

Harpster said that there are many allegations at any nuclear power plant; however, usually only a certain number are true. Harpster said that one could tell that there were a large number of problems at Zimmer because so many allegations were coming up.

Harpster said there was a lot of pressure on individual IE inspectors because of the momentum generated by the NRC licensing process. Harpster said that pressure is also created on construction personnel by the contractor's weld production schedules. He explained that the construction manager has to have a certain number of welds completed to keep the piping installation on schedule. He said that problems arise when the construction personnel are pushed. Harpster said that for a QC inspector to stop construction for any deficiencies, he would have to hold up many phases of the construction of a \$1 billion plant; so the QC inspectors normally do what they are told.

Harpster said that nuclear power plants employ personnel specifically designated to serve as their liaison with NRC. He said that this is helpful because it overcomes the problem IE inspectors face in trying to find their way through the great amount of paperwork at the plant. Harpster said, however, this liaison person also "steers" the inspectors' activities. Harpster said that dealing with this liaison person does allow the inspector to get through NRC's modular inspection program very well. Harpster noted that there is no real internal audit of the NRC's inspection program.

Harpster described the "helping activities" that an IE preoperations inspector engages in as a process of getting all the procedures and controls in place. He said that this activity constitutes only about two lines in the IE procedures, but it is the largest part of a preoperations inspector's time.

Harpster estimated that the interest cost alone in holding up construction of a nuclear power plant for one day would be several hundred thousand dollars. He observed that, with the increased pressure on NRC to license power plants, he would expect even more pressure to be placed on IE inspectors. He said that pressures on the licensee personnel to make exceptions to the acceptance criteria in the preoperations tests are very real. He said it is difficult for an IE inspector to tell whether the licensee's exceptions are based on valid engineering analyses. He said that all inspectors cannot possibly be experts in all areas. Harpster said the inspectors must rely on the licensee's people to review the exceptions. Harpster said that this represents a flaw in the NRC's system because the licensee's reviewers are under the same pressure to approve exceptions. Harpster pointed out that the licensee, because it is a utility company, cannot pass on the amortization costs to the ratepayers until the plant reaches the point of completion, i.e., the stage of commercial operations.



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

ATTACHMENT 7

April 22, 1981

MEMORANDUM FOR: R. F. Warnick, Chief, Reactor Projects Section 2B
 THRU: *JNT* T. N. Jackiw, Acting Chief, Test Program Section
 FROM: F. Maura, Reactor Inspector
 SUBJECT: RESULTS OF ZIMMER INVESTIGATION

On April 17, 1981 I completed my write-up of the investigation of the Zimmer diesel generator subsystems and gave a copy to Paul Barrett. The purpose of this memo is to give you my recommendations on what actions are required to correct the problems noted.

Small Bore Piping Weld Fit-up Verification

The licensee shall be required to tabulate all small bore piping in systems important to safety where the QA inspector failed to verify proper fit-up prior to welding. The tabulation should be by system, drawing number and line number. Initially our position should be that all those welds be radiographed to verify that approximately a 1/16" gap was maintained prior to welding. Our fall-back position should be that IE:RIII will determine which welds the licensee shall radiograph. Our selection shall be based on system function, type of service the system is subjected to (design pressure, temperature, etc.) materials used, etc. For example, all safety related systems shall require 100% verification by radiography.

Lack of Adequate Material Heat Number Traceability

The licensee shall be required to walk down all systems important to safety, using the latest as-built drawings, and record the heat number of all pipes, fittings, etc. If the heat number can not be found on the component, it shall be marked on the drawing as "unknown". Next, the licensee shall verify that the installed heat numbers are acceptable (material certifications are available at the site and meet the ASTM Specifications). All material with unacceptable heat numbers shall be replaced. With regards to material of unknown heat number (not stamped on pipe) our initial position should be that it be replaced. Our fall-back position should be for IE:RIII to review each item and based on system function, type of service, environment, etc. make a determination of which components shall be replaced and which to accept.

*copies to: Kapp'Lox
 L...
 Wickman
 T...
 Sp...
 E...*

r. Warnick

Alterations of Weld Records (KE-1) Based on Weld Rod Issue Records (KE-2)

The licensee shall discontinue using the material issue forms to correct QA records. To prevent further deterioration of the QA records the licensee shall not attempt to remove the "corrections" already made, instead the licensee shall tabulate all QA records which were modified using Construction Department records. For turnover purposes the licensee will have to accept from Kaiser the records as they now exist. Where the records as they now exist are unacceptable, the only solution shall be to perform the work over again.

NRC's Performance

The NRC shall determine why it failed so miserably, during its routine inspection program in identifying and correcting the problems now surfacing at the Zimmer site. These are problems which should have been detected and corrected two or three years ago. Either our inspection program, the inspectors, our management, or a combination of all three allowed these problems to exist for so long. Corrective action must be taken to prevent recurrence. Our findings raise the question whether Zimmer's problems are an isolated case or whether our program has allowed similar problems to develop in other plants within our region. To answer that question RIII must conduct similar team inspections at other RIII plants under construction as soon as possible.

F. Maura
F. Maura, Reactor Inspector

PHILLIP GITTINGS
Deputy Quality Assurance Manager
Kaiser Engineering, Incorporated
William H. Zimmer Nuclear Construction Project

Mr. Phillip Gittings, former Quality Assurance Manager, Kaiser Engineering Incorporated (KEI), assigned to the William H. Zimmer Construction Project was interviewed on July 8, 1981, at the Zimmer Construction Site. Prior to any questions being asked, Messrs. Albert Puglia and John Sinclair identified themselves as Investigators, Office of Inspector and Auditor (OIA), U.S. Nuclear Regulatory Commission (NRC). Also present during the interview was James McCarten, Investigator, Office of Inspection and Enforcement (IE), Region III. Mr. Gittings was also provided the opportunity to review appropriate credentials and advised that the purpose of the OIA investigation was to determine his knowledge of alteration or falsification of Quality Control (QC) documentation (NonConformance Reports, Kaiser Engineering Inspection forms-KEI forms).

Mr. Gittings began the interview by describing his employment with the Kaiser Corporation. Gittings explained that he had worked for Kaiser for approximately 4 1/2 years and had held the position of Kaiser Quality Assurance (QA) Manager at the Zimmer Site for about one year. Gittings stated that he assumed the position in July 1980 and had recently been reassigned as the Deputy QA Manager and was scheduled to be transferred to another Kaiser project in the near future.

Investigator McCarten questioned Gittings as to his knowledge of "voiding" Nonconformance Reports (NR's). Gittings stated that prior to November 1980 most "voiding" of NR's was done by the Supervisor for Document Control, Floyd Oltz. Gittings responded to questions concerning the qualifications of the Supervisor, Document Control, and his authority to "void" NR's by stating that Oltz did not have the technical qualifications to assess the validity of NR's or the authority to disposition the NR's as "void."

Gittings stated that the proper procedures for processing an NR called for a technical evaluation of the information contained on the NR to determine whether or not the deficiency described was valid, and if not, the NR could be dispositioned as "void." Gittings continued by explaining that the only person who had the authority to void an NR would be the QA Manager. Gittings also advised that the problem with NR's and their "voiding" was the topic of discussion with an NRC inspector from Region III, (I. Yin) in the fall of 1980. In response to subsequent questioning concerning NR's written by a inspector by the name of Ruiz, which were "voided" by Gittings, he (Gittings) acknowledged that he had "voided" the NR's but could not recall why he had voided them.

Gittings stated that during an inspection of the site, Yin discovered the problems of "voiding" NR's in the Document Control section. Gittings stated that the discovery of the problem had been discussed during an exit meeting between the NRC inspector, representatives of Cincinnati Gas and Electric (CG&E) and Kaiser. Gittings further stated that he attended the meeting and recalled that Yin questioned the voiding procedures, and the process whereby the Document Control Supervisor was exercising the authority to void NR's. According to Gittings, Kaiser advised the NRC that there would be no more voiding of NR's by the Document Control Supervisor.

When questioned about QA being intimidated by the Construction Manager (Robert Marshall), Gittings replied that he was not intimidated by Marshall or construction's challenges to the findings of QC inspectors. Gittings stated that Marshall has a strong personality, but he, Gittings, would not change QC findings based solely on Marshall's objections. Gittings added, however, that there were some instances where he, Gittings, agreed with Marshall's position and subsequently overrode the findings of the QC inspector.

Gittings continued by stating that when he arrived at the Zimmer site he found what he believed to be inadequate QA Management. At that point he began to hire additional QC inspectors from other construction sites. This, Gittings stated, also caused some difficulty because some of the inspectors came from projects which were inspecting to other code requirements than the AWS (American Welding Society) that was in effect at Zimmer. Gittings explained that the differences resulted in Kaiser instructing the QC inspectors that the standards and requirements at Zimmer were those incorporated in the AWS code.

Gittings responded to questions regarding the placing of NR's in a separate file titled the Inspection Report File by stating that he was not involved in directing or placing NR's in places other than where they were supposed to be. Gittings stated that he had never instructed anyone to place documents (NR's) in files other than the NR system. Gittings was then advised that between January and February 1980 "Inspection Report" stamps began to be placed in NR log books in order to remove or recategorize the original NR as an inspection report and remove it from the NR system. Gittings explained that the practice at the site was for the QC inspector to call in from the field to get a control number and after the number was issued write up and submit the NR. This, according to Gittings, is compatible with the Quality Assurance Control Manual Instructions (OACMI) procedure which states that QC inspectors can initiate an NR "that is correct." Gittings added that once the NR has been reviewed by a QC supervisor or himself and determined to be valid, then it was entered into the NR file.

Gittings continued by stating that after a second visit by NRC, Kaiser began an audit of NR's to completely review and make determinations concerning "problems" with individual NR's. Gittings repeated that he did not order or direct anyone to place existing NR's in the "Inspection Report" system. Gittings also stated that he did not order or direct that any changes be made to recording NR's in the NR log.

Gittings responded to questioning pertaining to a Kaiser management meeting conducted in early 1980 by stating the following. Gittings explained that he believed that the subject of the meeting had to do with the inspection of pipe support hangers. Gittings added that there were people from Kaiser QA construction and licensee personnel in attendance. According to Gittings, Gene Knox (QA Kaiser Corporate), Rex Baker (Kaiser QC Supervisor), Bob Marshall (Kaiser Construction Supervisor) and Scott Swain (CG&E), along with some others, were present in the meeting. Gittings stated that there was an ongoing problem of writing up and accumulating NR's on pipe hanger deficiencies. Gittings stated that there had been a problem with NR's on the hanger area. Gittings stated that a decision was reached as a result of the meeting to stop writing NR's and to "void" existing NR's. This decision was based upon the fact that Sargent and Lundy (S&L), architect engineer for the project, was to do a reevaluation of the design of the hangers and inspections would be conducted according to design modifications. A second consideration was that QC inspections of vendor hangers (Patterson) were not to be conducted. The instructions were that QC inspectors were "not to inspect hangers purchased outside."

Gittings continued by explaining that the previous fall (1979), there was continued "turmoil" concerning hanger inspections. Gittings explained there was pressure to get hangers installed and QA was "getting beat up" concerning inspections. Gittings stated that in one instance where 60 hangers were identified as having deficiencies and were written up on one NR, he had made the decision to separate the deficiencies and place one hanger on one NR. This, according to Gittings, was not intended to overrule the QC inspectors. Gittings also stated that he was not involved and had not instructed anyone to set up any "secret files" regarding QA documentation.

Gittings responded that construction has not ordered him to move QC staff around in order to stop critical inspections. Gittings did state, however, "people have been reassigned to other systems."

At this juncture, Investigator McCarten left the interview and it continued in the presence of Investigators Puglia and Sinclair.

Gittings began a discussion pertaining to the Kaiser QA organization and who has responsibility for the QA program at the site by stating it is Kaiser's responsibility. Gittings continued, however, and explained that Kaiser was "doing the work for a very tough client (CG&E) and that

any requisition for additional manpower or staffing for QA/QC had to go through the client." Gittings added that he had to report everything through Bill Schwiers, QA Manager for CG&E.

Gittings stated in response to questioning that the QA organization for Kaiser is currently staffed at a "substantially higher level" than at his time of arrival or initial assignment at the site. Gittings added that he was continuing to recruit QC personnel for Kaiser employment. Gittings admitted, however, that the staffing of the QA/QC organization in the past has not been "adequate to meet the requirements of 10 CFR (Part 50, Appendix B). Gittings added that the client (CG&E) "did not have an adequate QA/QC staff" and "some (personnel) individuals should not have been in the system."

Gittings continued by denying that he had instructed anyone to "white out" NR entries in the NR log. He (Gittings) stated that, in fact, his instructions were to make no changes in the recordings in the NR log book.

Gittings responded to questions concerning the utilization of "punch lists" to record deficiencies rather than NR's by stating that punch lists were used to rectify problems instead of NR's.

Gittings was questioned as to the circumstances which led to the termination of the contract with the Butler quality control inspectors. Gittings stated that the contract was terminated after discussions with Kaiser corporate management and a meeting which took place in which the decision was made to "eliminate the shoppers" (stop the contract with Butler).

Gittings admitted that although Kaiser had been having difficulty in staffing QA/QC, the decision was made that Kaiser would have its own QC inspectors. As Gittings recalls, offers were made to approximately 21 of Butler inspectors of which 17 accepted. Gittings added that 34 QC inspectors left for other employment. Gittings also stated that the piping area was reduced from 10 QC inspectors to three inspectors partially because the work slowed down. Gittings stated, however, that the corporate decision to drop the "job shoppers" also played a part. Gittings concluded his comments on the contract issue by stating that he believes some of the reasons for eliminating the Butler people were that Kaiser could cut down on paperwork and establish a cadre for Kaiser's own QA organization. Other factors, according to Gittings related to cutting costs, eliminating "over inspecting" and the Butler inspectors had "no loyalty" to Kaiser.

Gittings further stated there were some difficulties or problems in working with Bob Marshall because he was loud and aggressive, but it did not effect his (Gittings) position or his independence as Kaiser QA Manager. Gittings did stated that one problem that did effect his ability to carry out his job was his relationship with the CG&E QA Manager, Bill Schwiers. In fact, Gittings stated "my primary goal was to get along with him" (Schwiers). Gittings added that Kaiser lost the previous QA Manager (Turner) because he was unable to get along with Schwiers. Gittings explained that there were numerous requests in the form of memoranda which were sent by Turner to CG&E asking for additional QC staffing which were turned down or denied by Schwiers. Gittings was requested by OIA to contact Kaiser corporate and advise them that NRC requests copies of the memoranda which indicate that additional QC staffing was necessary to meet the requirements of 10 CFR. Gittings stated he would contact corporate and advise them of the request. Gittings could not furnish any additional information regarding problems with the QA program.

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

NOV 18 1981

file
Zimmer

MEMORANDUM FOR: Bert Davis, Deputy Director, Region III
Office of Inspection and Enforcement

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

SUBJECT: ZIMMER INTERVIEWS AND CORPORATE CORRESPONDENCE

Attached for your review and any action deemed appropriate are the interviews conducted by Office of Inspector and Auditor (OIA) investigators, regarding potential falsification of records at the William H. Zimmer Nuclear Power Station. Also included is correspondence transmitted between the Henry J. Kaiser (HJK) company and Cincinnati Gas and Electric (CG&E) describing attempts by Kaiser to staff the Quality Control (QC) organization in order to meet the requirements set forth in 10 CFR 50, Appendix B. The requests which were sent to CG&E for authorization were officially disapproved by CG&E. Copies of the stipulated correspondence is furnished as an attachment. OIA has also provided a copy of a CG&E internal memorandum dated November 7, 1980, instructing Kaiser to "eliminate" the HJK requirement for system certification (review of Quality Assurance (QA) documentation) prior to the release of systems from construction to the Electric Production Department for preoperational testing. OIA had briefed personnel at IE Headquarters regarding the described documentation and attached interviews on September 16, 1981, in order to assist in the identification of any unresolved health and safety issues. As a result of the meeting it was concluded that none of the information presented any question concerning health and safety. We are, however, providing this documentation at this time to assure that no issues remain unresolved and that IE is aware of the information obtained by OIA.

If there are any questions pertaining to the material please feel free to contact me or Arthur Schnebelen, Acting Assistant Director for Investigations.

Attachments:
As stated.

UNIVERSITY OF CINCINNATI
CORRESPONDENCE

TO: SIGNATORIES

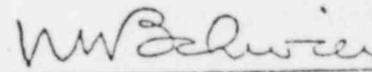
FROM: W. W. SCHWIERS

SUBJECT: WM. H. ZIMMER NUCLEAR POWER STATION
UNIT I - TURNOVER OF SYSTEMS FOR
PREOPERATIONAL TESTING - W.O. #57300-
957, JOB E-5590

DATE: NO

Attached, for your information, is a copy of sheet titled "Turnover of Systems for Preoperational Testing". This sheet shall serve as interim approval for elimination of Henry J. certification prior to system release for preoperational testing.

If you have any questions, please call.


W. W. SCHWIERS

WWS:pa
Enclosure
cc: E. A. Borgmann

Signatories: S. C. Swain
J. R. Schott
W. W. Schwiers
Henry J. Kaiser Co.
Attn: P. S. Gittings

November 7, 1980

TURNOVER OF SYSTEMS FOR PREOPERATIONAL TESTING

Effective November 7, 1980, release of systems from Construction to the Electric Production Department for preoperational testing shall not require certification by Henry J. Kaiser Company that all Construction QA documentation has been reviewed. All procedures stating the prior requirement shall be revised as expeditiously as possible, but no later than November 14, 1980. Review of the Quality Assurance documentation shall continue on a scheduled basis for each system.

WBSwain for SCS
S. C. Swain, Site Construction Manager
11-7-80 WBS

JRSchott (PEE)
J. R. Schott, Station S

PS Gittings 11/7/80
P. S. Gittings, H&K QA Manager

WWSchwiers
W. W. Schwiers, QA Man

I, _____ do hereby make the following voluntary statement to Mr. J. B. McCarten, who had identified himself to me as an Investigator with the U.S. Nuclear Regulatory Commission. I make this statement freely with no threats or promises of reward having been made to me.

From August, 1973 until November, 1976 I was employed by Kaiser Inc. as a Lead Electrical Quality Engineer and after November, 1976 as Assistant Quality Manager at the Zimmer Nuclear Power Station currently under construction in Ohio. While employed at the Zimmer site, I worked for Bill Friedrich the Quality Control Manager for Kaiser Engrs. Inc. Bill was replaced in November of 1976 at the request of William Schwiers of CG&E due to a disagreement he had with Schwiers over the operation of the Quality Control Program at Zimmer. Bill Friedrich kept no secrets on the reasons for his replacement. Friedrich wanted to hire more inspectors, and wanted to conduct the Zimmer QA program according to Nuclear Standards. Friedrich had extensive experience in the Nuclear industry and was attempting to implement the KEI QA Program and industry standards on this site. Bill Schwiers was the CG&E QA and Stds. Engineer (i.e. Quality Mgr.) on site and did not want to hire the Inspectors Bill requested. Schwiers did not have any previous nuclear experience and had an Accounting background, was cost conscious and not committed to implementing KEI's QA Program at the Zimmer site. Schwier's did not back Friedrich's request for more inspectors on the site when work at the site was underway at a faster pace and more inspectors were needed to get the job done. Schwier's did not want to spend the money on inspectors, refused Friedrich's requests and eventually replaced Friedrich, or had Kaiser replace him on the site. Friedrich's replacement, Bob Turner, ran into the same problem with Schwiers, again Turner wanted to hire more inspectors and Schwiers refused Turner approval to hire them. The inspection program at Zimmer was less than adequate due to the sheer lack of inspection manpower on the site. For example, Zimmer had only approximately

35

25 in-process line inspectors at the site, whereas other sites have 300-350 QC in-process line inspectors. Zinner had approximately 8-9 Quality Engrs. Perry has forty. Other sites have approximately 30-50 Quality Engineers.

In my opinion the Management of CG&E was not committed to a Nuclear Quality Assurance program. This was evidenced by the following conditions:

1. Receipt inspection was less than adequate.
2. In-process inspection was less than adequate, and documentation of in-process inspection was poor.
3. Source inspection was less than adequate.
4. Vendor audits were less than adequate.
5. As built drawings were not available to craft personnel due to frequent revision to the drawings. Many as built installations were not documented.
6. Revisions were made to the electrical specifications which resulted in the voiding of conformances that had been identified by QC inspectors.
7. Vendor supplied items had poor quality welds on them.

At one time Schwier's objected to my proposal to put an inspector with every safety related cable pulling crew. He felt 100% inspection of safety related cable pulls was unnecessary, although this was standard for the nuclear industry. After I left the site I heard things got worse. A revision was made to a specification which allowed for the pulling of cables in raceways where the hangers and supports had not been completely installed, also cables were pulled and improperly trained. A nonconformance report was written on it, and subsequently the specification was revised to allow for the improper training of cables in cable runs.

Also after I left I heard that Bob Marshall, Construction Superintendent walked into the Quality Control Office one day and shouted to everyone present,

35

that, "I will see that all of you OC people never will work at a Kaiser site again". I also heard that nonconformance reports issued by the inspectors identifying discrepancies in the plant were being voided without reason.

I have given Mr. McCarten more specific information regarding my concerns over the Quality Program at Zimmer, this statement is a brief summary of my concerns in general.

I have read the above statement, made the necessary corrections, initialed mistakes and it is true and correct.

Subscribed to before me on this 29th day of January at Perry, Ohio.

35

STATEMENT

I, John R. Booth, hereby make the following voluntary statement to Edward C. Gilbert who has identified himself to me as an Investigator with the U. S. Nuclear Regulatory Commission. I make this statement freely with no threats or promises of reward having been made to me. Investigator GILBERT is writing/typing this statement for me at my request.

I am a level II electrical quality control inspector. I have been employed by Advanced Industrial Design Engineers (AIDE) at the North Anna Nuclear Power Station, Mineral, Virginia, since November 1, 1980.

Previously, I was employed by the Butler Service Group Inc at the Zimmer Nuclear Power Station, Mascout, Ohio, from August 1, 1980 to October 31, 1980. Prior to that, I was a Q/C Inspector at the Sumner Nuclear Power Plant, Jenkinsville, South Carolina, for two and one-half years. My employer at Sumner was the South Carolina Electric and Gas Company.

A recent local address is the Rebel Hotel, Louisa, Virginia, and my permanent mailing address is 1015 Confederate Avenue, Columbia, South Carolina, 29201.

John R Booth

While employed by Butler at the Zimmer Plant, most of my work was mechanical, inspecting cable tray and conduit supports. Working at Zimmer was entirely different than at Sumner or North Anna. At Zimmer, under Kaiser Engineering, the emphasis was on production and the Quality Assurance (Q/A) Program was tolerated as a "necessary evil." The general attitude at Kaiser from the construction workers up through management was that the quality control (Q/C) inspectors were a "pain in the ass" who deserved minimum respect. Construction ran the whole show. There was no cooperation between the craft personnel and Q/C inspectors. There was no interaction between construction and Q/A personnel.

Butler was dominated by Kaiser in November 1980 since Kaiser wanted more control over the Q/C inspectors. I believe Kaiser felt they could exert even more pressure and threaten the Q/C inspectors if they were their own employees. At other plants the craft personnel were very willing to make necessary changes disclosed by the Q/C inspections. At Zimmer the Kaiser personnel were constantly arguing and disagreeing with the results of Q/C inspections.

Wayne BIEHLE was the lead electrical inspector and my immediate supervisor when I was working for Butler. Mr. BIEHLE was a Kaiser employee since all lead inspectors had to work for Kaiser rather than Butler. Mr. BIEHLE told me I could not write a non-conformance report (NCR) without his approval. Therefore, since Mr. BIEHLE often disagreed with my Q/C inspection findings, I was seldom able to prepare NCR's. Before attempting to write an NCR I had to obtain the NCR sheet from Mr. BIEHLE and he would assign me an NCR number if he agreed an NCR was necessary. Also, when I was able to submit an NCR, I seldom knew what the disposition of the item was. At other plants I always received my NCR back indicating what action had been taken and then I reinspected the deficiency to make sure it had been corrected. This did not occur at Zimmer. At the other power plants where I worked all the Q/C inspectors were authorized to prepare NCR's without their supervisors' permission.

Since it was so difficult to obtain approval to write an NCR, I was encouraged to utilize a Hoop Inspection Form. This was an important

John R. Buehl

"in-house" & was utilized at Kaiser in lieu of an NCR. There was a Hanger Inspection Form for both conduit hangers and tower hangers. We would either stamp the form with an "A" for accept or an "R" for reject. There was no accountability required for these forms. In my opinion, an NCR should have been issued rather than having the Hanger Inspection form stamped with an "R."

I recall an instance wherein approximately twenty of thirty electrical welds which I inspected were deficient. However, Phillip GITTINGS, QA Manager, and several other Kaiser personnel looked at the welds and disagreed with me. Therefore, no NCR was written and the welds were not corrected. There were many similar instances wherein NCR's were not issued and corrections not made since my supervisor or other personnel did not agree with my inspection findings. I cannot recall the specific locations and I maintained no records of these deficiencies. These pertained to fit up gaps where the hangers were undercut with undersized welds.

Also, there were many instances where I and other QA inspectors were asked to inspect welds through zinc rich coating (ZRC) paint. However, we couldn't do this since it was not allowed. This situation resulted in many arguments.

I recall ^{observing} ~~inspecting~~ a one hundred foot run of three inch pipe in a battery room which had no required supports or hangers. This was simply written up by me on a surveillance form rather than an NCR. I do not know whether it was corrected.

I only met Robert MARSHALL briefly on one occasion and it did not pertain to my work.

John R Booth

Any criticisms by Mr. MARSHALL & Mr. GITTINGS
ultimately came to my attention through my
supervisor, Mr. RIEHLE.

I am not aware of any incidents at Zimmer
involving O/C inspectors having water dumped on them.
I terminated my employment voluntarily with
Butler since I was ~~disappointed~~ and insecure in my
work performance due to the restrictions placed upon
me. I resented the fact that Kaiser obviously did
not have faith in my work or confidence in my
intelligence since my work was continually being
reinspected and double checked whenever I found
items of non compliance. After I left Butler one of the
secretaries told me it was a good thing I left since
I would have been fired. She explained that I
rejected too much and therefore delayed construction
in the eyes of Kaiser supervisory personnel.
However, I would like to point out, I took pride in
my work and I refused to sign anything as
acceptable which in my professional opinion
was not up to specifications.

John R. Booth

I have read the foregoing statement consisting of 4 handwritten/~~typed~~ pages.
I have made and initialed any necessary corrections and have signed my name in
in the margin of each page. This statement is true to the best of my knowledge
and belief.

INTERVIEWEE: John R. Booth

Name: John R. BOOTH

Subscribed and sworn to me the 20th day of Feb, 1981, at Mineral, Va.

INVESTIGATOR: Edward C. Gilbert 1:27 A.M.

Name: Edward C. GILBERT

WITNESS: Peter E. Baci 1:27 A.M.

Name: Peter E. BACI

STATEMENT

I, Billie E. TYREE, hereby make the following voluntary statement to Charles C. GILBERT who has identified himself to me as an Investigator with the U. S. Nuclear Regulatory Commission. I make this statement freely with no threats or promises of reward having been made to me. Investigator GILBERT is writing/typing this statement for me at my request.

I am a Level II welding (mechanical) quality control (Q/C) inspector. I have been employed by Advanced Industrial Design Engineers (AIDE) at the North Anna Nuclear Power Station, Mineral, Virginia, since November 10, 1980. Previously, I worked for the Butler Service Group Inc at the Hatch Nuclear Power Station, Berkeley, Georgia, for about six weeks in October and November 1980. Prior to that, I worked for Butler and consultants and designers at the Watts Bar Nuclear Power Station between November 1979 and October 1980. I also was employed by Butler at the Zioness Nuclear Power Plant, Muskegon, Ohio, in the same capacity (Level II welding Q/C inspector) from September 24, 1979 to November 20, 1979.

My present local address is the _____, Virginia, telephone _____ My permanent mailing address and residence of my spouse is _____, Tennessee, telephone _____

I anticipate terminating employment at AIDE in two or three weeks and returning to Tennessee.

During my employment by Butler at Zioness I was aware of buckets of water being thrown on Q/C inspectors by construction workers. This happened on at least four occasions and possibly six occasions to Mrs Jan MULKIE, a Q/C inspector. Although I never observed the water being thrown I did see Mrs MULKIE immediately after the event occurred when she was shaking water. She was wearing

Billie E. Tyree
1 of 3

initiated. I reported the incident to his immediate supervisor; however, I do not recall his name. I am not aware of this individual taking any action or reporting it to his supervisors or management personnel. To my knowledge, there was no formal report of complaint prepared and there was no ensuing disciplinary action. During the two-month period I worked at Zimmer, two or three other a/c inspectors also had water thrown on them by craft (construction) personnel. I cannot recall specifically who these a/c inspectors were and I don't think the situation was pursued any further than the probable reporting of the incidents to their immediate supervisors. As far as I know, buckets of water continued to be thrown on a/c inspectors after I terminated employment in November 1979. This water was not thrown on the a/c inspectors as a practical joke. I observed when the a/c inspectors were in the containment building. I assume it was done since the construction workers did not want the a/c inspectors in the containment area. Therefore, presumably, they threw the water on the a/c inspectors to limit their stay in the containment building. The inspectors I had been assigned to perform a/c inspections in the containment building when the water throwing incidents occurred. It was general knowledge that one of the construction workers nicknamed "Frenchie" was responsible for throwing the water. I don't know how this became known or whether any a/c inspectors actually saw him throw the water. I do not know Frenchie's real name. Frenchie is a short heavy-set individual in his 40's. He speaks with a French accent. He also used to have a

Billie E. Zyma

EXHIBIT 56, 2 of 3
1/18/1981

EXHIBIT 1 261 3013

3
I cannot recall any non-compliance reports being
avoided without justification during my two month
tenure with Butler & Zimmer. (Also, I can offer
no information regarding other individuals who
worked at Zimmer. I think I was there. Finally, I can
offer no additional examples of a/c inspectors being
threatened or intimidated.

The main reason I terminated employment with
Butler & Zimmer was to return to Tennessee to be
with my wife. However, I was also prompted to leave
since, in my opinion, Kaiser Engineering was not
interested in a quality product. (By this I mean
there was an obvious lack of emphasis on the
Quality Assurance Program. Under these conditions I
was unable to take pride in my work as a a/c
inspector.

I have read the foregoing statement consisting of 3 handwritten/~~typed~~ pages.
I have made and initialed any necessary corrections and have signed my name in
in the margin of each page. This statement is true to the best of my knowledge
and belief.

INTERVIEWEE: Billie E Tyree
Name: Billie E. TYREE

Subscribed and sworn to me the 20th day of Feb., 1981, at Mineral, Va.

INVESTIGATOR: Edward C. Gilbert 1:18 A.M.
Name: Edward C. GILBERT

WITNESS: Peter E. Baci 1:19 A.M.
Name: Peter E. BACI

STATEMENT

I, Richard B. PRICE, hereby make the following voluntary statement to Edward C. GILBERT who has identified himself to me as an Investigator with the U. S. Nuclear Regulatory Commission. I make this statement freely with no threats or promises of reward having been made to me. Investigator GILBERT is writing/typing this statement for me at my request.

I am a Quality Control (Q/C) Inspector employed by ABACUS Temporary Technical Services, Virginia Beach, Virginia, assigned to the North Anna Nuclear Power Station, Michael, Virginia. I have been here since December 15, 1980. Previously, I worked for Kaiser Engineering at the Zimmer Nuclear Power Station, Moscow, Ohio, from December 1 to December 14, 1980. Prior to working directly for Kaiser at Zimmer I was employed by Balfour Beatty Group Inc. at Zimmer from September 1979 to November 29, 1980, while at Zimmer I was a Q/C Inspector in document review for the piping department. My local address is

Virginia.
Some of my non-compliance reports (NCR) were voided by other individuals without adequate justification or explanation. I cannot recall the specifics of these voided NCR's at this time. I did keep a file of copies of these voided NCR's of mine at the Zimmer plant however I no longer have them. The day I submitted my termination notice I was not allowed to return to my desk after lunch. Therefore, I couldn't remove these NCR's. Mr. Phillip GITTINGS, Quality Assurance (Q/A) Manager with Kaiser, became very irate when he heard I was going to leave. Therefore, he directed Rex BAKER, Q/A and Q/C supervisor, to fire me if I turned in a termination notice. When I turned in my badge was pulled so I couldn't go back to my work space to get the NCR's. Also RALPH

Richard B. Price

1.5.80

and James RANSEY, both O/C Inspectors, also left Kaiser the same day as I did. Of the NCR's which I had copied and filed, some had been voided and others had never been processed. In respect to the latter, these NCR's had just been handed back to me without having been assigned a number. I assume this was illegal.

In addition to utilizing NCR's, O/C Inspectors also cited deficiencies on a "punch list". A "punch list" was an informal in-house form which never went to the ^{community} ~~community~~ bus and electric company. Items on the "punch list" could be handled strictly in-house with a minimum of effort, time and paper work. I do not believe the "punch lists" were permanently maintained, included in permanent plant documentation or disclosed outside Kaiser. The specifications utilized by Kaiser as set forth in the Special Process Procedure Manual (SPPM) were very vague in respect to defining whether a deficiency should be reported by an NCR or a "punch list". In my opinion, many items requiring correction were put on a "punch list" when an NCR would have been more appropriate. Minimum wall violations, as an example, were normally put on a "punch list".

When I commenced working at Zimmer I was initially assigned to document & review in the diesel pump room. I visited the diesel generator room. I discovered many undocumented welds, etc. which required inspection. I also saw many examples of gross rejectable work including arc strikes, minimum wall violations and unqualified welds. I would like to point out the welds had previously been inspected and accepted. I was rushed and didn't have sufficient time during this first inspection period.

Richard B. Bair

2 of 10

I reported the various discrepancies in each room by NCR's or "punch lists" later, when I had more time, I continued to write additional NCR's and "punch lists" on things I had missed during my first inspection. As a result, John SETLOCK, field inspector in the Hydro Group and my immediate supervisor, warned me that unless I stopped turning in NCR's and generally "kickbutt" on my inspections "they would get my money." By this he meant that I would be terminated by Kaiser if I continued to be critical in my inspections. He also told me he knew how they (referring to construction) operated. Mr. SETLOCK was one of ~~for~~ ^{Robert} MARSHALL'S, Project Manager, "pits" since he and Mr. MARSHALL always got along very well. He always liked MARSHALL up and worked well by him. Mr. SETLOCK is now a full Superintendent with construction (Kaiser).

Richard S. Price

Reportably, before Butler was contracted by Kaiser, the Q/A Program at Zimmer was exceptionally bad. This condition supposedly existed for the first nine years since Butler started running the Q/A Program the situation improved considerably. More NCR's were generated. However, this resulted in more conflicts between the Q/C inspectors and craft personnel.

On one occasion a pipe fitter told me in confidence of a problem in the diesel generator room concerning tank # 10G15TL. Initially, there was porosity on the surface of an inlet seal held around the nipple. Allegedly it had been received from the vendor in this condition. As explained to me, the defect had been corrected by the pipe fitters. However, it was later realized it should have been corrected by the boiler maker.

30010

Therefore, the repair procedure documents were supposedly destroyed and the welders repaired the defect. Since the procedure was questionable, I prepared an NCR. It has now been satisfactorily corrected. A full penetration weld as required by the code was made although I want to use a partial penetration weld.

I wish to reiterate that when I first started working for Butler the workmanship by the craft personnel was exceptionally poor. Many welds were not documented and everything was just a job since it was so bad. I was concerned and questioned a lot of the work. I always maintained copies of my NCR's since I had been told it was a good practice. Unfortunately, I no longer have copies of these NCR's.

I recall writing up two items on a "punch list" one pertained to a large attachment welded to a pipe which looked bad. They were getting ready to hydro it. It was unclean and had the strikes. The other pertained to a gamma plug (V-bond weld). The outside surface of the weld had a cluster of porosity. When I presented the "punch list" to Mr. SETLOCK he told me to rewrite it since he "wouldn't touch a vendor weld. Therefore, I had to rewrite the "punch list" omitting the gamma weld and just including the large attachment.

Liquid Penetration Reports were one of the provisions plan documentation. ~~100~~ ~~172000~~ was a former supervisor for Kaiser. I who reportedly created a lot of mischief on paper work. I don't know where Mr. ~~SETLOCK~~ is now. After Mr. ~~SETLOCK~~

Richard B. Pines

4 of 4

No ~~handwritten name~~ Xeroxed signature. Although if
[his signature was Xeroxed] (not the original) the
rest of the LPR contained someone's
original writing. In many instances the
handwriting appeared to differ from Mr. DAKIN.
I suspect these LPR's
containing Mr. ^{DAKIN's} signature were
filled out by other personnel at Kaiser to
cover up work which has not been properly
inspected. [I have a sample of one of these
LPR forms containing Mr. ^{DAKIN's} signature which I have agreed to provide
to Mr. GILBERT.]

Bob REITER wrote NCR's which had to be
reviewed by Floyd CUTZ since Mr. REITER was
not a certified O/C Inspector. He wrote NCR's
regarding the traceability of system on all
pipes and fittings on the job. The
fittings had numbers & the pipe didn't. If
the number was entered into the sheet it
was acceptable. Therefore, a piece of pipe could
be installed with a different dia number if
sure there were many instances of all but
traceability not being recorded as required.
The O/C Inspectors were told by ~~me~~ that I
suspected that all the pipe in the
'drawings' was in the number recorded
but that was not necessarily so since Mr.
REITER knew in advance that his NCR's
regarding this situation would never be
intended, he made copies of his NCR's
'before they were given to Mr. GILLINGS. As
anticipated, the NCR's concerning the
traceability of material was not processed.
However, Bernie Wood, who still works at

Richard B. Dine

50710
11

Wood, has a copy of Mr. REITER's NCR. Mr. Wood works for Kaiser. Mr. REITER is familiar with many of the problems of Kaiser regarding documentation. He was not offered a job by Kaiser since Mr. GITTING didn't like him [of all as a result of the NCR's he prepared]. Mr. REITER is still working in Cincinnati, Ohio, as a draftsman and may possibly be employed by Parter and Howell at this time. I believe this situation was written up on a surveillance report¹⁹⁵⁰ re: an NCR by REITER. Many O/C inspectors felt they were intimidated by various construction foremen and construction workers in respect to their general attitude toward the Q/A program and complaints regarding the inspections. Also, several O/C inspectors felt they were intimidated by Mr. MARSHALL for the same reasons. However, with the exception of being told by Mr. SETLOCK to "back off" a few times, I do not feel that I was personally harassed or intimidated.

Dave HOLTZMAN, who worked in startup for CG&E, asked me on several occasions what I was doing in various areas. I responded by stating, "I'm doing my job." Also, when I pointed out problems related to Mr. HOLTZMAN he used to comment, "it looks alright to me!"

On several occasions, I questioned arc strikes on carbon steel pipe. Eventually, Kaiser established criteria for what was acceptable during a visual inspection of arc strikes on carbon steel pipe.

Also, in respect to minimum wall violations, Kaiser eventually developed specifications for acceptable criteria. This

Richard B Price

EXHIBIT 10
6-10
1000000

allowed craft to go a lot deeper (thinner walls) than previously. I understand Kaiser took the firm the code although I never saw it.

Kaiser also told a/c inspectors to accept weld splatters on carbon steel pipe. They (Kaiser personnel) explained that procedures to allow this would be revised. Finally, after the a/c inspectors had been accepting weld splatters for two or three months the procedures were appropriately changed.

BOB SWAIN was a CG&E employee who was Mr. HOLTZMAN's supervisor. When the minimum wall violation problem initially surfaced, Mr. SWAIN came out with a look to determine what was and was not acceptable. Mr. SWAIN prepared a memorandum instructing a/c inspectors to accept minimum wall violations which did not exceed certain specifications which he had arrived at by using a new formula. At the time of this memorandum being issued, the procedures set forth in the special process procedure manual (SPPM) had not been changed. Mr. BAUMGARTNER who was Quality Assurance Manager at the time, and Mr. KNOX, another Kaiser employee, told us (a/c inspectors) to ignore Mr. SWAIN's memorandum until the change was incorporated into a procedure in the SPPM.

As I may have indicated previously, I (a/c inspectors) were told by our supervisors to not violations on a "good hit" whereas we anticipated a violation would be challenged if it was submitted on an NCR. This was to be done even though it should have been

Richard B. Pine

EXHIBIT 5
7 OF 10



Richard B. Pinn

IC 11011111

8010

properly documented by an NCR.

I am aware of construction workers dumping water from buckets onto a/c inspectors. I would estimate this occurred at least ~~twelve~~ times on a periodic basis during the entire fifteen-month period I worked at Zimco. JAR MURKIE was drenched by water several times while she was performing inspections in the containment. As a result she reportedly refused to go into the pipe chase in the reactor building. Also, Michael DEPUCCIO had water thrown on him several times in the containment building. I never saw these incidents but I saw the inspectors immediately after it happened when they were wet with water. The incidents were reported to my SETYOCK and TIM NORMAN who were a/k/a supervisors performing the work. They also reported to one of our supervisors (a/k/a Manager). They came to the attention of Mr MARSHALL or Dick CRANSTON with Kaiser. One of these individuals got the word spread around that he had a list of five names of construction workers who would be terminated if there were any further incidents of water being thrown on a/c inspectors. The individuals were allegedly pipe fitters or pipe welders. According to the rumors I heard, "Frenchie" and "John Boy" were responsible for throwing the water. I only know these two individuals by their nicknames. "Frenchie" was a welder. Both of them were still employed by Kaiser at Zimco when I left. I am not aware of either of these individuals being disciplined or even confronted with the accusation by any supervisor or managerial personnel, even though their participation was undeniable.

known by Mr MARSHALL and/or Mr CRANSTON.
Further, I don't know of any formal report
or complaint being prepared or any inquiries
being initiated. The opinion of both me
and the other inspectors was that water
was thrown on Mrs MULKIE and Mr DE RUCCIO
since they were good inspectors who wouldn't
let craft personnel get away with inferior
or non-conforming work.

Several of my coworkers (O/C Inspectors)
also felt the Pipe Hanger Foreman, WALT HAMM SR.,
was intimidating Mrs MULKIE. Jan reportedly
said Mr HAMM told her she didn't know what
she was talking about. Also, he reportedly told
her he was going to go ahead on various
projects even though she had filed an
NCR. Also, individual I was intimidated by MARSHALL who
tried to force GITTINGS to fire him.
of the first of six different nuclear power
sites I have worked at, the conditions at
Zimmer were the worst. Based upon my
observations, I suspect there are many health
and safety potential dangers at Zimmer. I
would not want my family to live near this
plant.

Two weeks prior to November 29, 1980 Mr.
GITTINGS presided at a meeting wherein he
announced that Butler was going to be
terminated on November 29th. Mr GITTINGS
indicated the possibility of the Butler
employees being hired by Kaiser to work as
O/C Inspectors directly for Kaiser. I was later
offered a job by Kaiser and accepted upon
the advice of my best supervisor. I was
the first to leave the meeting and I left
prior to it ending. While I was in attendance
Mr GITTINGS made no remarks about "not picking

Richard B. Cain

EXHIBIT 51
9 of 10

Richard B. Price

inspections. However, this sounds like something Mr. GITTINGS would say. All the O/C inspections were of the opinion that MARSHALL thought that Mr. GITTINGS was the best thing that could happen to the O/A Program since he (Mr. GITTINGS) was "pro-construction".

I did not enjoy working for Kaiser directly but I accepted the job until I could find a better position. The main reason I left Kaiser was due to the unsatisfactory salary I was making I was making \$1000.00 a month less with Kaiser than I with Butler. Even though nothing had really changed, I could feel the pressure to get the construction completed as soon as I started with Kaiser.

I have read the foregoing statement consisting of 10 handwritten/~~typed~~ pages. I have made and initialed any necessary corrections and have signed my name in in the margin of each page. This statement is true to the best of my knowledge and belief.

10119117
10.F.10

INTERVIEWEE: Richard B. Price
Name: Richard B PRICE

Subscribed and sworn to me the 2 day of March, 1981, at Mineral, Va.

INVESTIGATOR: Edward C. Gilbert 12:32 PM
Name: Edward C. GILBERT

WITNESS: Peter E. Baci 12:32 PM
Name: Peter E. BACI

STATEMENT

I, WINSTON R. JACKSON, hereby make the following voluntary statement to PETER E. BACI who has identified himself to me as an Investigator with the U. S. Nuclear Regulatory Commission. I make this statement freely with no threats or promises of reward having been made to me. Investigator BACI is writing/typing this statement for me at my request.

I am a level II Quality Control Inspector (Q/C) employed by Advanced Industrial Design Engineers at the North Anna Nuclear Power Station. I have been employed by AIDE since 11/3/80. Prior to that, I was employed by the Butler Service Group, Inc. as a Q/C Inspector (Electrical) at the Zimmer Nuclear Power Station in Moscow, Ohio. I was employed at the Zimmer site from July, 1979 through November, 1980 and left my position to accept a better paying job with AIDE. I left the job at Zimmer before the contract with Butler was terminated by Kaiser and never actually was employed by Kaiser. My current address is _____ VA. During my employment at the Zimmer site, there were instances in which nonconformance reports (NCR's) were voided and certain items reinspected. In one case I am aware of, the NCR's written by an Inspector named Donald LUDLUM were voided because they were very confusing and no one could understand them. Since the Inspector had left the job and he couldn't clarify the items, they voided the NCR's and reinspected everything. I believe the NCR's in this case had to do with elevation 510 in the Auxiliary Building. I personally never had any NCR written. They voided that I am aware of was an I am aware of any being voided which were prepared by other Q/C Inspectors in the electrical area. I do know that this was a problem for

Winston R. Jackson 2/20/81

EXHIBIT 50, 1013

EXHIBIT 38,
2 OF 3

Walter J. Johnson 11/20/81

G/C was in the mechanical/electrical area
however; in one case, Robert Marshall, the
Project Manager for Kaiser Engineering, went
out and disputed an NCR on a weld which
was submitted by Inspector Bob HERNANDEZ
MARSHALL argued with HERNANDEZ about
the NCR but HERNANDEZ did not back down
and the NCR stood up. This NCR had to do with
safety hazards. MARSHALL was the one who
felt the pressure to accept an item if there
was a chance it would be rejected. Phillip
GITTINGS was the Quality Assurance Man-
ager for Kaiser and I had no contact with
him while I worked at Timmer. Scott
SWAIN is unknown to me. I understand
that Abel RAMOS, a G/C inspector in the
mechanical area, had problems with the
Project Manager Marshall because he tried
to pressure RAMOS into accepting certain
welds. I do not know what was said at the
meeting in November 1980 when Kaiser term-
inated Butler's contract because I had al-
ready left the site to start my new job be-
fore the meeting occurred. I am aware of
the incidents of inspector harassment in
which buckets of water were dumped by
craft personnel on G/C inspectors. I know
this happened to a former inspector named
Tan MUKKIE on several occasions although
I did not personally witness the incidents
and I do not know the persons who were
involved. I believe this was reported to
Kaiser management, although I am not
sure to who, and I am not aware of any
action that was ever taken concerning the
problem by Kaiser.

It was the general feeling - among the inspectors who I know that the reason Kaiser terminated Butler's contract was that they could have more direct control over the Q/A program. Although they were theoretically independent, both Q/A and ~~the~~ construction ultimately report to the same boss so in actual practice Q/A is not independent at all. The situation is probably worse now that Butler is gone and Kaiser is doing their own Q/A work.

In general, it's felt that the Zimmer project is a very poorly run operation.

Winston R. Jackson 3/20/81

~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~

I have read the foregoing statement consisting of 3 handwritten/~~typed~~ pages. I have made and initialed any necessary corrections and have signed my name in the margin of each page. This statement is true to the best of my knowledge and belief.

INTERVIEWEE: Winston R. Jackson
 Name: WINSTON R. JACKSON

Subscribed and sworn to me the 20th day of FEB, 1981, at Middleton, VA

INVESTIGATOR: Peter E. Baci 7:57 AM
 Name: PETER E. BACI

WITNESS: Edward C. Gilbert 7:58 AM
 Name: EDWARD C. GILBERT

3 of 3

STATEMENT

I, JAMES L. RAMSEY, hereby make the following voluntary statement to PETER E. BACI who has identified himself to me as an Investigator with the U. S. Nuclear Regulatory Commission. I make this statement freely with no threats or promises of reward having been made to me. Investigator BACI is writing/typing this statement for me at my request.

I am a level II Quality Control (Q/C) inspector employed by Advanced Industrial Design Engineers (AIDE) at the North Anna Nuclear Power Station. Prior to joining AIDE on 12/15/80, I was employed by the Butler Service Group, Inc. from July 1979 until April 1980 and from 7/20/82 until 12/14/82 as a mechanical Q/C inspector at the Zimmer Nuclear Power Station in Moscow, Ohio. During the last few weeks I worked at the Zimmer site, I was actually employed by Kaiser Engineers in since they had terminated the contract with the original Butler and hired many of the Q/C inspectors directly. During the period from April through July 1980, I worked as a Q/C inspector in FBASCO at the WPPSS site in Richland, Washington. My current address is the
VA.

During my employment at the Zimmer site, I was aware of various problems with the Q/A program. For example, when an inspector would write a non-conformance report (NCR), this would frequently result in a new Document Design Change (DDC) being written concerning the item or items which had been rejected. This had the effect of negating the NCR written by the inspector by making changes in specifications so as to bring them in conformance with the problem items rather than the other way around. It was common knowledge that we were not to submit an NCR

James L. Ramsey

1 of 6

on a Fri, but never had 'tastel Monday B. Monday a DBC would have been made and the item was therefore no longer in non-compliance.

Ken BAUMGARTNER was the Quality Assurance (Q/A) Manager for Kaiser before Phillip GITTING'S. BAUMGARTNER was an auditor who was not, in my opinion, qualified for the job. He told me on one occasion that I was maintaining "too high a profile - that I wouldn't keep anything at all." This I took to me that I was doing too good a job and rejecting too much. BAUMGARTNER's predecessor was Bob TURNER who left and went to Merit Hill because, from what I understand, he couldn't do a good job at Zimmer. BAUMGARTNER used to take me out on the site and argue over the NCR's I had written.

I left Zimmer the first time because of a reduction-in-force. Although I was terminated on a Friday I found out that I couldn't have had my job back by the following Wednesday. The fact that I could be laid off and rehired in less than a week was the result of talking me I had been too strict. Since they were expecting a strike at Zimmer, I decided not to go back but took a job with EBASCO in Washington. When I did return to work for BUTLER at Zimmer, I was put on electrical instead of mechanical Q/A work as I had done before I left.

I frequently had NCR's which I had written either checked or marked "acceptable." I kept some copies of these approximately 10, which I have stored back in Cincinnati. These were ones which were voided or turned down.

Adm of Zimmer

LAURENCE
302

6. I should go across the desk of Robert MARSHALL the Project Construction Manager for Kaiser. MARSHALL was known as "Big Mac" or the "Big Mac" because if you didn't do things his way, he'd cut his line down on you. When MARSHALL would see the NCR's Udo GITTINS to write or rewrite them. MARSHALL would then go out and look at a item written by a NCR. He'd usually take one of his construction people with him, often called BLACKWOOD, and have the welder whatever worked on so that it looked alright. Then they would take the G/A Manager out and show him and have the NCR voided or "accepted as is." This was "Marshalling." Even if the inspector refused to change or void the NCR GITTINS would override him and "accept it as is" or void it.

In October or November of 1979, a meeting of the G/A inspectors was held in which I and MARSHALL told us we were being "too critical" on what we inspected. He told us that since the plant was 80% complete it must have been OK before and he couldn't understand the hold-up in things not critical to the plant. I told Mr. MARSHALL that we had procedures to follow and would resist anything not conforming to these procedures. I told him I wanted these items accepted, I told him to should change the procedures. They were, after all, Kaiser's procedures as set out in the Special Process Procedure Manual (SPPM H.G. R8). His reply to me was - "I'm not changing a ~~thing~~ thing!" There were many people at the meeting. Those who

306

Edward P. ...

Attendance - include Jim (MAY (64-1000
in Louisiana) Gary JODRY (with west to Mari-
Hill) Ron WRIGHT, STEVE McCOY ^{BS} & Tom
MULKIE and Ken SHINKLE (still at Zimmer
although I understand MULKIE is on site
(Gessie) and Joe KING and Lyle BLACKWOOD
(both construction people, and still at Zimmer).
As I recall, the meeting lasted from 45 min-
utes to an hour.

As I indicated earlier, there were three Q/A
managers during the time I worked at Zim-
mer. The last one Phil GITTINIS had a phis-
ical for Q/C work. Simply put, it wasn't
"build something". The main problem we had at
Zimmer was that we never had a Q/A Manager
who would stand by the procedures and back
up the inspectors. They would come in and
void NCR's or "acceptance". Eventually, I
got to the point where I would write multiple
NCR's and lump many items together.
My intention was that perhaps they would
at least correct a part of the items ~~that~~ I
voided. There were too many to ignore or

Q/C never was very strong at Zimmer. During
the initial stages of construction there were
only 3 Q/C inspectors and if a foreman said
to get something done or inspected, it usually
was and a lot was overlooked. It wasn't
until the plant was 80% complete that more
Q/C inspectors were brought on board. Rex
FANER the Q/C supervisor was a good man.
but he didn't have any independence and
could not function effectively.

I am aware of the quality of Q/C in-
spectors harassment that is still

Quality of work

6
to create several dumping buckets of oil
water on them. One inspector, a girl named
Jan MULKIE had this happen to her at
least 3 times that day during the oil spill.
It happened to her when she was inspecting
welds between the containment and
she was drenched from head to toe. The
construction workers just laughed. She re-
ported the incidents to Ken SHANKLE, her
immediate supervisor and he told the G/A
manager (either Turner or BAUMGARTNER).

Another inspector, Mike DEPUCCIO, also was
harassed in this manner. They dumped water
on him about 6 or 7 times, during which he
was in the containment. He reported the re-
cords to his supervisor, Phil NORMAN
and he in turn told TURNER or BAUMGART-
NER. No disciplinary action was taken be-
cause they didn't know he did it. I heard that
their investigation involved asking the fire-
men in the containment who had dumped
the water on the inspectors. When he said
he didn't know, the matter was dropped. I
think a report was prepared on the matter.

I attribute this harassment of the inspectors
doing their job. Jan was very critical - but
very fair. Both were very accessible. In the
crest of the oil spill in the containment. They
could drop the water on the inspectors without
being seen.

506
In November 1980, I attended a meeting at
which GITTINGS said that BUTLER and the other
"sinners" were being terminated by Kaiser.
The reason given was that Kaiser had 3 or 3
other jobs coming up and they wanted to hire
their own people for the work. GITTINGS said

that by Dec 31st, all shippers would be out. But employees were allowed in working directly for Kaiser but almost interested so I got up and let him know I offered a job, but it was much lower than what he had the other job. He was directly related to the critical work. He was an inspector. He was not in critical, they like the law. He was not in discussion with me in taking the job. He didn't want a job with Kaiser because of the critical work. He was the person in independence of his own job properly. Unfortunately, the work was arranged earlier in the day, I had the meeting. GITTINER said that all shippers would be gone by December 15th. So I to go with see R. BAKER to G. I suspect he asked him about BAKER since it wasn't, but it turned out that he didn't know what Kaiser had planned. I feel that this was all done so that Kaiser could exercise more control over the Q/A program and to make the inspectors less independent. In general, the Zimmerman site was the worst job I've worked on - "the pits" - an example of a bunch of quantity but very little quality."

Approved & Dated

I have read the foregoing statement consisting of 6 handwritten ~~and~~ pages. I have made and initialed any necessary corrections and have signed my name in the margin of each page. This statement is true to the best of my knowledge and belief.

INTERVIEWEE: James L. Ramsey
Name: JAMES L. RAMSEY

Subscribed and sworn to me the 20th day of FEB, 1981, at MINERAL, VA

INVESTIGATOR: Peter E. Baci 7:58 AM
Name: PETER E. BACI

WITNESS: Edward C. Gilbert 7:59 A.M.
Name: EDWARD C. GILBERT

6906

Barrett, Streeter, Warnick, Davis

POSITION ON "UNAPPROVED VENDORS"

Attached are relevant sections of investigation reports dealing with concerns expressed by Mr. Victor Griffin in 1976. One of his concerns dealt with materials purchased from "unapproved vendors". Investigation indicated that some materials (not components) had been purchased to Class II requirements, although documentation sufficient to meet Class I requirements was also provided. In some instances, these Class II materials were upgraded to Class I and utilized in the plant. The findings of reports 76-02 and 77-03 indicate that we considered this an acceptable practice, and the media (and public) were advised of our position.

It appears that the item of noncompliance issued in Section 7.1 of report 80-13 may represent a different conclusion on a similar situation, unless a beam is considered as a "component" rather than a material.

I believe that Mr. Griffin, and others, may question this apparent difference, and we should have an answer developed.

James E. Foster

Investigation of
Supplier Quality Assurance at
William H. Zimmer Nuclear Generating Station

Purpose

The investigation was conducted at the Wm. H. Zimmer Nuclear Generating Station construction site to determine the status of the following:

- o Whether structural construction materials purchased as Non-Essential and subsequently upgraded to Essential adequately meet procurement requirements for Essential materials.
- o What types of items and materials other than structural materials were procured Non-Essential and issued Essential.
- o The extent to which upgrading of items and materials has occurred.
- o Whether a similar upgrading has occurred with ASME Code components and materials.
- o How suppliers of Essential and ASME Code items and materials are selected and controlled.
- o The adequacy of receiving inspection and supplier documentation reviews.
- o The adequacy of supplier quality record collection, control and retrievability.

Scope

The primary focus of this investigation was on the methods used to procure Non-Essential, Essential and ASME Code components and materials used by Henry J. Kaiser Company (KEI) and what controls have historically been and are currently in effect. Insofar as Foothill Electric Company and Cincinnati Gas and Electric Company have procured materials on KEI purchase order forms, these procurements have also come into consideration. Activities investigated include site Quality Engineering reviews of purchase requisitions and purchase orders; generation, application and storage of Source Inspection Plans, Receiving Inspection Plans; qualification of suppliers; maintenance of the Approved Vendors List; supplier qualification records control.

Supplier Quality Assurance activities not considered within the scope of this investigation are, in general, those activities which occur prior to the Quality Engineering approval of the purchase requisition and those which occur subsequent to the receipt of the material. Among the activities not included are the inclusion of specification and drawing requirements in purchase requisition generation, the generation and close-out of

Nonconformance Reports and Document Deficiency Notices, control of material issuance from the warehouse and control of field installation.

General

At the request of David L. Howard, Director of Quality Assurance Programs, Kaiser Engineers, Inc., Sherrill J. Nolder, Supplier Quality Engineer of Kaiser Engineers, Inc.'s Corporate Quality Assurance Division conducted an investigation at Wm. H. Zimmer Nuclear Generating Station to:

- o Determine what materials have been upgraded from Non-Essential to Essential.
- o How much upgrading has occurred.
- o What significant quality differences exist between upgraded and Essential materials.
- o Determine the adequacy of the site procurement document control.
- o Assess vendor evaluation, approval, control and the level of documentation.
- o Determine the adequacy of supplier documentation review and storage.
- o Determine historical and current methods of procurement control.
- o Determine procurement compliance with the requirements of the governing documents including HJK's Zimmer Quality Assurance Procedures (QAP's), HJK's Quality Assurance Methods Instructions (QACMI's), 10CFR50 - Appendix B, ASME Code (Summer 1973 Addenda), as applicable.

The investigation consisted of interviews and document reviews conducted at the site on July 21 - 24, 1981 and July 28 - 31, 1981. There were no statistical samplings of documents performed; this investigation does not constitute an audit. Contact was made with the following site personnel:

Paul Kyner -----	Site QA Manager, HJK
John Watkins -----	Assistant Site QA Manager/Acting QE Manager, HJK
Jerry Chase -----	Supervisor of Document Evaluation HJK
Chuck Burgess -----	Manager, Inspection, HJK
Jack Deervester -----	QE/QA Lead Receiving Inspector, HJK
Charlie Winters -----	Receiving Inspector, HJK
Bill Ferree -----	Warehouse Manager, HJK
Dave O'Keefe -----	Procurement Manager, HJK
Ken Shinkle -----	QE Structural/Civil, HJK
Terry Coburn -----	Work Package Control, HJK
Floyd Oltz -----	Lead, Procedures, Commitments/Trending, HJK
Bill Tobin -----	Structural/Civil Documentation Evaluation, HJK
Jack Norris -----	Assistant Manager, Reverification Task Force, MAC
Bob D'Arcy -----	Consultant, A&I

Time could be saved by confining the initial sampling to high volume and/or extremely critical purchase orders.

A sample of purchase orders for electrical and ASME Code materials and components ordered on Kaiser forms should be reviewed to determine if procurement, design, quality and Code requirements were met. If Kaiser is to stamp off Code installations, documentation packages reviewed by CG&E must also be reviewed by Kaiser for compliance to the requirements of the 1973 Summer Addenda to the ASME Code. If CG&E assumes the Code responsibility, the QAP's must be modified to delete Kaiser's responsibility.

One of the most crucial tasks at this time is to collect and compile the applicable memorandums, letters and notes, which have modified site procedure implementation, into a usable reference file. An evaluation of some of this correspondence could result in a reduction of Kaiser's responsibility for the procurement/supplier functions.

The current Approved Vendors' List should be reviewed and revised to reflect the current status of vendors. If the Sargent & Lundy and CG&E AVL's are to be used for purchase order approval, they should be made available to the reviewing QE. There may be a CG&E requirement for vendors to be resurveyed every three years; if so, currently used vendors with expired surveys should be resurveyed. It is recommended that Jack Deerwester, the QE/Lead Inspector, be assigned the responsibility for keeping the AVL current since his work, reviewing purchase orders, is most dependent on a current AVL and he has been evaluating the suppliers since 1973 (and forwarding the information for publication).

In the specific case of studs and nuts in the warehouse, it is recommended that purchase requisitions, design documents and drawings be reviewed to establish where their studs and nuts belong and a plant inspection be conducted to establish what was installed in their place.

The fitting supplier, Cincinnati Valve, is in the process of being surveyed for addition to the AVL. Either the manufacturer Crawford (Swagelok) should be surveyed and samplings of fittings taken for hydrostatic and destructive testing or the Sargent & Lundy specifications should be modified.

The QAP's should be revised to eliminate ambiguities, reflect ASME Code requirements, reflect CG&E agreements with the NRC and CG&E directives to Kaiser, and to eliminate overly stringent requirements. An additional aspect which is out of the scope of this report but should be considered is the effect of agreements between CG&E and the NRC such that a direct application of 10CFR50 may not be totally appropriate.

A F F I D A V I T

STATE OF OHIO)
) SS
COUNTY OF CLERMONT)

Victor C. Griffin, being first duly cautioned and sworn states as follows:

On April 27, 1982, I met with Jim Foster of the NRC, at his request. This meeting took place at the Riverview Restaurant, Route 52, near New Richmond, Ohio. Mr. Foster stated that he wanted to review my concerns about the safety of the Zimmer Nuclear Plant.

In the course of our conversation, I detailed my concerns, which I had in previous meetings, already told him about. Basically, these concerns involved the lack of independent quality verification by CG&E of the critical components purchased directly by the Utility from various manufacturers around the country for installation at Zimmer. I also pointed out specific "essential" components which had the potential for causing a safety hazzard at Zimmer.

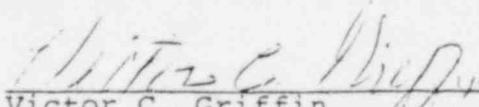
Mr. Foster took notes, but made no comments of agreement or disagreement with my concern about the aforementioned conditions. However, his entire attitude was protective of the Utility and the Nuclear Industry, generally. I accused him a a strong pro-Nuclear and pro-Utility policy to which he replied that it did not matter because his job was safe in any event. At that point, I told Mr. Foster that, historically, anyone connected with the NRC or the Nuclear Industry who expressed a negative concern about the Nuclear Technology, either lost their jobs or were pressured into resigning. I referenced

Doctors Tamplin and Goffman as examples of this situation. Mr. Foster expressed contempt for the views and opinions of these eminent scientists.

I also made reference to a new book, "Nuclear Witness, Insiders Speak Out", by Leslie J. Freeman, that documents the concerns of former nuclear workers who became disenchanting with the nuclear technology, as practiced, and the cover-ups by the Atomic Energy Commission and its successor, the NRC. Mr. Foster said he had read the book and, again, expressed contempt for the book and its author, saying he was surprised that anyone would read beyond the first chapter.

As our conversation proceeded, it became increasingly antagonistic, as it became obvious to me that Mr. Foster was merely trying to get information from me so the NRC and the Utility attorneys would have an opportunity, from a time standpoint, to whitewash my allegations, as they did over six years ago. We, therefore, terminated the meeting, after about two hours.

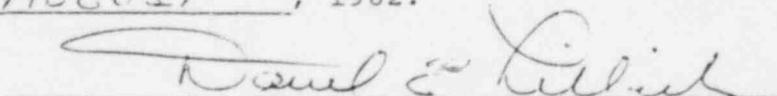
In a phone conversation initiated by me on August 18, 1982, Mr. Foster indicated to me that no resolution of my concerns had been made, and indicated that the NRC was trying to downgrade an Essential Component of my concern to Non-essential, as a way to overcome the problem with the "Nash Condenser".



Victor C. Griffin

Sworn to before me and subscribed in my presence this

19 day of August, 1982.



DARREL E. LILLICH
Notary Public, State Of Ohio
My Commission Expires June 1, 1987



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

ATTACHMENT 15

May 14, 1981

MEMORANDUM FOR: Zimmer File (Deputy Director's Office)
FROM: A. Bert Davis, Deputy Director
SUBJECT: DISCUSSION WITH TOM DANIELS, SRI, ZIMMER

During the Resident Inspector's Social Hour last night (5/13/81) I had a lengthy discussion with Tom concerning Zimmer. Tom stated that his position with respect to Zimmer is that it should be shut down until all their problems are corrected. He had previously taken this position at my visit to Zimmer a couple of months ago. As near as I could tell Tom's reasons were primarily based on the fact that personnel at the site who have made past errors and involved in past problems are in the most part still there. Therefore, continued errors could occur.

I discussed with Tom the Immediate Action Letter and attempted to get him to be specific as to whether or not future work is adequately controlled by the IAL. As I attempted to become specific with respect to his concerns, it appeared that his position was primarily based on a gut feel and a mistrust of the Kaiser and CG&E organization and people. The only specific he could come up with with respect to whether or not future work not being properly controlled was a preliminary finding that a number of nonconformance reports were being piled up rather than being promptly reviewed. He based this on a statement made to him by a Mr. Haas. When he pursued it with Mr. Schwiers, he was told that the nonconformance reports were being reviewed and that the ones in question were planned to be reviewed that night by Mr. Schwiers. Tom indicated that before he made this a finding, he wanted to pursue it further. I asked him to do that and provide the information to me.

Based on Tom's feeling, I believe it is necessary to pursue it to get details, so that we can determine whether or not there is a basis for shutting down the project.

ABD

A. Bert Davis
Deputy Director

Enclosure 18



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

February 25, 1982

MEMORANDUM FOR: Robert F. Warnick, Director, Enforcement and Investigation Staff

FROM: J. B. McCarten, Investigator

SUBJECT: ZIMMER DOCUMENT AND INVESTIGATION LEADS

Reference your February 2 letter regarding this subject. The following records which were not already in the Region III EIS files were turned over to the EIS Section.

1. My notes from eighty-four field interviews conducted between January 14, 1981 and August 13, 1981.
2. My interview notes and copies of all statements related to the investigation of the Applegate and QC Inspector allegations. This includes transcripts of all taped interviews.
3. Copies of all documentation relating to the investigation of the Kaiser Nonconformance Reporting System.

NOTE: The original pages of the NR Log Book, and Nonconformance Reports found in the Inspection Report have been turned over to OIA for custody.

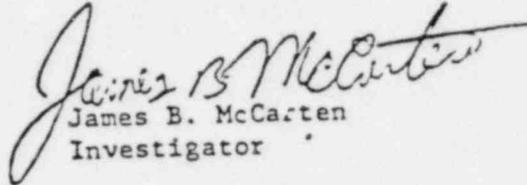
4. Due to my assignment to the Zion investigation team I was unable to review or augment the computerized list of allegations so that all leads are tracked. I have, however, provided Investigator Foster with all the statements taken by me and copies of all my interview notes so that he can perform this much needed task.
5. On three occasions during the Zimmer investigation the Region III Enforcement and Investigation Staff has informed OIA and DOJ that Region III would pursue all issues which may constitute violations of criminal law. The investigators currently assigned to this case have no training of any kind from a federally recognized Criminal Law Enforcement Training Center, or any experience in the investigation or enforcement of criminal law. The Region is not fulfilling its commitment to OIA and DOJ without assuring personnel with the requisite training and experience are assigned to this case. I recommend an individual from the IE:HQ staff with the proper experience be assigned and be given the proper authority independent of the Region III staff to conduct this investigation.

Robert F. Warnick

-2-

February 25, 1982

It is my recommendation that at a minimum these records for various evidentiary purposes in either a criminal or civil case should be maintained until all civil or criminal litigation is complete. This includes final licensing of the plant and the conclusion of any private or government civil action. In my opinion, these records should be maintained in the Region III Files for the life of the plant.


James B. McCarten
Investigator

cc: Region III Files
James Cummings, OIA
Roger Fortuna, I&E



United States Attorney
Southern District of Ohio

220 United States Post Office & Courthouse
100 East Fifth Street
Cincinnati, Ohio 45202

(FTS/513) 684-3711
684-2755
684-3961

March 19, 1982

P R E S S R E L E A S E

Christopher K. Barnes,

United States Attorney for the Southern District of Ohio

The Nuclear Regulatory Commission (NRC) has advised this office that its Office of Inspections and Enforcement (I&E) is conducting an investigation into allegations of non-compliance of NRC safety regulations at the Zimmer Nuclear Power Plant at Moscow, Ohio.

I&E is the agency responsible for ensuring that the Zimmer plant is being constructed in compliance with NRC safety regulations. I&E has been and still is inspecting the construction of the Zimmer plant. A draft preliminary report was issued by I&E on August 15, 1981. Their final report however has not yet been completed.

The primary concern of the NRC and the Justice Department is the safety of the plant and the community. As such, top priority has been accorded the I&E's civil investi-

gation. When I&E completes its investigation and report and is assured that the plant is in compliance with NRC regulations, any criminal allegations will be reviewed by the NRC Office of Inspector and Auditor and forwarded to the Justice Department for consideration.

MORRIS K. UDALL, ARIZ., CHAIRMAN

PHILLIP BURTON, CALIF.
 ROBERT W. KASTENMEIER, WIS.
 ABRAHAM RAZEN, JR., TEX.
 JONATHAN B. BINGHAM, N.Y.
 JOHN F. SEIBERLING, OHIO
 ANTONIO BORJA WON PAT. GUAM
 JIM SANTINI, NEV.
 JAMES WEAVER, OREG.
 GEORGE MILLER, CALIF.
 JAMES J. FLORIO, N.J.
 PHILIP R. SHARP, IND.
 EDWARD J. MURKIN, MASS.
 BALTASAR CONTRA, P.R.
 AUSTIN J. MURPHY, PA.
 NICK JOE RAHALL II, W. VA.
 BRUCE F. VENTO, MINN.
 JERRY MUCKASY, LA.
 JERRY M. PATTERSON, CALIF.
 RAY KOGOVSEK, COLO.
 PAT WILLIAMS, MONT.
 DALE E. KILDEE, MICH.
 TONY COELHO, CALIF.
 BEVERLY S. BYRON, MD.
 WON DE LUJO, V.I.
 SAMUEL GEIDENSON, CONN.

MANUEL LUJAN, JR., N. MEX.
 LON H. CLAUSEN, CALIF.
 DON YOUNG, ALASKA
 ROBERT J. LAGOMARSINO, CALIF.
 DAN HARRIOTT, UTAH
 RON MARLENEE, MONT.
 RICHARD B. CHENEY, WYO.
 CHARLES PASHAYAN, JR., CALIF.
 DOUGLAS K. PERUTER, NEBR.
 DAVID O. B. MARTIN, N.Y.
 LARRY CRAIG, IDAHO
 WILLIAM M. HENDON, N.C.
 HANK BROWN, COLO.
 DAVID MICHAEL STATON, W. VA.
 DENNY SMITH, OREG.
 JAMES V. HANSEN, UTAH

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

U.S. HOUSE OF REPRESENTATIVES

WASHINGTON, D.C. 20515

STANLEY SCOVILLE
 ASSOCIATE STAFF DIRECTOR
 AND COUNSEL

LEE MC ELVAIN
 GENERAL COUNSEL

TIMOTHY W. GLIDDEN
 REPUBLICAN COUNSEL

July 12, 1982

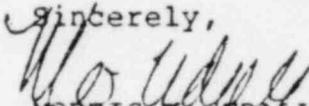
The Honorable Nunzio Palladino
 Chairman
 United States Nuclear Regulatory Commission
 Washington, D.C. 20555

Dear Mr. Chairman:

At our June 10 hearing, NRC staff were unable to answer basic questions as to the state of progress in the Zimmer Quality Confirmation Program. Moreover, there has been an inordinate delay in responding to my letter of June 14 asking for information that was not provided at the hearing. I fear the inability to answer questions and the delay in responding to my letter support the conclusion that Region III staff are insufficiently aware of the status of the Zimmer project.

I would appreciate a response to my June 14 letter by July 16.

Thank you for your cooperation.

Sincerely,

 MORRIS K. UDALL
 Chairman

From

W. D. WAYMIRE - CC/F/T

Attachment 19

To BOB WARRICK - HRC/III
Phone (510) 752-2541

Per our phone conversation,
attached is a copy of our
comments on Inspection
Report Items. Only the
pages modified are
included. It is
recognized you had not
completed your review
of Item #17.

Dennis

(INCLUDED ONLY MODIFIED PAGES)

WM. H. ZIMMER NUCLEAR POWER STATION

I.E.-1, 2, 3A 'b,

UNIT 1

300d, 11,

June 3, 1981

4, 5, 6, 10,

11, 13, 14, AND 1

Attached are the eighteen inspection report items identified by NRC/III on March 27, 1981. Corrective action proposed by CG&E in the May 18, 1981 draft has been modified by NRC/III and reviewed and further modified with CG&E in a meeting June 2, 1981. These modifications have been made on the attached and indicated by lines in the right margin.

This is a preliminary working issue for information.

W.D. Waymire

W. D. Waymire

The Cincinnati Gas & Electric Company

*HAND WRITTEN CHANGES MADE JUNE 6, 1981
W.D.W.*

CONCERN:

* Apparent lack of an adequate QA program covering field welding resulting in some unacceptable structural welds (Ref. Item 5).

DISCUSSION:

Inspection of structural beam welds in the 546' elevation of the Auxiliary Building, Cable Spreading Room, and RHR Heat Exchanger Room revealed that several field welds are unacceptable to AWS weld inspection criteria.

CCP ACTION:

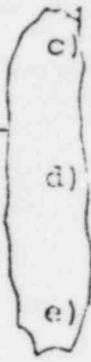
FOR STRUCTURAL STEEL THAT COULD EFFECT SAFETY RELATED SYSTEMS OR EQUIP.:

1. Establish a drawing review to determine where Bristol Structural Steel field welding exists. This review will also determine the location of other vendor field welds (i.e., HJK, FEC, WY&B).
 - a) Use S&L structural drawings marked by Bristol (framing plans).
 - b) Superimpose added beam drawings installed by other contractors (HJK, FEC, WY&B).
 - c) Identify beams which may have been installed by HJK on field work orders.
 - d) Compare drawings against plant as-built condition. Determine acceptability of design and construction FOR DEVIATIONS IDENTIFIED.

2. Determine areas of structural steel field welds and identify same By: (INSERT PARA. "d" & "e" BELOW)
 - a) Uncover embedments
 - b) Uncover one end of beam. If bolted, and drawing shows welded, do not assume other end is bolted. Uncover other end also.
 - c) INSERT "e" FROM BELOW.

REARRANGE PARAGRAPHS FOR CLARITY

REARRANGE
PARAGRAPHS



- c) Search Bristol DDC's to identify Bristol field welds.
- d) Mark drawings to identify locations of structural steel field welds.
- e) Determine requirements for acceptable welds.

3. Remove paint from the welds that may preclude proper weld inspection. Quantify the number of "coated" welds and review with NRC. (REF. I.R. ITEM 5,6)
4. Conduct a 100% visual inspection of accessible structural steel field welds or justify less.
5. Conduct a 100% visual inspection of other accessible vendor structural steel field welds or justify less. Conduct 100% visual inspection of accessible Bristol shop welds or justify less.
6. Write Nonconformance Reports on all unacceptable welds, and ^{PROPOSE} ~~properly disposition~~ ^{TO} ~~including~~ NRC/III ~~review prior to disposition~~ ^{FOR APPROVAL, PROCEED WITH DISPOSITION AFTER NRC CONSIDERANCE}
7. Review records, procedures, and documentation ^{AND WELDER QUALIFICATION} to determine the types of welding procedures used on the job, special requirements called out in these procedures, and types of weld rod specified for field welding. A ~~further review of weld rod material receiving reports and weld rod issue slips will be conducted to determine the type~~

DELETED BECAUSE A PROPOSE REPORT

THIS COMMENT WAS ADDED AT THE 12/81 MEETING AND OMITTED FROM TYPED DRAFT

of weld rod actually used. ^{ACCEPTABILITY OF} Determine material in each weld. (By knowing ^{JUSTIFY} ~~only one type of weld rod was purchased or by other means such as analyzing chips.~~ ^{ACCEPTANCE OF EXISTING WELD MATERIAL.})

FIELD CUT

8. Perform 100% inspection of re-entrant corners on beams which could affect safety related

systems or equipment. Document on NLR and

WRITE NON CONFORMANCE REPORTS ON ALL UNACCEPTABLE RE-ENTRANT CORNERS, PROPOSE DISPOSITION TO NRC/III prior to disposition.

FOR APPROVAL, PROCEED WITH DISPOSITION AFTER NRC CONCURRENCE.

ADMINISTRATIVE ISSUE IS
INADEQUATE QA PROGRAM

Concern

The Bristol QA Program was inadequate, required only inspection by a non GC person, and inspection was not implemented.

Discussion

Due to the uniqueness of the contractual relationship between Bristol and H.J. Kaiser and the limited scope of the work, we believe that this is an isolated incident. However, as part of the QCP, we will investigate work done by other subcontractors who were on site at the same time as Bristol.

QCP Action

1. Identify other subcontractors.
2. Provide assurance that QA programs of other subcontractors were acceptable or that work was and is acceptable.

CONCERN:

Several hundred feet of beams have been received from an unapproved vendor, and cannot be accounted for as to where installed or other disposition.

DISCUSSION:

H. J. Kaiser purchased W8X17 beams from a non-approved vendor. These beams were placed in essential steel stock on the basis that they were supplied with valid mill certificated by the vendor at time of purchase.

QCP ACTION:

FOR STRUCTURAL STEEL WHICH WOULD EFFECT SAFETY RELATED
 1. Conduct an audit of all ~~steel~~ *FIELD PURCHASED STEEL PLATE AND STRUCTURAL SHAPES* received on site *SUST. OR EQUIP.*

1. *TO* and determine the supplier.
2. Verify that the supplier of this material is an HJK or CG&E approved vendor.
3. CG&E/HJK Q.A. will perform a vendor survey in accordance with approved procedures to verify the credibility of the mill certifications and the vendor performance to their Q.A. manual.
4. If the vendor is found to be unacceptable, then the manufacturer of the steel will be surveyed.
5. If all surveys described in 2, 3, and 4, above are unacceptable, a program will be initiated to identify the steel which was supplied by an unapproved vendor.

completing,
insufficient at
a taking a
non-jerome.
Factual
to be used in
experience with
physical properties
before to one
all that is
read as to
since whether all
material is shown
one test, and that
can be taken of (these)
test. In my judgment,
is unlikely that the
is will fail either
city or physical tests,
are more likely to be
commercial grade
anything official.

6. If these attempts are unsatisfactory, A 100%
ALL STEEL, PLATE AND STRUCTURAL SHAPES SUPPLIED BY UNICEP D. WEA 1953
sampling of all steel material will be made to insure

→ THAT THIS material meets the required chemical and
physical certifications ~~—H—less than 100%~~ OR JUSTIFY TO HRC/113 BY ANY OTHER
PROGRAM USING LESS THAN 100% SAMPLING.
sampling, justify acceptable to HRC/113.

7. ~~Establish the acceptability (approved supplier)~~
VERIFY THAT OTHER FIELD
~~PURCHASED~~
of all other essential material, ie: piping;
weld rod, fittings; cable, etc. WAS FURNISHED
BY APPROVED SUPPLIERS.

INSPECTION REPORT #3c & d - LACK OF TRACEABILITY OF MATERIALS

Problem

Traceability of heat numbers on small bore piping for the Diesel Generators.

No records exist to show that some of the installed pipe is acceptable. The heat numbers do not appear on the H.J. Kaiser list of acceptable heat numbers.

Discussion

A review of the documentation of the small bore piping in the diesel generator system followed by a walk down of the piping revealed some lack of traceability in accordance with ASME Code requirements. An inspection program will be implemented to correct this situation. Small bore piping on other systems will also be included in the program as well as some large bore piping.

QCP Action

1. Conduct an inspection of 100% of the accessible field installed small bore piping in all safety related systems for traceability in accordance with ASME Code requirements. (1)
2. For all systems important to safety, compare ⁽²⁾ ~~the~~ ^{EXISTING} documentation against accessible field installed small bore piping for traceability in accordance with applicable code requirements to achieve a 95/95 confidence level.
3. Provide justification for acceptability of inaccessible small bore piping.
4. For large bore piping in all safety related systems and all systems important to safety: (1)
 - a. Identify all field modifications
 - b. Walkdown 100% of the large bore piping involved in the field modifications. Compare documentation against the installed large bore piping for traceability in accordance with ASME requirements.
5. If heat number traceability on ASME work can only be established by the KEI-1 form, then it will be necessary to establish the credibility of heat number on the KEI-1 forms.

6. ~~Document all deficiencies on N/E's and properly disposition, including NRC/III review prior to disposition.~~
WRITE NONCONFORMING REPORTS ON ALL HEAT NUMBER DEFICIENCIES FOUND, PROPOSE DISPOSITION TO NRC/II FOR APPROVAL, PROCEED WITH DISPOSITION AFTER NRC CONCURRENCE.

(1) AND (2) NOTES ABOVE REFER TO DEFINITIONS THAT WILL BE INCLUDED AT THE END OF THIS DOCUMENT. MUST GET

INSPECTION REPORT #3e - LACK OF MATERIAL TRACEABILITY

Concern: Weld rod heat numbers are being transferred to the KE-1 weld form from the KE-2 form by individuals other than the QC Inspector who inspected the weld.

Discussion:

At the present time the quality documents are under the care, custody, and control of C.G. & E. H. J. Kaiser has been ordered to stop the transfer of information between the KE-1 and KE-2 forms.

QCP Action

1. For all structural ^{SUPPORT} welds ^{OR} ~~supporting~~ class 1, 2 and 3 systems, identify all welds for which a credible heat number has not been maintained. ~~This includes those for which KEI-1 form was altered.~~
2. ~~Either~~ Describe corrective actions that will be taken or else indicate that findings will be provided to the NRC and corrective actions will be proposed to the NRC for approval.

Nonconformances documented on surveillance reports.

Discussion

Review all surveillance reports and identify all that should have been nonconformance reports.

Review QA pre-op turnover punchlists and exception lists to identify any items that should have been documented on nonconformance reports.

1. ~~Process those identified through the nonconformance report system for proper disposition.~~

WRITE NONCONFORMANCE REPORTS FOR EACH SUCH NONCONFORMANCE IDENTIFIED, PROPOSE DISPOSITION TO NRC/ID FOR APPROVAL, PROCEED WITH DISPOSITION AFTER NRC CONCURRENCE.

In my judgement we should not process disposition approval of a NR by the NRC. We have gone beyond the problem. The problem is that we used surveillance reports for hardware deficiencies requiring technical disposition. Our correction action is (and should be) to put them on the proper form and obtain the proper technical disposition. Item 3 was correct before it was changed. The NRC cannot assume the AE's technical responsibilities. They can audit and assess whether the AE is, in their judgement, correctly performing his function.

INSPECTION REPORT #5 - WELDS INSPECTED AFTER PAINTING

INCIDENT: Structural welds were inspected after painting.

DISCUSSION: FEC has installed structural beams and cable tray supports and have used Galvanox and other coatings to prevent the corrosion of the welds. Although no documentation exists that verifies that these welds were inspected at that time, hanger inspection along with its associated structural steel was in-process inspected and all work was assumed to be acceptable by construction unless reported unacceptable by Quality Control inspectors.

P ACTION:

1. Determine those areas where weld inspection of FIELD WELDS ON suspension systems, including pipe supports, has taken place after the weld was painted.
2. For safety related systems, ⁽¹⁾ conduct 100% visual inspection of welds identified in 1 above. ^{OR JUSTIFY LESS.} For all systems important to safety, ⁽²⁾ conduct a sampling program ^{UTILIZING LOT SIZES SUFFICIENTLY LARGE TO STATISTICALLY DEMONSTRATE} consisting of a 95% confidence factor that 95% of the sample is acceptable. This program ~~would have the following sample and defect criteria:~~

Number of Welds in Lot Sample Size Maximum Number of Defects

19
30
39
48
57
66

10
11
12
13
14
15

This was a difficult task since the criterion is that weld inspection was performed after painting, it does not assure that another inspection after painting would make the necessary difference.

OCP ACTION:
(cont'd)

If more defects are found, further inspection will be done.

3. Determine the weld acceptance criteria per design specifications and approved inspection procedures.
4. Inspect the welds using ^{QUALIFIED} CG&B inspectors and document inspection reports.
5. All welds that are deemed unacceptable will be ^{AND DISPOSITION PROPOSED TO NRC/III FOR APPROVAL PRIOR TO DISPOSITION.} documented on a nonconformance report.
6. If it can't be determined which welds were inspected before painting, justify less than 100% inspection.

A. 6 BELOW
WLD BE
INSERTED HERE.

DELETE -
COVERED IN
1ST PARA.

X. Prepare a summary of coatings found on the welds to be inspected giving type (paint, galvanox, inorganic zinc, etc.) and numbers involved. Review with NRC/III to determine disposition of reinspection requirement citing impact of coating removal.

CSM:MP:
REWRITE

76. BEFORE STARTING THIS INSPECTION PROGRAM, OBTAIN APPROVAL FROM NRC/III ON THE TYPES OF PAINT THAT DOES NOT REQUIRE REMOVAL BECAUSE:

- a. REMOVAL WOULD EFFECT THE WELD ON THE INTEGRITY OF THE SURFACE PROTECTION SYSTEM (SUCH AS EPOXY COATINGS).
- b. THE PAINT COVER DID NOT EFFECT THE INSPECTORS ABILITY TO MAKE AN ACCEPTABLE VISUAL INSPECTION OF WELDS (SUCH AS GALVANOX).

PROVIDE THE APPROXIMATE NUMBER OF WELDS COVERED IN THE CATEGORIES.

and cover
any coating
and inhibit
ability to in-
sulate. The
of epoxy
covered in
get more
low the
ity of the
is

This preliminary notification constitutes EARLY notice of interest significance. The information is as in for evaluation, and is basically all that is known

Attachment 20

Licensee: Cincinnati Gas & Elec.
Zimmer Nuclear Power Station
Docket No. 50-358
Moscow, OH 45153

Licensee Emergency Classification:
Notification of Unusual Event
Alert
Site Area Emergency
General Emergency
XX Not Applicable

Subject: LICENSEE AUTHORIZED TO REDUCE 100% REINSPECTION PROGRAM

As of August 1, 1982, the licensee has been authorized by Region III to reduce its 100 percent reinspection program of constructor and subcontractor Quality Control inspections. The licensee was required to perform 100 percent reinspections in an Immediate Action Letter (IAL) on April 8, 1981. The IAL was in response to numerous instances of QA/QC deficiencies at the Zimmer plant.

The licensee has asked that this 100 percent reinspection program be reduced. It bases its request on its revised quality assurance program and the revised QA programs of its constructor, Kaiser Engineering, and contractors. Region III is satisfied with the licensee's efforts thus far, and has approved the licensee's request, allowing a reduction to 50 percent of reinspections plus a surveillance program. The levels of inspection and surveillance will be adjusted monthly, depending on findings. The constructor, Kaiser Engineering, and subcontractors will continue their full inspection programs.

A media interest is anticipated. Region III (Chicago) does not plan a press release at this time, but will respond to inquiries. The State of Ohio will be notified.

This information is current as of 1 p.m. (CDT) on August 3, 1982.

Contact:

RF7A
R. Warnick
384-2673

EARL
E. Schweibinz
384-2542

FROM: JOSEPH H. ...
ALL STEED/RECEIVED

1982 AUG 3 PM 4 53

U.S. NUCLEAR REGULATORY COMMISSION

RECEIVED
1982 AUG 3 PM 3 20

C/R Distribution: Chm, Cnrs.
PE, GC, CA, ACRS, Historian,
SECY, Records.

VERIFICATION:

St. _____	_____	Phillips	E/W _____	Willste _____
Mr. Palladino	EDU	NRK	IE	NMSS
Mr. Minsky	PA		OIA	RES
Mr. Kearne	MPA		AEOD	
Mr. Roberts	ELD	Air Rights		MAIL:
Mr. Asseltine		SP	INPO	ADM:DMR
			NSAC	NOTE: Trans Only

Regions I, II, III, IV, V Licensee (Corporate Office)

GOVERNMENT ACCOUNTABILITY PROJECT

Institute for Policy Studies

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

(202) 234-5182

July 15, 1982

Mr. James Keppler
Regional Administrator
Region III
U.S. Nuclear Regulatory Commission
799 Roosevelt Road
Glen Ellyn, Illinois 60137

Dear Mr. Keppler:

Enclosed are two documents for your urgent consideration. The first document is an affidavit significant for your current investigation into welder qualifications at Zimmer. The affidavit summarizes a July 8, 1982 joint CG&E/Kaiser management meeting. In my opinion, the affidavit describes a decision to intentionally coverup a fundamental breakdown of welder qualifications documentation.

I must emphasize that the scope of this affidavit does not represent the extent of this witness' knowledge of welding deficiencies. He is prepared to discuss how this is only the latest example of a much wider, even more fundamental pattern that existed since the early 1970's.

The witness already has spoken with NRC investigators before and obtained confidentiality protection. I will check with your office to confirm that the previous commitment still applies.

The second document, Exhibit E of a May 24, 1982 "Henry J. Kaiser Co. Analysis Report for Zimmer Project," may represent an even more brazen attempt at illegality. This exhibit represents the "NR Action Plan" and has one "Areas (sic) to Consider" -- "Fewer NR's". Page two lists five different ways to reduce NR's and another technique to allow invalidation of NR's. Based on the initials next to each technique, Messrs. Hedzick and Sager were directly involved in the plan. The methods include increased use of In-Process Inspection Deficiency Records (IIDR's) and Corrective Action Reports for, inter alia, non-hardware and Approved Vendors List (AVL) violations. As should be obvious from the document, CG&E and Kaiser are repeating almost exactly the same offenses that led to the Quality Confirmation Program and last November's record fine.

The document also helps explain why your office has received so many allegations of harassment. Item three on page two calls for "Heart-to-Heart" talks with NR originators and reviewers. Item 7 provides the most chilling example

of why CG&E and Kaiser are not fit to administer the Quality Assurance ("QA") program at Zimmer. It identifies "habitual NR writers and deficiency generators" as a known problem. The proposed response is to "develop training on NR writers and deficiency generators" by June 15, 1982. The planned results? -- "Identify individuals for corrective action." Based on the initials, Messrs. Hedzick and Sager appear to have been involved with the scheme as well.

Quite clearly, the traditional CG&E/Kaiser management philosophy remains deeply imbedded: those who identify problems are the problem, and one which must be corrected. Under this premise, retaliation is inevitable, and the QA program at Zimmer has no legitimacy.

Last November you assured me that if CG&E engaged in any future deception, you would not hesitate to shut down the plant. If the plans described in these documents were carried out, that deception has occurred. I will look forward to discussing these issues with you.

Sincerely,

Thomas Devine
Legal Director

Rex E. Baker
Supervisor, Nondestructive Examination
Henry J. Kaiser Company
William H. Zimmer Nuclear Construction Project

Mr. Rex E. Baker, Supervisor, Nondestructive Examination Group, Kaiser Engineering, Incorporated (KEI), was interviewed on June 11, 1981, by John R. Sinclair, Investigator, Office of Inspector and Auditor (OIA), U.S. Nuclear Regulatory Commission (NRC). Prior to any questioning, Mr. Baker was provided the opportunity of reviewing appropriate credentials and advised that the issues being investigated pertained to alleged falsification of quality control inspection documentation and improperly "voiding" and removing Nonconformance Reports (NR) from the Quality Assurance (QA) Record System.

Mr. Baker began by furnishing a brief description of his nuclear-related work experience and association with the Zimmer Nuclear Construction Project. Baker stated that he had retired from the U.S. Navy after completing a career in inspection and testing piping and components utilized in nuclear propulsion systems for naval ships. Baker further stated that he had joined Kaiser Engineering, Incorporated in April 1980 in the area of Nondestructive Examination (NDE) as a Quality Assurance Engineer. He (Baker) stated that he held this position until approximately July 1980 when he was reassigned and took the position of Inspection Supervisor in charge of all Quality Control (QC) Inspectors. Baker stated he held that position until recently (approximately May 1981) when he was again reassigned. Baker further stated that he is now the Supervisor of the NDE group and as a practical matter with little or no supervisory responsibilities. Baker explained that there were two incidences which occurred almost at the same time and which immediately preceded his reassignment. According to Baker the NRC office in Chicago (Inspection and Enforcement) began an investigation concerning allegations that NR's were being voided without proper justification.

Baker stated that the problem with NR's began with the pipe hanger inspection program. Baker claimed that an individual by the name of Silas Heath had preceded him as Inspection Supervisor and during that time the inspectors were finding problems with the hangers and writing up the discrepancies. The deficiencies were being recorded on NR's and as a result there were regular meetings with the QC Manager, Phil Gittings. According to Baker, Silas Heath quit the job due to lack of support from QA management and the fact that not only would QA management overrule QC inspectors findings, but they (management) contracted a consulting firm to review many of the inspections which had resulted in the writing of a

NR on deficiencies discovered in piping hangers. Baker explained that many deficiencies relating to hangers were identified by a group of QC inspectors and as a result, these deficiencies (124) were all recorded on one NR. Baker continued by stating that there had been an ongoing problem with hangers. Specifically, the QC inspectors had been instructed not to inspect hangers supplied by vendors. This, according to Baker, was because the hangers should have already been inspected by the vendor's own QA Program. Baker stated that Kaiser informed the QA personnel that all welds painted red would be considered vendor welds and would not be inspected by QC inspectors at the site. Baker then stated this would have been an adequate procedure for identifying vendor welds if the vendor had painted the hanger or the Kaiser receiving department had painted them prior to installation. However, Baker said that his inspectors had problems with the inspections in the field regarding the red vendor hangers. This was the result of discovering that not only were red hangers observed, but also red colored concrete adjacent to the hanger. Baker stated that it was obvious that the hangers were being painted after installation. Baker further stated that he did not concur with this decision about not inspecting hangers which were red and forwarded a memorandum documenting his position.

Baker continued by stating that the problem with hangers was one of the things that resulted in contracting the consultants (Gladstone). Baker then explained that Gladstone was a father and son company who came to the site initially because of the conflict in hanger inspections. As a result of Gladstone's work they wrote a report which stated that the QC inspections were not being conducted properly. After the report was completed Gladstone then began to give classes (instructions) to the QC inspectors on conducting inspections. Baker said he attended two of the classes to ensure that all of the inspectors were receiving the same instruction. Baker also stated that it was his impression that Gladstone was not teaching the "code requirements" as much as they were conveying their interpretation of what the code requirements meant.

Baker stated he questioned the credentials and "certification" of Gladstone, however, he was advised by the QA Manager, Phil Gittings, that they (Gladstone) had over 30 years experience. Gittings responded to Baker's questions concerning certification of Gladstone personnel by stating that Gladstone personnel were "not certified AWS" (American Welding Society). Baker stated that he had some difficulty in understanding how a company could be contracted to do a review of QC inspections relating to "hanger" inspections that did not have any employees certified under AWS. Baker stated that he believed that Gladstone had been contracted by Kaiser and specifically, the Construction Department, on at least two occasions. He, Baker, believed that the second time Gladstone was

contracted was to come in and review the NR's that were being written by the QC inspectors. Baker added that even though Gittings stated that Gladstone had not been certified to AWS, Marshall used to justify construction position by claiming that "our certified level III from Gladstone" supported construction.

Following the discussion of pipe hanger inspections and the contracting with Gladstone, Baker stated that he had been interviewed by NRC personnel from Region III (January 1981) concerning allegations of NR's being improperly voided, reassignment of QC inspectors because of pressure from Kaiser construction and charges in QC inspection procedures in general. Baker further stated that he recalled being interviewed for several hours concerning the allegations. Subsequent to the interview (possibly the next day), Baker claimed that he was in the presence of Ehas (CG&E) and Marshall (Kaiser Construction Supervisor) when a new list of interviewees had been requested by the NRC investigator. As Baker recalled, Marshall stated after reviewing the list, "how come Baker isn't on the list?" Baker stated that Ehas replied to Marshall by stating "they don't need him - he went down there yesterday and spilled his guts to them" (NRC).

Baker stated that shortly after this he was told by Gene Knox (Kaiser Corporation) that he was being reassigned during a reorganization to the position of NDE Supervisor. Knox explained to Baker that Kaiser was doing this because Baker was the only qualified "Level III." Knox also explained that Kaiser thought there was a conflict in Baker being the Supervisor of the piping inspectors and also the certified Level III and most experienced in radiography. Knox also indicated that as lead piping inspectors the emphasis should be on "helping construction" and not strictly checking constructions work as in the case of radiography. Baker stated that he believed the change in assignment was related to talking to the NRC and not the reason portrayed by Knox. Baker continued by stating that at approximately the same period, the President of Kaiser Corporation in Oakland had come to the site and was touring the different areas accompanied by the Construction Supervisor, Bob Marshall. According to Baker, when Marshall and the President arrived at this (Baker's) office, Marshall stated something to the effect "Here's Rex Baker, the source of all my problems." Baker did not recall if there was any response on the part of the Kaiser President.

Baker continued by explaining that he had discussions with Region III inspector Kavin Ward regarding radiograph problems. He (Baker) stated that in discussions with Ward they agreed there were radiograph technique problems which resulted in the radiographs not meeting ASME (American Society of Mechanical Engineers) Code Standards. Baker stated that Ward

was concerned that the radiography being conducted was not done properly and, therefore, was not sufficient to meet the Code requirements. Baker then responded to questions as to whether that was the only difficulty in the radiographs. Baker stated that there was a period during early 1980 when the radiographs reflected more than technique problems. Baker claimed that after radiographing welds during the stipulated period it was discovered that many welds were rejectable. Baker recalled that the figure for rejection was approximately 67 percent. Baker reaffirmed that it was actual weld conditions that were identified and not radiograph techniques. Baker then added that he believed as a result of this radiography, the described welds were "reworked" and subsequently re-radiographed. Baker further stated that many of the welds should not have even been scheduled for radiography because in his opinion visual inspections would have identified the conditions and the required rework.

Baker concluded by stating that as a result of all of the nonconforming conditions identified during the first "walk down" of the Reactor Pressure Vessel (RPV-1) an extensive NR was written combining everything identified by the QC inspectors. This NR was subsequently signed off by Baker. Baker then stated that a second walk down, RPV-2, was initiated at a later date and originally had 10 QC inspectors assigned to work on the walk down after normal working hours (overtime). Baker stated that they were assigned to work in "groups of twos" (pairs). During the RPV-2 work down, Baker claims that each QC inspector turned in approximately 1-2 pages of discrepancies per night. These items, according to Baker, were listed on punch lists rather than NR's. Baker then stated that after they (QC) had completed about 10 days work, the walk down was stopped. The reason that was given to Baker was that there was "no more overtime." Baker could not provide any additional information concerning the falsification or alteration of QC records.

THE CINCINNATI GAS & ELECTRIC COMPANY



B R SYLVIA
VICE PRESIDENT
NUCLEAR OPERATIONS

July 21, 1982

JUL 26 1982

The Honorable Morris Udall
Chairman
House Interior and Insular Affairs
United States House of Representatives
Washington, D.C.

Attention: Dr. Henry Myers

We appreciate the opportunity to respond to the charges made by Mr. David Jones to your committee. Essentially the charges are so vague and general as well as lacking any corroborating facts or documents, as to make them difficult to provide a comprehensive answer.

It is also difficult to respond in great detail in that we have not seen a copy of the hearing transcript. For this reason we can only respond on the basis of our notes taken at the hearing, and the written statement passed out at the hearing.

At the outset it is important to emphasize that contrary to his statement, Mr. Jones was not one of the "top management officials" in the Kaiser Quality Assurance Department. According to Kaiser his job title was Sr. QA Analyst and that position is not part of management, nor has Mr. Jones ever been a part of Kaiser management.

Most of the allegations made before the Sub Committee by Mr. Jones were the subject of a complaint which he filed with the Department of Labor. However, after the Labor Department investigation had commenced, Mr. Jones withdrew his complaint against Kaiser.

Mr. Jones' next complaint is that his supervisors at Kaiser did not respond favorably to his complaints. It is clear that no organization can function if each subordinate can insist upon things being done only his way even though his supervisors in the Quality Assurance Group found that the matters had been corrected in accordance with procedures.

Mr. Jones' also complained about his failure to qualify as a Kaiser lead auditor. According to Kaiser, a new program for training and certifying lead auditors was initiated and Mr. Jones was not deemed suitable by Kaiser for such program. His allegation that this action was in some way retaliatory is unsubstantiated by any documentation from Mr. Jones.

To: The Honorable Morris Udall
July 21, 1982
Page 2

Many of Mr. Jones' other generalized complaints made at the hearing, such as that related to material from approved vendors, are/or were being reviewed as part of the licensee's document review program and the Nuclear Regulatory Commission is aware of the associated deficiencies.

Finally, it should be pointed out that Henry J. Kaiser and CG&E have recently been advised, preliminarily, by the NRC officials that a random interview of approximately fifty CG&E and HJK site QA/QC personnel did not disclose significant evidence of intimidation or harassment of inspection personnel. This finding does not support Mr. Jones' charges regarding harassment and intimidation at the Zimmer Project.

We have a copy of the transcript of testimony given by Mr. Jones at a meeting with the Nuclear Regulatory Commission on June 16, 1982. We are in the process of preparing a written response to Chairman Palladino relative to the charges made by Mr. Jones regarding the Zimmer Project. This response will clearly show that Mr. Jones misrepresented the facts and the overall situation at Zimmer.

Very truly yours,
THE CINCINNATI GAS & ELECTRIC COMPANY

By: *B.R. Sylvia*
B.R. Sylvia, Vice-President
Nuclear Operations

BRS/dfb

MORRIS K. UDALL, ARIZ., CHAIRMAN

PHILLIP BURTON, CALIF.
ROBERT W. RASTENMEIER, WIS.
ABRAHAM KAZEN, JR., TEX.
JONATHAN B. BINGHAM, N.Y.
JOHN F. SEIBERLING, OHIO
ANTONIO BORJA WON PAT, GUAM
JIM SANTINI, NEV.
JAMES WEAVER, OREG.
GEORGE MILLER, CALIF.
JAMES J. FLORIO, N.J.
PHILIP B. SHARP, IND.
EDWARD J. MARKEY, MASS.
BALTASAR CORRADA, P.R.
AUSTIN J. MURPHY, PA.
WICK JOE RAHALL II, W. VA.
BRUCE P. VENTO, MINN.
JERRY MUCKERY, LA.
JERRY M. PATTERSON, CALIF.
RAY ROGOVSEN, COLO.
PAT WILLIAMS, MONT.
DALE E. RILDER, MICH.
TONY COELHO, CALIF.
SEVERLY B. SYRON, MD.
RON DE LUGO, V.I.
SAMUEL GEJDENSON, CONN.

MANUEL LUJAN, JR., N. MEX.
DON H. CLAUSEN, CALIF.
DON YOUNG, ALASKA
ROBERT J. LAGOMARSINO, CALIF.
DAN MARRIOTT, UTAH
RON MARLENEE, MONT.
RICHARD B. CHENEY, WYO.
CHARLES PASHAYAN, JR., CALIF.
DOUGLAS R. BEREUTER, NEBR.
DAVID G.B. MARTIN, N.Y.
LARRY CRAIG, IDAHO
WILLIAM M. HENDON, N.C.
HANK BROWN, COLO.
DAVID MICHAEL STATON, W. VA.
DENNY SMITH, OREG.
JAMES V. HANSEN, UTAH

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515

ASSOCIATE STAFF DIRECTOR
AND COUNSEL

LEE MC ELVAIN
GENERAL COUNSEL

TIMOTHY W. GLIDDEN
REPUBLICAN COUNSEL

August 3, 1982

The Honorable Nunzio Palladino
Chairman
United States Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Mr. Chairman:

The attached letter from the Cincinnati Gas & Electric Company (CG&E) states that "...Henry J. Kaiser and CG&E have recently been advised, preliminarily, by the NRC officials that a random interview of approximately fifty CG&E and HJK site QA/QC personnel did not disclose significant evidence of intimidation or harassment of inspection personnel."

I have not been informed of any such finding. A finding of this nature would be of considerable interest in view of allegations of harassment made to the Subcommittee. I would appreciate, therefore, your informing me as to the staff's findings with regard to the question of harassment and intimidation of QA/QC personnel by their supervisors. I would also like to be informed as to what CG&E and HJK officials were told with regard to harassment and intimidation and the manner in which these officials were informed.

This is a matter I expect to discuss at the August 16 hearing.

Sincerely,

M. K. Udall
MORRIS K. UDALL
Chairman



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

August 10, 1982

Lynne Bernabei, Esq.
Government Accountability Project
1901 Q Street, N.W.
Washington, D.C. 20009

Re: Applegate v. NRC, Civ. No. 82-1829
(D.C.D.C.)

Dear Ms. Bernabei:

In light of your recent attachment of this document to a motion before the Atomic Safety and Licensing Board in the operating license proceeding for the Wm. H. Zimmer Nuclear Power Station, the Nuclear Regulatory Commission hereby releases for public inspection the record of the Office of Inspector and Auditor's interview of Mr. Terry Harpster.

In response to your informal request, we are also releasing that portion of a July 26, 1982 memorandum to the Commissioners from the General Counsel regarding the July 19, 1982 Director's Decision on two petitions concerning LaSalle County Nuclear Generating Station. This portion of an otherwise confidential legal analysis was discussed by the Commission during a July 27, 1982 public meeting on LaSalle.

Sincerely,

A handwritten signature in cursive script that reads "Richard A. Parrish".

Richard A. Parrish
Attorney
Office of the General Counsel

Enclosures: As stated

NRC Official Says Zimmer's Startup Unlikely For '83

BY JACKIE JADRNAK
Gannett News Service

COLUMBUS—It's unlikely that the Zimmer nuclear power plant will be able to go into commercial operation anytime next year, an official with the Nuclear Regulatory Commission said Wednesday.

Robert F. Warnick, director of the enforcement and investigation staff for the NRC's Region III, said necessary inspections at the plant wouldn't be finished by the end of this year. Cincinnati Gas & Electric Co., the utility managing plant construction and operation, had set this December as the target date for fuel loading, with mid-1983 as the start-up date for the nuclear power plant.

But asked if he thought it unlikely Zimmer would be in commercial operation during 1983, Warnick said, "Yes, I agree with that."

WARNICK WAS in Columbus to testify before the Public Utilities Commission of Ohio (PUCO), which is considering a \$100 million rate request from Columbus and Southern Ohio Electric Co., owner of a 28.5% interest in the nuclear facility. About half of that rate increase is attributable to Zimmer construction costs.

PUCO Chairman Jon Kelly had written to NRC officials, partially at the request of the Office of Consumers' Counsel, asking them to send a witness to help them determine when Zimmer would be in operation.

Kelly said he was concerned because the start-up date for Zimmer—first set for 1975—has progressively been pushed back later and later. In the meantime, the commission has been allowing utilities to recover costs for Zimmer on the basis of start-up dates which have not been met.

C&SOE, for example, already

has been collecting about \$18 million annually from its customers for Zimmer and wants to add about another \$50 million to that amount.

WARNICK WAS unable, however, to give the PUCO a specific date by which he expected Zimmer to be in operation. That date would depend on a number of inspections and investigations being conducted at Zimmer, a plant he termed the "biggest problem" of the 10 to 15 under construction in his eight-state region.

The NRC also is considering calling for an independent audit of construction quality at the plant. Warnick said a final decision has not been made on that issue, but pointed out that the NRC has been requiring the third-party audits for every plant that has been licensed since problems were uncovered at California's Diablo Canyon plant.

Problems at Zimmer erupted because CG&E did not keep a large enough staff to check construction quality, Warnick said. Because many documents needed to substantiate the quality of the work were missing or inaccurate, and because some work was found to be inadequate, the NRC ordered a new quality confirmation program.

IN OTHER words, inspectors had to go back over work already done and confirm that it was done properly, with any inadequate construction redone.

In making that decision, the NRC has not been concerned with the cost of the plant, Warnick said. "The question is: Has it been built properly and can it be operated safely?" he said.

The NRC has yet to be convinced that the answer to that question is "yes," he added.

CINCINNATI
ENQUIRER

July 15,