

PDR-016
LPDR



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

November 16, 1982

Mr. Tom Devine
Mr. Jay Rosenthal
Government Accountability Project
Institute for Policy Studies
1901 Que Street, N.W.
Washington, DC 20009

IN RESPONSE REFER
TO FOIA-82-206

Dear Messrs. Devine and Rosenthal:

This is in further response to your letter dated April 20, 1982, in which you requested, pursuant to the Freedom of Information Act, documents concerning IE Report No. 50-358/81-13.

The documents listed on Appendix A have been placed in the NRC Public Document Room, 1717 H Street, N.W., Washington, DC. You may obtain access to these documents by presenting a copy of this letter or by requesting folder FOIA-82-206 in your name.

The review of additional documents subject to your request has not yet been completed. As soon as this review is completed, we will advise you of our disclosure determination.

Sincerely,

A handwritten signature in cursive script, appearing to read "John Philip Felton".

J. M. Felton, Director
Division of Rules and Records
Office of Administration

Enclosure: Appendix

Appendix A

<u>Document Description</u>	<u>Date</u>	<u>Pages</u>
1. Various drafts of 50-358/81-13 report from Paul Barrett's files	Various dates	1,248
2. Various drafts of 50-358/81-13 report from Robert Warnick's files	Various dates	1,115
3. Letter to J. G. Keppler from E. A. Borgmann re: Visit to Zimmer Plant	5/18/81	1
4. Letter to Earl Borgmann from Richard Jogger re: Investigation Conducted on December 8, 1981 by Donald Milan and Richard Jagger	12/9/81	14
5. Letter to Donald Milan from Richard Jagger re: Investigation of Rejected Radiographs at Zimmer	5/14/81	2
6. Letter to E. A. Borgmann from Richard Jagger re: Zimmer Radiographic Quality Confirmation Program on Pullman Power Piping	9/29/81	1
7. Letter to William Murphy from James Keppler re: Allegation received by the U.S. Nuclear Regulatory Commission, Region III, concerning the use of Argon gas	2/19/81	1
8. Memo for Louis Clark from Tom Devine re: Summary of 2/1/81 Conversation with Tom Martin	2/11/81	6
9. Letter to Earl Borgmann from James Keppler re: IE Inspection Report No. 50-358/81-14	4/21/81	6
10. Notice of Significant Licensee Meeting	Undated	2
11. Letter to Earl Borgmann from James G. Keppler re: IE Meeting Report No. 50-358/81-20	6/26/81	5
12. Memo for R. F. Heishman et. al. from A. Bert Davis re: GAP Letter Requesting Work Stoppage at Zimmer	5/28/81	1
13. Letter to Henry Eckhart from James Keppler re: Zimmer Investigation in Progress	5/26/81	1
14. Notice of Significant Licensee Meeting	4/3/81	1
15. Memo for R. F. Warnick from F. Maura re: Results of Zimmer Investigation	4/22/81	2

Appendix A

<u>Document Description</u>	<u>Date</u>	<u>Pages</u>
16. Memo for Files from Arthur Schnebelen re: Redelegation of Authority	5/15/81	1
17. Tapes of an Interview of Floyd Oltz	6/4/81	3 tapes
18. Transcript of Interview of Floyd Oltz	6/4/81	67
19. Draft Transcript of Interview of Floyd Oltz	Undated	116
20. Tape of a Transcript of Taped Meeting between Members of the Region III Investigation Staff and Mr. Rex Baker Inspection Supervisor	3/3/81	73
21. Tape of a Meeting between Members of the Region III Investigation Staff and Mr. Rex Baker Inspection Supervisor	3/3/81	1 tape
22. Memo for James Sniezek from John T. Collins re: Inspection of Sargent and Lundy Regarding Region III Concerns	4/2/81	7
23. Memo for The Record from John F. Suermann re: Confirmation of New Article on Zimmer Plant Requested by Senator Ford's Office	8/7/81	1
24. Memo for George B. Georgiev and Robert F. Warnick from Samuel D. Reynolds, Jr., re: Results of Metallographic Examination of Defective SA106 Grade B Pipe	10/13/81	1
25. Memo for The Atomic Safety and License Nuclear Power Station from Robert L. Tedesco re: Board Notification - William H. Zimmer Nuclear Power Station Hearing with enclosed Letter from J. G. Keppler to E. A. Borgmann	7/15/81	7
26. Letter to The Honorable Nunzio Palladion from Richard L. Ottinger re: Investigation of W. H. Zimmer Nuclear Power Station	4/29/82	1
27. Letter to The Honorable Richard L. Ottinger from Nunzio J. Palladion re: Summary of Activities regarding investigations involving the William H. Zimmer Nuclear Power Station	5/14/82	2
28. Various Documents from Streeter's Files	Various Dates	290
29. Letter to The Honorable Howard Metzenbaum from William J. Dircks re: Allegations by Mr. Thomas Applegate of criminal activity and safety defects at the Zimmer Nuclear Power Station	5/11/81	1

Appendix A

<u>Document Description</u>	<u>Date</u>	<u>Pages</u>
30. Letter to The Honorable Howard Metzenbaum from William J. Dircks re: Possible Construction Problems at the Zimmer Nuclear Power Station	4/3/81	1
31. Note to Local Public Document Rooms from James Keppler re: Documents relating to Cincinnati Gas & Electric Co.	11/11/75	15
32. Letter to Earl Borgmann from E. L. Jordan re: Corrective Action during a future inspection	10/7/76	23
33. Letter to E. A. Borgmann from R. F. Heishman re: Corrective Action during a future inspection	2/17/77	17
34. Letter to E. A. Borgmann from R. F. Heishman re: Correct noncompliance	5/5/77	26
35. Letter to Earl Borgmann from G. Fiorelli re: Page Replacements	3/12/79	25
36. Inspection Summary for Zimmer Plant	6/6/79	29
37. Letter to Earl Borgmann from G. Fiorelli re: Noncompliance	6/12/80	19
38. Letter to Earl Borgmann from R. F. Heishman re: Non-compliance in Inspection Report No. 50-358/80-14	10/8/80	42
39. Letter to Earl Borgman from R. F. Heishman re: Correct noncompliance	11/4/80	20
40. Draft letter to Louis Clark from James Keppler re: Suspension of the construction permit for Zimmer	Undated	3
41. Memo for File from David Gamble re: Zimmer Nuclear Power Station	12/10/81	3
42. Letter to Earl A. Borgmann from James G. Keppler re: IE Meeting Report No. 50-358/81-16	6/2/81	9
43. Letter to James Keppler from Thomas Devine re: Investigation of Zimmer	7/22/81	8
44. Letter to Earl Borgmann from James Keppler re: Immediate Action Letter	4/23/81	2
45. Memo for C. E. Norelius et. al. from A. Bert Davis re: Meeting to Discuss Zimmer Independent Verifications, 7/14/81	7/24/81	2
46. Immediate Action Letter - Draft	Undated	4

Appendix A

<u>Document Description</u>	<u>Date</u>	<u>Pages</u>
47. Handwritten notes re: Discussions held on 4/30/81 at 8:30 a.m. in the Glen Ellyn office	Undated	2
48. Draft Memo for Barrett et. al. from James Foster re: Position on "Upapproved Vendors"	7/28/81	7
49. Letter to Earl Borgmann from James Keppler re: Notice of Violation and IE Inspection Report No. 50-358/80-09	7/2/80	52
50. Letter to J. E. Bowes from J. H. Tillou re: Inspection Report No. 99900021/75-01	4/9/75	16
51. Letter to J. E. Bowes from J. H. Tillou re: Inspection Report No. 99900021/76-01	2/9/76	25
52. Letter to J. E. Bowes from J. H. Tillou re: Inspection Report No. 99900021/77-01	4/18/77	14
53. Letter to J. E. Bowes from J. H. Tillou re: Inspection Report No. 99900021/76-02	8/16/76	21
54. Letter to R. T. Walter from D. M. Hunnicutt re: Notice of Deviation and Inspection Report No. 99900021/78-01	5/12/78	17
55. Letter to R. E. Howard from Karl V. Seyfrit re: Notice of Deviation and Inspection Report No. 99900021/78-02	10/13/78	11
56. Letter to R. E. Howard from Uldis Potapovs re: Notice of Deviation and Inspection Report No. 99900021/79-01	4/23/79	12
57. Letter to R. T. Walter from D. M. Hunnicutt re: Inspection Report No. 99900021/77-02	9/15/77	11
58. Letter to G. W. Oprea, Jr., from Victor Stello, Jr., re: Notice of Violation, Notice of Proposed Imposition of Civil Penalties, Cross References: Violations to Report Details, Investigation Report 50-498/79-19; 50-499/79-19, and Order to Show Cause	4/30/80	42
59. Letter to R. E. Howard from Uldis Potapovs re: Inspection Report No. 99900021/80-01	5/1/80	8
60. Letter to R. E. Howard from Uldis Potapovs re: Notice of Deviation and Inspection Report No. 99900021/79-02	8/9/79	9

Appendix A

<u>Document Description</u>	<u>Date</u>	<u>Pages</u>
61. Letter to John Betz from E. M. Howard re: RO Inspection Report No. 999-21/73-1	2/2/73	9
62. Notice of Substitution of Counsel - In the matter of Cincinnati Gas & Electric Co. et. al.	Undated	2
63. Letter to Earl Borgmann from James Keppler re: QA Staffing	4/8/81	3
64. Tapes of meeting in Region III with GAP and Applegate	2/26/81	3 tapes
65. Transcript of Taped Meeting Between Members of the RIII Staff and Representative of the Government Accountability Project and Mr. Thomas Applegate (bracketed version)	2/26/81	66
66. Memo for Leonard Bickwit, Jr., from Larry L. Simms re: Jurisdiction of Office of Special Counsel, MSPB, under 5 U.S.C. 1206(b)(2) and (7)	3/13/81	10
67. Letter to W. W. Schwiers from G. K. McClanahan re: Zimmer Nuclear Power Station	12/10/76	2
68. Various drafts	Various dates	3,864
69. Tape/Disclaimer - Side 1 Unidentified Parties - Side 2 Applegate/Alldredge	Undated	1 tape and 1 page

GOVERNMENT ACCOUNTABILITY PROJECT

Institute for Policy Studies

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

(202) 234-9382

April 20, 1982

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

FREEDOM OF INFORMATION
ACT REQUEST

FOIA-82-206

Rec'd 4-22-82

To Whom It May Concern:

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

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

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

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

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

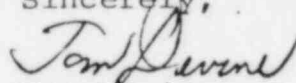
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Director, Office of Administration
Nuclear REgulatory Commission
April 20, 1982
Page Two

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

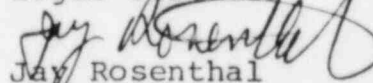
We look forward to your reply within ten working days.

Sincerely,



Tom Devine

Legal Director



Jay Rosenthal

Staff Associate

TD/jr

A-22
thru
A-40