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U. S. NUCLEAR REGULATORY COMMISSION
OFFICE OF INSPECTION AND ENFORCEMENT
REGION III

TRANSCRIPT OF TAPED MEETING BETWEEN
MEMBERS OF THE REGION III STAFF AND
REPRESENTATIVE OF THE GOVERNMENT
ACCOUNTABILITY PROJECT AND
MR. THOMAS APPLGATE

PLACE - GLEN ELLYN, ILLINOIS
DATE - 26 FEBRUARY, 1981

ATTENDEES PRESENT AT FEBRUARY 26, 1981 MEETING

Nuclear Regulatory Commission

Mr. James G. Keppler, Director, Region III
Mr. A. Bert Davis, Deputy Director, Region III
Mr. John Streeter, Acting Director, Enforcement and Investigation
Staff, Region III
Mr. Robert Warnick, Chief, Reactor Projects Section 2B, Region III
Mr. Ted Gilbert, Investigator, IE Headquarters
Mr. Arthur Schnebelen, Investigator, Office of Inspector and Auditor
Mr. James McCarten, Investigator, Region III
Mr. Paul Barrett, Inspector, Region III

Government Accountability Project

Mr. Thomas Devine, Attorney

Mr. Thomas Applegate

MEETING FEBRUARY 26, 1981 - ZIMMER ALLEGATIONS

Keppler

Let me thank you both for coming in to this meeting. Mr. Applegate, Mr. Devine, Bert Davis and I met for a few minutes in my office and we have agreed to tape this meeting today. There are two tapes being run in parallel and a copy of one tape will be given to them at the conclusion of the meeting. In addition, we will make a transcript of our tape and provide them with a copy of that. And that's to go to you, Mr. Devine? We also agreed that the transcript of this meeting would not be made public while the ongoing investigation is taking place so as not to interfere with any investigation. What happens after the investigation is up to the parties involved. Let me introduce the NRC people here for you so you can know exactly who they are and what they are doing. I'm Jim Keppler, I'm Director of the Region III office, on my immediate right here is Bert Davis, the Deputy Director, Mr. John Streeter is the Acting Director of Enforcement and Investigation. He was recently put in this job about a month or so ago. We had a reorganization and he... in that position for Region III. Mr. Ted Gilbert is from the IE Headquarters Staff. He has been helping us on the interviews of some of the ex-workers of Zimmer down at the North Anna facility and I asked him to come out because ultimately this case will be documented through the Washington people and I thought he ought to have a first hand observation of this meeting. Mr. Art Schnebelen, the Office of Inspector and Auditor, these people as you know are involved in the investigation of Region III's earlier investigation into Mr. Applegate's allegations and we invited Mr. Schnebelen to this meeting also. Mr. Bob Warnick to his right is the Section Chief in the Resident and Project Division of our office and he is the supervisor responsible for the inspection program, overall, at the Zimmer Station. To his right is Mr. Paul Barrett. Paul is the principal inspector at Zimmer for the construction program. And next to you Mr. Devine is Jim McCarten. He is our investigator on all the allegations and additional information that was provided to the Merit Systems Production Board by GAP via Mr. Applegate.

Devine

He is out of Region III?

Keppler

Yes, he works on the Region III staff. I guess I would just like to make a couple of introductory remarks here to kick this thing off. I want to say that I recognize that the GAP organization and Mr. Applegate have expressed some concerns with respect to the scope of an earlier investigation conducted by Region III into allegations that you made and I guess I want to assure you up front and for the record that we are dedicated, committed to a total investigation of the matters that have been brought to us. Mr. Davis and myself are personally involved in directing and following the investigation into the material provided by GAP. In the interim, NRC's Office of Inspector and Auditor, of which

Mr. Schnebelen is part of, are involved in an investigation into Region III's earlier investigation of the allegations that were brought forth last March or April by Mr. Applegate.

As I mentioned to you earlier, we had not planned to interview Mr. Applegate as part of our ongoing investigation because we largely thought that we had all the material that he had in connection with the investigation given to us through the GAP organization. However, when you contacted Mr. Davis in my absence last week and indicated that you had some new information that had not previously been given to NRC, we moved promptly to interview you and we appreciate very much your willingness to meet at this time.

Devine

Mr. Keppler, I would like to clarify...it was not that Mr. Applegate was withholding information, he hadn't obtained it.

Keppler

Fine, whatever. We just assumed that we had all the information, and quite frankly we were aware that obviously that Mr. Applegate had felt we had not done our job properly the first time around, and when you think you have all the information there is basically no reason why you go back and hear about all the things you did wrong previously.

Applegate

I think more than anything else, it's not so much a case of I didn't come up with all the information, as it is that in the position that I'm in. I'm in a position where information is coming to me constantly; and it becomes a hard situation when you don't know what the Nuclear Regulatory Commission is doing. They've been, by press accounts, in your town for two or three weeks and nobody has talked to you and you are getting all this information thrown at you from other sources... this person has this to say, this person has that to say and that person has that to say... when I'm getting this information it becomes hard to relay that to GAP and then in turn get it relayed to the Nuclear Regulatory Commission when you know that all you've have to do is reach out and say "Hey, Mr. NRC, I'm right here and, you know, all you have to do is ask me." I've always been a person who with any federal agency that I have worked with and I've worked with several has said all you have to do is come up to the front door, show your identification and I'd be glad to sit down and talk to you. Information is coming to me almost constantly from sources within the Greater Cincinnati area with regards to the Zimmer situation, and it is getting to be a strain on

this non-profit organization, as well as on this non-profit individual, to try and get this information to the Nuclear Regulatory Commission. If the NRC is in town then I feel... now I wholeheartedly approve of your actions in having this meeting here in Chicago, rather than in Cincinnati. I think that is a good move. So I have no objections to coming to Chicago any time you want, if you'd rather meet with me here than in Cincinnati. But I think you should understand that there are individuals who are going to, through one way or another, get ahold of me because my number is not public, and my address is not public. They are going to get to me one way or another. They get through to me through grass roots organizations that have their own problems with Zimmer. They get to me through the press. I've had various members of the press who have said this individual wants to talk to you, he has valuable information to bring forward and so forth. He feels that you are the conduit to release this information because you are obviously by all accounts in communication with the Nuclear Regulatory Commission. So I wanted to make sure that that communication was there.

Kepler

Perhaps one thing that we might work out today is some kind of periodic contact with you while we are down there to see if you have any additional information.

Applegate

Sure

Kepler

We can talk about that as we go on. I think I'd like to focus the meeting on, at least from our point of view, on trying to get whatever new information you have to assist us in our ongoing investigation. When we've completed that I'd like to allow the people doing the investigation to ask you some questions in certain areas that they are having trouble pursuing based on the documentation that we've received so far. If there are other areas you wish to pursue we'll gladly do so afterwards but I'd really like to focus on, to help us on our ongoing investigation, focus on the new information and clarifying some of the points of concern that we have. Is that acceptable to you? Okay, consistent with a point you raised with us Mr. Applegate earlier, I guess I'd like to, before we start this, I'd like to take your statements under oath if that's acceptable to you.

Applegate

That's perfectly acceptable.

McCarten

Will you raise your right hand? Do you swear that the statement you are giving today is the truth, the whole truth and nothing but the truth so help you God?

Applegate

I do.

Keppler

Mr. Devine, how do you feel about it?

Devine

Sure.

McCarten

Mr. Devine, do you swear that the statements you are giving today are the truth, the whole truth and nothing but the truth so help you God?

Devine

Yes, I do.

Keppler

Thank you very much. I think I'd like to start with asking you to provide us with information that has not been provided to us through the previous packages that have been given with the original GAP submittal to the Merit Systems Projection Board or the subsequent enclosures that have come afterward. Let me clarify with you the enclosures we've received thus far. It is my understanding that we received the original package that was provided to the Merit Systems Projection Board, we subsequently received a very small volume of material which contained some affidavits of some additional people who provided information to Mr. Applegate, and then thirdly there was another package that came in that contained the material that largely related to concerns of Mr. Hofstadter and Mr. Griffin, and then I think there is a fourth that I haven't seen yet that was given to you people right away when you went down to the site. And what does that consist of?

McCarten

It just consists of some persons to contact, other information.

Keppler

Okay, let's start out with the assumption that we have that information.

Devine

You've received a witness list.

McCarten

Yes. I have the witness list.

Applegate

At this point, I would rather than I start out this, I will have my lawyer explain where we are coming from and start us off.

Keppler

Let me say also if anytime you want to take a break or caucus or whatever, just nod, I'd like to keep everybody reasonably comfortable here.

Devine

We appreciate your courtesy Mr. Keppler.

Applegate

The coffee's great.

Devine

Basically what we are interested in doing is certainly providing all Mr. Applegate's new information and I was interested in, as long as we were out here, taking advantage of the opportunity to be briefed on the schedule and itinerary for the rest of your work. And also to clear up a few of the questions that we've had as an outside organization on trying to understand the methodology and operating procedures of your oversight of nuclear plants and how you interpret the law, so that some of the issues that we may have criticized prematurely could be resolved and we would understand your approach a little bit better.

Keppler

Could I again ask that we do that after we get to the other subjects?

Devine

Yes. I think that our first priority should be for Tom to get down to business here and start showing his information.

Applegate

Right. As you note probably, if you gentlemen reviewed the material in my affidavit and I discussed in my affidavit and in other pertinent information that was provided you, I discussed an allegation with regards to the independent radiographers, Peabody Magnaflux, being in one way or another coerced to leave the site at the Zimmer nuclear power station. It has come to my attention that there may be further evidence with regards to their being coerced to leave the site. As you might be aware we provided a taped conversation between myself and Mr. Aldredge where I think it is at least clear to us that Mr. Aldredge... and possibly we should get into a discussion of Mr. Aldredge's conversation with myself...

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Zimmer 6/16*

Devine

Maybe a good way to get through this all quickly would be to go down witness by witness with whatever new information you've got.

Applegate

Okay, right. There are certain law enforcement officers in the greater Cincinnati area who have indicated to me that they believe they have some highly suspicious people that were involved in the breakin at the Zimmer nuclear power facility in the weekend approximately January 10, 1980, approximately again I say. This was the weekend after I was fired from the site. There was an allegation made that someone had pilfered data from Peabody Magnaflux that might tend to corroborate our allegations of faulty workmanship on piping in the Zimmer nuclear power facility. The names of these individuals have been given to me as suspects, and I emphasize that only because a certain amount of circumstantial evidence takes you up to a suspect and then a certain amount of fact gathering confirms or denies their guilt in relationship to an incident. This is typical investigative procedure. You go through stages in investigation. I would say if you include the four stages of investigation... where you go speculative rumor, possibility, probability and fact... that this is probably in the possibility category and could be placed into the probability category with the interviewing of certain

Breakin

witnesses that I have their names. And I would like for the Nuclear Regulatory Commission to pursue that with the idea that this may provide further information with regards to Peabody Magnaflux leaving the site either by coercion and force on the part of utility and the contractor or by any other means. The gentlemen who are highly suspected of breaking into that trailer according to my witnesses, and again you'll have to excuse me cause I take notes in a fashion much like any other investigators, but a Mr. Pat Brennan and a Mr. Mike Brennan, both brothers. Mr. Pat Brennan was apparently a union steward at the Zimmer facility for some time and Mr. Mike Brennan was apparently a supervisor or some capacity of supervision with the Quality Control section of Kaiser. This is the information that I have at the present time. We are again pursuing this as quickly as possible because I feel that this evidence could lead to a finding as to whether or not Peabody Magnaflux was actually burgled or not the weekend after I was fired. I have discussed these...

Keppler

Were records of Peabody Magnaflux taken at that time?

Applegate

Yes. According to the President of Peabody Magnaflux in a taped conversation that I provided to the Nuclear Regulatory Commission, I asked him does Peabody Magnaflux have a continuous string of data that they can report should this come to a point of hearing either with the Nuclear Regulatory Commission or in Washington with the Senate Subcommittee or anything else, and he indicated that no, that they do not. That because of this apparent pilferage of data to quote Mr. Aldredge, "because of the apparent pilferage of data there may be some holes in their continuous string of information with regards to safety related quality controls inspection of the pipes at Zimmer." So it hinges on the fact that this burglary might have put some holes in Peabody Magnaflux's ability to continue on and say that they had evidence of the fact that there were problems with that load of piping that they inspected, okay. That was, of course, what we had centered on.

Devine

What Mr. Aldredge stated was their records were taken when they were dismissed from the job. They normally would have some of their own. So we don't have negatives. We have hopefully some of our inspection reports but these have holes in that now that we have had some possible pilferage of our material. And frankly, I don't know now if we have a particularly documented and distinct... So there's...

Applegate

Documented string of evidence as I recall the conversation.

Devine

Yeah. He's made some references to that. A lot of Mr. Applegate's work has been trying to pin down what that reference was referring to in terms of pilferage and a breakin and there has been conflicting information about it and as the NRC investigation continues the witnesses seem to be more of a consensus that there was a breakin there and more people are willing to talk about it. When we first started asking questions about this there were some people denying that anything like that had even occurred. Now the trend seems to be that folks are willing to open up about it.

Barrett

P1
27 / When you address a load of pipe do you have specifics of kinds...

Applegate

P-1/7
2/1/75
2-1/17
Yes, we are talking about the load of pipe that was delivered from Kellogg on July 3, 1979, that was dropped off at the truck and was examined by Peabody Magnaflux. And their original examination they found, or at least they reported to me that they found, some inconsistencies or some discrepancies or actual faults in some of the prefabricated welds of that pipe. That this was prefabricated piping that had come in from Kellogg of Pennsylvania and that in checking for damage they had inadvertently found some inaccurate or possible discrepancies in the piping and that in trying to pursue this they were hushed up immediately. I was given a statement which is on tape, again, I don't know, I think all these tapes have been provided the Nuclear Regulatory Commission haven't they? It's very indistinct, but at a great cost to me I have had these tapes audiolized and Mr. Sellers who was a supervisor for Peabody Magnaflux at the site at that time made a statement that Peabody Magnaflux was told by Kaiser and Cincinnati Gas & Electric quote "we will do what we are told to do when we are told to do it." And that was his in-quote statement that out of fear of losing the contract, out of fear of reprisal of losing the contract with Cincinnati Gas & Electric, they would do what they are told to when they are told to do it and that in this particular instance when they brought up the impressions of faulty welding done on prefabricated welding that was coming into the plant that they were told to keep quiet.

Barrett

Do you feel that this is the documentation relative to the pipe that was dropped off the truck that was stolen from the trailer?

Devine

Well, we're not really sure how much documentation is missing. We think this is an area of question that you all could probably clear up fairly quickly by going to PM and finding out what kind of records they have there. And if they have everything that they are supposed to then we will know the people who are complaining may be mistaken about it or else there has been a complete identification of a new record system for years of work. And if they don't have it then...

Applegate

Because that was also indicated on the tape when I asked Mr. Aldredge - I said is it impossible to doctor these X-rays or make the reports look like they were something they are not and Mr. Aldredge indicated - oh, certainly it is possible and highly probable. He indicated that when the intent to deceive and defraud was there originally that there is very little that you can do - that's the president of the company talking.

Barrett

(So I understand then that you don't know specifically what documents, if any, were taken from the trailer?

Applegate

(We do not know what documents, if any, were taken from that trailer. I believe that the people at Peabody Magnaflux do know. And that under pressure because as Mr. Aldredge indicated, that their company position was we have taken the position that to go in and defend this matter would cost us in the long run, taking the position that Peabody Magnaflux was blowing the whistle on a sister utility and just maybe we shouldn't be considered for any further work and he was under, I believe Peabody Magnaflux was under, the fear that they would be banned from the nuclear industry entirely if they go in and try to defend this matter as I felt that they should have. As it relates to safety problems in the plant, safety related letters with regards to that particular piece of piping, it could have a very serious impact, especially given the placement of that pipe fix in the main steam relief system, but in any case as I understand it that's a very critical system - but in any case and I have a lot of names to discuss as far as where that information came in.

break-in
break-in
↑
-1/7

McCarten

break-in
That's what I want to talk to you about. Who is the police agency involved coming up with this information on the Peabody Magnaflux trailer breakin?

Applegate

Well, a lot of these people are former Yoh Security people.

McCarten

Do you have any names so we could go and talk to these people?

Applegate

Yes, we do.

McCarten

Do you have them now?

Applegate

Yeah. Tom, do you want to go into the specific names? I can give you the names and phone numbers and a quick summary. Again I want to emphasize before we go into this - Mr. Keppler, this is something that we discussed in your office - that a lot - you can't just go out and approach some of these witnesses, you have to understand there have been threats and you can't just go out and approach these witnesses - they get very nervous about how you approach them. If we are giving a list of witnesses this morning, we must understand that these people are people who have a lot to lose with regards to the present jobs that they hold. The intimidation that Cincinnati Gas and Electric has thrown on these individuals is - we don't care if you formerly worked for us, we don't care who you work for now, we can still cause you trouble and these people are afraid of that type of situation. So you have to understand that we are giving these lists of witnesses but please understand they - the type of situation these gentlemen are in - they have voluntarily talked to me and I think it's with a great deal of courage that they have voluntarily talked to me.

Keppler

Do you have any suggestions as to how we should go about contacting them?

Applegate

I would make a suggestion that when you get in touch with these folks that you contact them at home originally and discuss with them there where they are the most comfortable about getting their interviews and perhaps even some of them by letter. Please don't just call them and say I am from the NRC. Some of them are so highly nervous that they would rather get a letter in the mail.

Devine

They might want that to confirm if they have a question about you all. I know from our own monitoring of this investigation that one fellow who was not concerned about being called at work and got permission from his boss to be called at work changed his mind at some time. He was very nervous and upset that happened and preferred that he be called at home.

McCarten

Yeah, he mentioned that to Bob when he talked to him.

Applegate

I think the reason was that I had not notified him that he was going to be contacted. Of course I had no way of knowing that he was going to be contacted because the NRC does not tell me what they are going to do and I am not expecting you to. All I am saying is that maybe we should have indicated to you before we gave you these lists of witnesses that some of these men are in fear of their lives.

McCarten

Are these fellows are on that list of witnesses you gave us or are they new?

Applegate

Some of them are.

Devine

If we had known them before you would have gotten them beforehand.

McCarten

Well, rather than tie up this meeting and all these men, maybe at the end of the meeting we can go over a list of potential witnesses who gave information

about this breakin and we will contact them because this Peabody Magnaflux issue is not closed. We are actively investigating it.

break-in

Devine

I would be glad to get this in the records right now. Mr. Ron Wright, he is former security officer there with Yoh and is now at the Felicity, Ohio, police department. His phone number at home is 513-876-2401.

Applegate

And let me indicate that that is a party line you may have difficulty in reaching him, you might have to reach him through the Felicity police department.

Barrett

Will you have addresses for these people?

McCarten

Yes, we will get that. He is a police officer. He is not going to worry if you call him.

Devine

break-in

Mr. Jim Bedinghouse, he is the former police chief in Moscow, Ohio, and a security guard at the plant. His phone number, home number, is 513-724-2171. I believe these other three individuals you haven't spoken with directly.

Applegate

No I have not spoken directly. I have not had time.

Devine

break-in

Mr. Wright referred three other witnesses - Dave Simpson who is now a sergeant in the Felicity police Department, Mr. Tim Creighton who lives in the Felicity area, and Mr. Jim Brice who works with the New Richmond, Ohio, police.

Applegate

They as well may have more witnesses.

Devine

These men all worked for Yoh Security and the primary focus is on the security issues, the access to the fuel, etc. Some of them do have some spillover into safety related issues.

McCarten

What about the BME - which ones have information on this burglary and PM breakin? Ron Wright?

Devine

Ron Wright, well.

Applegate

*breakin...
w. faces*

I would say you ought to talk to Jim Bedinghouse and Ron Wright and Dave Simpson primarily. Dave Simpson has apparently kept a lot of documents and a lot of records. I think he is the man. There is also other things that these people have talked about besides the breakin. They have obviously talked about the security matters that we are going to relate to safety here in a minute. but they have all talked about other matters and they backup affidavits given by Jeff Hyde and Steve Harris. This is all the Yoh Security group - these are what I believe to be stand-up law enforcement type people - they were all commissioned officers in the State of Ohio at the time they were with the Yoh Security and these are the people that I feel are your most expert witnesses in discussing a lot of these allegations.

McCarten

Have any one of these people given you these two names of Mike and Pat Brennan - they have direct evidence that these two people...

Applegate

Those names were given to me by those people.

McCarten

Which one has the direct evidence regarding their involvement?

Applegate

1/17
Mike in
w. Brennan

I am not certain - again these people - you know, you have to understand a police officer. A lot of times he wants to talk to the feds - he doesn't want to talk to Tom Applegate - he doesn't want to tell me what he knows directly - because again, Mr. Keppler as we were discussing, this comes into the standpoint - this comes into the issue of what do these people want to say to Tom Applegate and at the same time what do they want to say to the NRC. They may give me part of the story and they may give you all of the story. So, with regards to the Pat Brennan and Mike Brennan situation, I don't feel they have given me all the information that they know and they have mentioned them casually and mentioned the fact that it was common knowledge that these individuals might have been the ones responsible for the breakin. Now whether or not that is proven up in fact is a matter for the NRC to look in - I know that that relates to the Aldredge tape and relates to the Aldredge conversation with regards to the fact that Peabody Magnaflux was intimidated to leave the site. I believe that they were intimidated through corporate pressure, I believe that they were intimidated from the standpoint of how they were issued off the site. Mr. Aldredge indicated that there was a man standing and waiting at their trailer when they went to pull it off the site stating that you will hand over the documents. And I said you mean it was a situation of almost hand over the documents or get shot? And he said, well let's put it this way, it was one of the fastest transferring of datas that I can recall in 20 years. And then I went on to ask him if this has ever happened at any other nuclear site that Peabody Magnaflux might be associated with and he indicated to me that they were associated with approximately 20 other sites and that this had never happened previously.

Devine

It might help Mr. McCarten to summarize whatever explanation Mr. Wright and Mr. Bedinghouse did give for identifying the Brennan brothers as the people in this breakin.

Applegate

As security officers they were privy to talking to a lot of employees in the pipefitters union and the boilermakers and so forth - employees that were walking around - they became friends and sociable with a lot of these individuals and in talking to these individuals they gained a lot of evidence in so far as statements made with regards to who might have been responsible for the breakin. So I believe that that was probably how they came across their information. They probably were talking to someone who had loose lips and mentioned to them that Pat Brennan and Mike Brennan were the ones involved. So I think they could probably firm it up or at least put you on the trail a little hotter than I can. And I believe that these witnesses - now there is another entire aspect to what they have to say - that we are going to get into as soon as you get the other information.

McCarten

One other question. You had these conversations with Sellers in the Riverview Bar. And Hang you had on site and you were wearing a body recorder. Is that right?

Applegate

Yes I was.

McCarten

And you had these tapes enhanced to get the background noise out?

Applegate

Yes I had.

Schnebelen

You asked him a question a while ago - did he provide us tapes - and I would have to clarify that. The only tapes that we received that I know of are tapes of the phone conversation that I believe you had with Mr. Aldredge. Nothing else was ever given.

Devine

(You still need those five tapes?

Applegate

(Those body tapes?

Schnebelen

Or copies of them.

Applegate

Okay, this is the thing you have to understand - these body tapes are that big, by that big, okay, they included a lot of incriminating evidence. For example, when I bought my belt buckle I taped that and it's good for holding up my pants I don't know what it is good for other than that. But in any case when the belt buckle was bought I was wearing a body recorder at that point and the security guards that sold it to me indicated that this belt buckle came from the pipefitters at Zimmer nuclear power plant and that this was made out of materials at the Zimmer Nuclear Power Plant. That recording is on tape. I have a - what we call a DVX coded master copy of the audiolyzed version of this tape - it is not very well done because I could not afford a great deal of - you know, I think if you took the originals and had them audiolyzed yourselves...

McCarten

That is the point I am getting at - what kind of body recorder were you wearing?

Applegate

I was wearing a Pearl Corder D120 which is one of the tops.

McCarten

You have not had them enhanced by a lab?

Applegate

I have not had them enhanced by a lab. I had them enhanced by a audio man who does a lot of work for bands and audiolyzing, and mixing, etc., and getting background noise out of the instruments, etc.

McCarten

Do you still have the original?

Applegate

The originals are in a safety deposit box in Washington.

McCarten

Okay - if you want to get those we will discuss how we will do it but you can contact the... and we could have them enhanced and we could get transcripts of those so we could have something to work with.

Applegate

It takes a very close trained ear and you might have to have me on another headset saying this is what was being said. Because when you are in the Riverview Lounge, let me tell you, first of all we had a lot of construction boys in the background whooping it up and then we had a juke box that was going probably about 40 feet from me - and you know, so the whole situation is... Did anyone else want to see this belt buckle while I have it off my pants?

Devine

It is beautiful work. If the plant were constructed as well as that belt buckle I think you could probably deregulate.

Applegate

There were at one time 20 pipefitters that were fired who were sitting out in the pipefitters' shop and the reason they were fired was because the top boss got caught adding a room to his house so he said well, if I am going to get caught and called on the carpet for stealing materials so is someone else.

Davis

Excuse me, men, I think we had better hold it to one conversation at a time or this tape is really going to be messed up. One conversation at a time or this tape will be useless, okay?

Schnebelen

Are we squared away on the body tapes?

Applegate

I purchased two of these at one time.

McCarten

Bert, to clarify that, we discussed arrangements for getting the tapes enhanced. Those tapes is what we discussed. Mr. Devine agreed that we would get those enhanced and we could work on them.

Applegate

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However, I would state with regards to belt buckles I did buy two. One was turned over to the utility - what they have done with that, I don't know. But maybe they gave it to Mr. ... , I have no idea. Someone's pants had to be held up I suppose. In any case there are literally thousands of these belt buckles around the greater Cincinnati area. I had it related to me from a completely independent source that one man financed a van that he bought by selling belt buckles. I had it related to me by security personnel and pipefitters at the plant that they financed a hunting trip to Minnesota by selling belt buckles at the hunting lodge. These belt buckles got far and wide from the plant. So and this is all thefted materials and taken in quantity over a seven year period, you know. One belt buckle certainly did not hurt the Zimmer plant but how much nickle grade nickle stainless steel alloy grade - nuclear grade stainless steel was used in making belt buckles and how much was used in putting in the pipe?

Keppler

I assume this is information that you are giving to the Bureau?

Applegate

Yes.

McCarten

Are there any other individuals that you have not mentioned regarding this breakin to the PM trailer?

Applegate

There are other subjects that these people have information on.

McCarten

So we might get into the next subject.

Applegate

P-11/3 (These individuals talked and verified allegations that were made in affidavits given by two other security guards in the Yoh force, one being Mr. Jeffrey Hyde and in which he indicated that there were problems with leaving the fuel unattended. Problems with leaving the fuel completely alone, with nobody guarding it whatsoever. Problems with having either a security guard or sometimes having to call a control room operator to come up and sit on the floor and watch the nuclear fuel while the guard went out and took care of his business simply because the security people were totally understaffed. So there was the issue of the nuclear fuel. There was also the issue of the criminal activity that was rampant throughout the plant and in their estimation, I have one of these men, Mr. Ron Wright said that he would collect roaches, which are the butt end of marijuana cigarettes, and he would collect roaches and take them into Mr. Lautenslager and say, see in this area they are smoking dope and in this area they are smoking dope and we are finding it when we do our rounds and he would take this information into Mr. Lautenslager who is the vice president in charge of security for CG&E at the site and Mr. Lautenslager got to the point where he not only told them to turn their heads and refused to let them do a law enforcement job of correcting this problem of using drugs on the site but he refused to let them bring in the evidence of this activity being conducted. And the whole point is that how we see this as relating to safety related aspects of the plant, etc., is that how does a man weld pipes, how does a man be an electrical worker, be a boiler maker, be a carpenter or be whatever he does, how does he do that job safely if he is stoned, drunk and worrying about the girl that he is going to be messing with when he gets out of work? And these individuals have a great deal of information to bring forward with regard to that.

Devine

I am sure that you all agree on the safety implications of this. When I came into the airport I saw the headline in yesterday's Sun Times about the drug use at the Zion plant and you had increased the number of inspectors to crack down on that type of problem.

Applegate

Apparently this was a rampant policy that was common knowledge to the point where the security personnel were totally overwhelmed and totally inhibited insofar as their ability to find the proper channel. And I think this gets back to why did Tom Applegate do this all in the first place. And that is that I was told by my contact at CG&E that I could not get this information to the proper authorities to get anything done about it, that I was just a mouse

compared to their cooling tower and that was the analogy that this individual used and who the hell did I think that I was to get the NRC involved. Now this was a system project engineer at the Zimmer site who indicated to me that you guys really don't have any clout as far as they are concerned. They can step right all over you. And you know, again I go back to the idea of the common joke was the inspector on the site could not find the red phone if he had to. That's how far it got. Now I think that that was an impression that was left with the low-ranking personnel by the higher personnel, the management personnel in the plant, the construction superintendent, the assistant construction superintendent, the project engineer, the assistant project engineer, etc. That was the impression that was left by them because their impression is that the NRC does not have the power to come in and solve any of our problems or take care of any of our problems because we just frankly won't let them. We won't let them find out about the drug use, we won't let them find out about the alcohol use, we won't let them find out about the raffling of prostitutes, we won't let them find out about the raffling of guns, we won't let them find out about any of this stuff. We will keep our boys happy and by keeping our boys happy they won't go to the NRC and they won't go to the proper law enforcement agency to get anything done.

Davis

Let me ask you a question. Do you or any of your people have any evidence of any kind of people who perhaps were drunk or doped to the point that they could not do work and they were doing work, or is all this just in the form of cigarette butts or beer cans left around?

Devine

Jugs
Yes. In fact I believe it was Mr. Huwel who complained that he was not so much concerned that maybe an occasional drink was being taken. What he was concerned about was the people who were drunk on the job. I believe Mr. Hyde discussed with me how folks were drinking in the parking lots before they would come into work and then they would be drinking again during the lunch hour. People were frequently intoxicated. Just to go into the extent of this, Mr. Hyde described that there was moonshine being sold at the plant. To take criminal activity a step further, it was being sold in jugs and you could - it was very powerful stuff, now I don't know if there is a still in the Zimmer plant or not, but even just in terms of security problems the coordination of getting a series of jugs into a nuclear power plant - you would think that maybe they would be checked and questioned as to why they are bringing the jugs in and what is in them not being manufactured there. So it is not that we are really complaining about an occasional beer for your lunch, the people were engaging in this pretty heavily.

Applegate

Right and to take that a step further there was an individual who has talked to the Government Accountability Project that indicated that he was fired because he was doing work for an individual who was out raffling guns. Now the whole point is that a pipefitter who was supposed to be pipefitting, that was supposed to be doing welding and was supposed to be concerned with his construction job, was more concerned about raffle tickets on stolen guns. Okay, and we have to assume that these guns are stolen because it is strictly against the law to raffle any type of gun whether it be handgun, shotgun, rifle or anything else. It is strictly against the law and Alcohol, Tobacco and Firearms I am sure will tell you gentlemen that it is strictly against the law to raffle guns anywhere. And the whole point is that here was an individual who was supposed to be a pipefitter and was supposed to be doing that job and at that time that he was supposed to be doing his job and men were having to make up work for him he was out raffling guns.

Keppler

Let me go back and focus on the drug and alcohol aspect a minute because that is something that I can see that ties into health and safety. I have trouble with tying the gun selling into...

Applegate

And the prostitutes.

Keppler

Yes. But let me focus on one aspect of it. Mr. Davis raised the question of whether or not people were in a state that they could not do their job properly. One of the things when you try to pursue an issue like this - the use of alcohol or the use of drugs - you ask questions of workers at the site related to this type of thing. And obviously people are very concerned about any incrimination of themselves in the way they are going to answer and it is very hard to come up with people giving you a lead as to something that we might be able to track down that is meaningful to us. When you say drugs were not controlled at this site, I don't know what to do with that piece of information. It is very hard to take a project that is this far along and equate any drug use to improper construction or design of the plant. That is what I have to try to do.

Applegate

One thing that I would like to indicate to you is that I am very sorry... that this information was provided a year ago and actually these men are talking about a period of time that goes back to 1978. So we are talking about - you are saying the plant is 90% constructed today - what was it in 1978?

Keppler

Well, even if it was 50% the point is that how do you transfer drugs into adequate construction or not?

Applegate

I think the way to translate that...

Keppler

We would all agree, I think, that use of drugs is something that shouldn't be tolerated. Accepting that fact, the point is how do we, the NRC, go in and try to assess the impact of that drug usage.

Devine

*Drinking
Drugs*

I might be able to be helpful a bit on that. Mr. Huwel said the day that alleges that there was liquor kept in the control room. And that would perhaps permit an inference on your part as a very sensitive job people might not be at their best in that some intoxicants are so disabling that you don't want to have a person working in the plant at all if they have taken that. Mr. Huwel also alleged that employees consumed angel dust at the plant on the job. This is the kind of thing that if anyone consumed that in the privacy of their home I would think they are crazy, let alone constructing a nuclear power plant. I think it makes it easier for you if you find out the extent of the alcohol use or the drug use or whatever, if it's enough, if it is happening in large enough quantities that you can make an inference that almost certainly it is going to be turning up in some sensitive spots as well as just maybe just working on paperwork that afternoon or that type of thing. It is really necessary as to identify what parts of the plant it was being used at, when it was being used, what intoxicants specifically.

Applegate

As I indicated, I made the analogy that a pipefitter was derelict in his duties of being a pipefitter because he was out raffling guns. Similarly there were pipefitters that, according to Mr. Huwel's affidavit, were drunk

on the job and you have got to measure that a man's capability is insofar as performing his task as a welder or pipefitter when he's intoxicated on either moonshine liquor, regular liquor of any sort, or drugs of any sort. The whole point is that the highway safety committee says don't operate an automobile. We are talking about individuals who are constructing nuclear power plants. The whole point of what I am trying to say is that it was easy for a man to fall off a scaffolding maybe but it was just as easy while he is welding to sit there and look at that one beam of light and you know you wonder about his weld. And I think that was what Mr. Huwel had to say was that there were individuals that he knew of that right in the presence of authority, in the presence of supervision, were sitting there drinking out of a bottle. And all that supervision had to say was get rid of it and the guy would sit there and instead of throwing it away he would chug down what was in the rest of the bottle and then throw the bottle away. And the supervision said well, that took care of the problem, didn't it? This is the same instance when we have supervision saying, well, you know you are padding your time cards, just don't get caught. So what I am saying is the supervision took the responsibility and took an active part - Mr. Lautenlager, and some of the supervisors that Mr. Huwel were talking about took an active part in condoning this activity over a period of years.

490
Keppler

Let me tell you that we will be going back to interview Mr. Huwel and have further discussions but I gather that he is the prime source of the information we are talking about.

Applegate

He is a prime source.

Keppler

Let me ask this question first, will he give us freely the same information that you have discussed here?

Devine

Of course we can't speak for Mr. Huwel, but I do have reason to believe that he told me that his goal was to be able to talk to the NRC - to people that he would trust and share all this information.

Keppler

Okay we can get a lot of that then from him. You mentioned that he is a prime source, do you have others that you can refer us to?

Devine

Well, we have given you Mr. Hyde, Mr. ...

Keppler

I mean on this subject.

P-1/17
Applegate

On this subject, Mr. Hyde, Mr. Harris, again the recent list of witnesses that we gave you this morning, Mr. Pat Dinsler, Mr. Bob Tyner, all of these individuals - Victor Griffin All of them know about the drinking and the drugs and so forth that was done on the site.

Devine

I have yet to speak with anyone who has denied that.

Applegate

Who was unaware of it.

Keppler

So we will be pursuing that with them. You mentioned a Mr. Lautenslager, he is the Cincinnati Gas and Electric security guy?

Applegate

Yes.

Keppler

You mentioned that people talked to him went to him?

Applegate

Continuously, these Yoh Security men.

Keppler

Do we have those things too?

Devine

Yes, these and the security guards who have provided affidavits or that Tom has spoken with.

Keppler

We have that material?

Devine

Yes.

Applegate

P. 1/17
Drinking
moonshine

Let me also indicate that Mr. Dave Simpson apparently represents these security guards in a federal action by the National Labor Relations Board with regards to these security guards being kicked off the site as well and they feel that they were kicked off the site for two reasons. Number one, because they tried to unionize, which is not against the law, and they are trying to show in their suit to the National Labor Relations Board that this was one reason that CG&E just did not want a unionized guard service in there. And number two, and most importantly, because these guards were bringing up allegations of criminal activity that occurred at the site while they were there and they tried to get these allegations that these guards are being put down as sour grapes and employees who have been dismissed and in actuality they are employees who have strong concern with regards to the safety of the Zimmer Nuclear Power facility because they saw a lot of the construction personnel walking around smoking dope, drinking moonshine liquor, getting drunk and playing with their guns.

Barrett

Jim, do we have names of security guards?

McCarten

Yes.

Devine

P-11/14
Just to tie in your earlier query about how can we relate this to the problems that we have jurisdiction over, Mr. Hyde said today that for example describes that their lead man for the Yoh team who was in charge of security guards had a serious drinking problem and after awhile he was not good to anyone because he came to work "shitfaced" all the time, in Mr. Hiatt's words. You don't want to have someone intoxicated in charge of security for nuclear fuel. So I think that with more investigation you can tie in where the problems existed if that makes it easier for you to do your job.

Applegate

P-11/13
(And I think that that is something else too with regard to the safety of the fuel as it exists. Mr. Wright brought up to me that the fuel actually sits in an unsafe area as it stands today.

Keppler

What do you mean an unsafe area?

Applegate

Well, the walls around the 7th floor containment area where the fuel is stored are apparently what are called blow-out walls and that they were instructed by Mr. Lautenslager and by everyone in charge that should a tornado warning come up or should high wind velocities be experienced at the Zimmer Nuclear Power facility they were to secure the 7th floor as much as possible and abandon the fuel, leave it alone. And that if the tornado actually did rip through - and you have to understand we are in the tornado alley. If anyone doesn't know that, look at Xenia, Ohio and look at what happened to Cincinnati in 1973 - you have to understand if a tornado did ever hit and those walls were blown out, along with that would be 40 million dollars of nuclear fuel spread out over how many areas.

Keppler

Are you talking about economic considerations?

Applegate

Well, economic considerations but also a tornado picks up a house or a high wind picks up a house and leaves it six blocks away. Now if you have nuclear fuel sitting in an area where it could be picked up and sucked out and thrown over a three or four mile area, you are going to have a lot of nuclear fuel to pick up, and you are going to have a lot of exposure to the public insofar as a health and safety factor is concerned with regards to this enriched uranium.

Keppler

The unirradiated fuel does not pose a significant health and safety consideration. The only concern would be if you could take this fuel and assemble it in such a fashion that if it had water it could cause critical mass.

Applegate

Right, there are groups within this country that know what to do with enriched uranium.

Keppler

This is low enriched uranium.

Applegate

I am not an expert. All I am saying is that I don't think that this is material that you want kids to be playing with.

Keppler

Obviously you want to store it under proper conditions.

Devine

We are concerned about the structural aspects of this even for the future when there is highly enriched uranium or wastes. Mr. Wright, if I am summarizing correctly, in a conversation with him, described that on three occasions there were tornado warnings and the security officers were ordered to leave the 7th floor and go down to the 6th floor where they could be safe.

Now if it was not safe for the security officers to sit up there, we would have some concerns whether it was safe for keeping the uranium there and presumably the 7th floor is going to be there for the life of the plant the way it is constructed now.

Keppler

X It seems to me that this point is not an issue that we need to talk to witnesses on. Either the storage of the fuel is acceptable or it is not.

Devine

You go out and find out whether or not those are blow-out walls or not.

Keppler

X We could pursue that and we will.

Applegate

Well this is... you asked me to come with new information.

Keppler

Absolutely, and we appreciate it.

Applegate

And here I am.

Keppler

Now, do we have all the information? And let me say that the issue of drug abuse and alcohol obviously is a very sensitive issue to us all, and as I see it I don't know of any shortcut for this solution other than to go ahead and talk to people and try to get a handle for what parts of the plant were involved, the extent of it, this may lead us to decide that maybe we will have to do some independent checking. I don't know, but the only way to solve it is through a brute force technique of interviewing people.

Devine

Maybe you could explain that on your own authority, you mentioned that sometimes it is difficult to get folks to discuss these issues because there could be incriminating against them and I certainly understand that. Do you have the authority to grant any immunity to someone for information in a statement they have given, do you have the power to grant use immunity?

Keppler

I don't think so.

Schnebelen

Only the Department of Justice unless it is a local matter.

Applegate

Okay, now we have brought up a subject that I think is probably the next most likely topic. And that is the interfacing with the Department of Justice on this problem. We have brought up serious problems we feel, criminal activity that occurred in the Zimmer Nuclear Power facility. I indicated from the outset back in March, actually back in February if you want to include my call to Mr. Cummings, but I indicated from the very outset that this was one of my primary concerns and we have gone a whole year now and we still have not seen Justice Department interfacing with regards to these allegations of criminal activities at the plant. Now I realize that it's going to be a very difficult problem for the Department of Justice to go and look at prostitution running, gun running, hooch running, drug running, etc. that was done in the past. They are more geared toward present and future, but it is not an impossible task for the Department of Justice and I don't think that they would deny that task should they be asked to intervene or to come into. Now as we understand it, or as at least Tom has explained to me and other people have explained to me, there are three agencies who are responsible for law enforcement at a nuclear power facility, that being the NRC, the Dept. of Justice or the FBI, and the Environmental Protection Agency. That is the way I understand the responsibilities of the Atomic Energy Act. Please correct me if I am wrong. But as I understand it, we can have federal authorities check out these problems.

Keppler

Well, it is my understanding that you have submitted a package to the Department of Justice with all the information and everything.

Devine

Yes we have.

Applegate

They have not received it yet.

Keppler

They have to decide what they are going to do with that. We don't have any authority in the areas that the Department of Justice has authority. They have to decide what they are going to do and it is my understanding that you have sent them a package. They will have to respond to your people and decide what they are going to do.

Applegate

I think it is something that Mr. Schnebelen is talking about now. As I understand it, at a nuclear power facility, at that site, there is federal jurisdiction. Now whether or not that jurisdiction extends because of the state's rights, etc. and again let me indicate to you that I have also brought this information to the attention of the Claremont County Prosecutor's Office, the plant being in the site of Claremont County Prosecutor's office and the Claremont County Prosecutor's office is working with all due haste to attend to these problems. His name, by the way, is George Pattison. But as I understand it, the recommendation from his chief criminal prosecutor that I was interviewed by, Mr. Robert Linder, the recommendation from Mr. Linder and I talked to him just before I came to this meeting, the recommendation from him was that the Claremont County Prosecutor call in the appropriate investigative authorities. That being the Ohio Bureau of Criminal Investigation and Identification on behalf of the Attorney General State of Ohio and the Federal Bureau of Investigation and Alcohol, Tobacco, Firearms and the Drug Enforcement Administration. They will still need Justice I think because Mr. Everett's talking with you would still like to see some interfacing with the Nuclear Regulatory Commission insofar as what they know about this and what you are finding out from our witnesses about that.

Keppler

We will cooperate fully with DOJ in anything they want to get from us.

Applegate

Okay. It is my personal impression that because of a lot of this criminal activity as I indicated to you and I want to give you one more name, gentlemen, and as I give you this name, please understand this man has been indicted for murder. Mr. James Hardy was indicted for murder in Hamilton County in October 1980, was a pipefitter at the Zimmer Nuclear power facility and I have

it on reliable information that Mr. Hardy was involved with the raffling of guns at the Zimmer Nuclear Power Facility. Now it should be indicated to you that these pipefitters that you are talking to and these security guards that you are talking to and all these quality control people that you are talking to are well aware that their brothers of theirs - brothers in the union spirit or brothers in the workman spirit - that were walking around raffling off guns. And that these guys meant business when they said shut-up and don't talk about it. And I think that they have had that reinforced that these guys meant business and would not hesitate to commit acts of violence against them because here is one of them, Mr. Hardy, there he was one guy who was out there raffling guns now he has been indicted for murder. As the whole point is there is an individual, James Hardy, that the Department of Justice might have an extreme hammer over. They might say, okay you have been indicted for murder, I am just speaking from the standpoint of a professional investigator, how I would handle a witness, but I am saying you have a guy like James Hardy who has been indicted for murder and you say, hey, James Hardy, you have been indicted for murder, buddy, and we got these other problems that you were involved in, we want to know about them. If you want us to help you out with this situation or you want any consideration whatsoever in your murder indictment, then we want to know about what happened in Zimmer Nuclear Power Facility, we want to know about the guns you raffled off out there, we want to know about the prostitutes that were raffled out there, we want to know about the booze and who was in charge of all this stuff and the bookie operation that was being run off the 7th floor security phone.

Keppler

Have you given this information to the FBI?

Applegate

I have attempted to.

Keppler

Is this part of the package that you are submitting to...

Applegate

You see the FBI is rather skeptical in the sense that they are waiting for the NRC to say these things went on.

Devine

We think maybe some of the confusion...

Applegate

There is some confusion between NRC and FBI.

Devine

It is not just that we have sent this to Mr. Everett, but from our reading of the law and the FBI / NRC Memorandum of Understanding it is your responsibility to do the immediate preliminary review and then contact the FBI and coordinate that so you all can lay the groundwork for them and invite them in and they take it from there. And we are interested in reassurance that you will be taking the initiative on that. You are going to have a lot more information than we can possibly gather.

Applegate

You see the whole point is back in February, I wanted to go back for just one moment, I contacted not only the NRC, but the U.S. Attorney, James Sisal, and Mr. Bernard Gilday of the Cincinnati office about this information. I went jointly, I have always gone jointly to the NRC and the Department of Justice because I have always strongly felt that there are aspects that the DOJ needs to investigate that have related to the work that the NRC needs to investigate. And that by the same token the NRC is coming up with information that actually relates to information that the FBI and the DOJ needs to investigate for their own reasons. So the whole point is that I see a very strong parallel and I see a very strong link here in a lot of the information that I am bringing up having to do with two regulatory agencies, the NRC and the Department of Justice. That is one reason why I was very concerned about the DOJ spokesman being here. But as you explained to me, Mr. Everett had his reasons and you have a group of inspection and audit people here that are responsible for interfacing with the Department of Justice so I am perfectly willing to accept that. But I think it should be noted, and I want it on the record, that threats have been made according to Mr. Huwel, attempts have been made, on people's lives and that a lot of the witnesses that I have brought forward are acting under a great deal of reservation due to the fact that there are idiots like James Hardy out there killing people.

Keppler

I am going to have to rely on Inspector and Auditor people to focus on this point. I guess I would just want to clarify, have you sent the information relative to Mr. Hardy to the FBI?

Applegate

No, Mr Hardy is something that has just come to me within the past two or three days.

Keppler

Could I ask that you do that?

Applegate

It will be done. We are waiting for contact with the Justice Department.

Devine

Maybe we could get some help from you all as to who to send it to at the FBI, you can't just approach an agency to reach the right people.

Applegate

Mr. Everett seems to be the one taking the lead.

Davis

I would send it to Everett.

Schnebelen

Send it to the local jurisdiction, that's the key.

Applegate

Yes, well that is a problem. You see, Everett is not the local jurisdiction. He is in Cleveland but he does have responsibility for the entire state of Ohio. So it's kind of a jealousy thing or whatever but in other words I went to the Department of Justice originally in Cincinnati, I have gone back to them, and I have provided them with more information. Again, I indicate to you gentlemen that things are coming to me on a daily basis about these people and that I get this information and it is only so quick that I can run over, and believe me when I say run over, I mean I have to take two buses from my house because I was run off the road, my car is destroyed, I don't own a car anymore. It's with a great deal of handicap that I am leaving my home and going to the Department of Justice because I can't get an FBI agent to come to my house. It was with a great deal of difficulty that I got here. Mr. Warnick, you are aware of the fact that you had to bring me money. So, the whole point is that I have been out of work for a year, gentlemen, and if you need my cooperation, it is there, my body and soul are at your beck and call.

Keppler

The point that you are trying to make about the interface between DOJ and NRC tied to the fact that it is very hard in your view for some of the witnesses to come forth as long as there is the other kind of threat.

Applegate

The intimidation...

Keppler

Okay, we are going to have to pursue that and let me say that I will try to explore that with our own people a little bit afterward. I don't know what our posture can be.

Applegate

We got an indication from one witness just to give you an example, and you want to talk about Steve Harris, we got an indication from one witness for example that is so on edge and so worried about losing his present job situation and so concerned about anybody from Justice or NRC contacting him that at this point he doesn't want anybody except by letter to contact him. He doesn't want anybody showing up at his house, he doesn't want anybody showing up at his job, he doesn't want anyone calling him at his house, he doesn't want anyone calling him at his job. And this is the man who gave us an affidavit. This is a man who gave us a sworn statement with regards to knowing about criminal activity and has an extremely good background with regards to knowing what he is talking about. So you know these guys are not whimps by any means and scared of somebody that is going to blow them off the face of the earth. They just know the capabilities of the individuals that are involved in criminal activities at the Zimmer site.

Keppler

I understand the concern you are coming from. I don't have an answer for you right now and maybe we can caucus on this point afterward but I think it is in your best interests and let me urge you to do so to get any information that ties to the criminal aspects, criminal concerns, get that information to the Department of Justice. And I think Mr. Everett is the proper one.

Davis

As far as we know, Everett is the person.

Devine

Okay, and if there is someone different we will send it to them.

Davis

And of course I know Everett is in contact with Gilday in Cincinnati because he mentioned his name to me yesterday. But Everett is over Ohio and Indiana I think you said.

Applegate

One thing they are concerned about is the economics and I know you gentlemen don't want to get into a discussion of economics, but...

Keppler

We have no control over that aspect.

Applegate

Right, but one thing that they are concerned about is that all of this criminal activity, you know you are looking at a plant as I said this morning Mr. Davis that originally cost 250 million dollars and now it cost 750 million more than that or a billion and it is likely to cost a great deal more than a billion. So the whole point is how much of that is cost overrun and how much of that is because of a lot of criminal activity was going on and they had to rip out these pipes that were put in improperly in the first place.

Keppler

Could we refocus again on the safety issues?

P-1/6
Devine

The only other thing that I am aware of, Tom, if I have missed something is that Mr. Bedinghouse confirmed one of the problems that Mr. Huwel raised on the leaks of argon gas from the crimping gaps in the containment area. Apparently Mr. Bedinghouse's son worked for W&W Security. His son John had become sick due to the crimping of hoses in the containment area when he was on duty there. He has also mentioned another fire in December 1980 in the containment vessel and he did not seem to think that that had been reported to the NRC. But since it had come out in the papers in Cincinnati I don't see how it could have been avoided. That is one thing that you might want to double check on. To just maybe wrap this up, in your earlier inquiry about the criminal activities, you don't have the authority apparently to grant immunity and I sure understand that a lot of these people are nervous about it. If it is not possible to give someone immunity in an initial interview, maybe there could be some arrangement that their statements to you would just be used for background and won't be held against them or could not be used as evidence against them until they can speak with someone and work out the details of what they are going to be held accountable for by themselves.

Keppler

Fine. We will pursue that one.

Devine

Okay.

Applegate

P-1/6
That was something that was very strongly indicated to me by Mr. Bedinghouse that he was very concerned for his son's safety because they were doing a fire watch in the containment vessel after my fire that I was involved in and that the crimping of the hoses again is a problem that has been reported at other plants besides Zimmer and that it was a common practice. I think Mr. Huwel had a lot to say about that, but Mr. Bedinghouse said that this practice is continuing and that as recently as this past fall and winter his son was almost overcome by Argon gas while doing his rounds in the containment vessel. And again the containment vessel you have to understand at Zimmer, I know you guys have probably seen a heck of a lot more of them than I have, I have only seen one, but the one at Zimmer as far as I know has one hole that you can get out by the way the scaffolding is set up, or at least the way it was set up at the time.

Davis

That is not the correct type. That is not correct.

Applegate

That has changed apparently since I was there. Okay, there has always been more than one, okay I am talking about for humans getting in or out.

Davis

That is what we are talking about.

Applegate

Okay, as far as I know there is only one way in and out of the bottom floor of the suppression pool. If you wanted to get to the bottom floor you crawled through a pipe that was approximately three feet in diameter and then you went down approximately...

Davis

Yes, we crawled through that pipe within the last couple of weeks.

Applegate

So what I am saying is that suppression pool where the fires have occurred and where the argon gas leak apparently overcame John Bedinghouse's son, and when I crawled in that one night just by myself there was smoke all over the area and I had no way of getting anybody there. Apparently that has changed. But again this is how I comment about CG&E being able to stay one step ahead of you. Apparently they have changed that situation. Apparently there is a way now from the suppression pool that you can get help, if you have to pick up the phone, I don't know what is in there. Didn't you indicate to me, no, it was not you, it was another investigator. Mr. Warnick, when they came down to the house the other day, he indicated to me that I would be surprised if I walked in there now. That there is a fire alarm and a phone system and all kinds of ways to get things done. That is the kind of cosmetic superficial way of taking care of things that I am talking about.

Davis

I would not call that cosmetic, it solved the problem that you were concerned about.

Applegate

Yes, that solved the problem but you see what did I have to do to get CG&E to solve that problem and how many lives could it have cost in the meantime. There was a second fire in mid-December and there were electrical workers working in that area at the time and the whole point of what I am talking about is that we are looking at a situation at CG&E, at the Zimmer facility, where CG&E and Kaiser again from witnesses' standpoint they have the upper hand. They have the hand that is dealing all the cards and there is no feeling on the part of my witnesses or the people who have come forward to me that the NRC is doing what is necessary because at this point in their mind's eye the NRC has not stopped the construction.

Davis

Let's talk a minute about your...

Applegate

Wait a minute, this is important from the standpoint of what I am trying to say. My witnesses are saying that as far as they are concerned they don't see the NRC has control of the situation because CG&E and Kaiser people can walk around before and after you, check what you have checked, and have that problem fixed by the time you come back to recheck or by the time you get there and so it is causing in my estimation, again I say just as an investigator, I would not want to be working under the handicap of having the chief suspects around on my shoulder. Whether they are within walking distance or not is another matter, but what I am saying is they have eyes and ears and they obviously have their eyes and ears in the plant. And I feel very strongly, I feel very, very strongly that the continuation of construction at the Zimmer facility right now is a hinderance to the current investigation. I think if it goes on much longer and I mean much longer, by that I mean tomorrow and the day after and Monday of next week - if it goes on much longer I am going to have serious concerns as to whether or not the NRC was able to find a lot of what we are talking about. because we are sitting there looking at a situation where CG&E and Kaiser have a vested interest. You state it where the NRC has no vested interest and I accept that premise. I accept it entirely but I do not accept the premise that CG&E, and Kaiser,

don't have a vested interest. They have a billion dollars at stake and with a billion dollars at stake I think that if I were the man who had a billion dollars at stake I would make sure that this man here and this man here and this man here and these men here could not find out what I didn't want them to find out and I would go to whatever extent possible to make sure that that was done. So I speak to that issue of the construction permit being lifted and I think it needs to be addressed.

Keppler

If we were to stop construction down there right now we would be working on the premise of guilty until proven innocent and I think that is not the way the system works. Any individual and I think you can appreciate it Mr. Applegate, any individual could therefore come forth with allegations and say he has all this kind of information and why shouldn't I stop every nuclear plant until all of these things are checked.

Applegate

But again I go back to the situation of the plumber and the lady. Okay, certainly CG&E is innocent until proven guilty and certainly Kaiser is innocent until proven guilty but the whole point is that as an investigator as the lady who is coming down to check on that I am going to feel intimidated by the presence of the plumber. Do you understand what I am saying? I am going to feel intimidated by the presence of Cincinnati Gas & Electric and the presence of Kaiser.

Davis

Who is going to feel intimidated? Your witnesses?

Devine

I am sure that NRC people are not going to feel intimidated. They are a pretty tough bunch. We are though concerned that there is an ongoing opportunity for the utility to, even if we have construction results by trying to get one step ahead of you on taking care of these things before you can find them. And of course we all want the problems to be solved, but we also want to determine the extent.

Davis

We share that concern. If the utility is able to hide an existing defect so that we cannot find that defect we certainly share that concern.

Keppler

I would go further to say that if we find evidence that the utility is trying to cover up something from the NRC then we will take steps to deal with that point, but we have not thus far.

Devine

One of the allegations that we have received was that in the supression pool there was a problem that developed because the lining was too thin and it had to be reinstalled with thicker lining. And in the process the design supression pool didn't conform with the actual construction of it. Some damage was done in terms of drilling and breaking through reinforcement bars in the process and that that was something that was covered up before the NRC inspectors came out with knowledge that they were about to arrive. It was more possible I guess when this happened because things were in a state of construction, but that might be one thing that you would want to check out. That was Dr. Fankhauser's summary memorandum.

Suppression pool

Davis

Do we have that?

McCarten

We have Dr. Fankhauser's name.

Davis

He is your source for that allegation?

Devine

Yes. As a matter of fact, you probably...

Applegate

p-1/3
That is similar to the radwaste area where the drains are clogged with cement. All you have to do is pave over the floor and it is impossible to get to those drains anymore and Mr. Huwel has stated in his affidavit that he feels that there is a severe problem with the drains in the radwaste area.

Davis

Okay, we have that information. Do you have anything additional on that?

Applegate

Just the fact that the CG&E did not want the NRC to find out about those drains.

Davis

Well, we found out about them and we have that information.

Applegate

Did you find out about them through me or Jim Huwel or...

Keppler

That was one of the allegations that you gave us.

Applegate

Good, I am glad to see that I am doing something positive. Bringing at least some good people to your attention.

Keppler

While I don't want to get into a position of discussing an ongoing investigation where new information is coming incompletely, as we are learning as part of our investigation I will tell you that the argon crimping thing is a matter that we have brought the OSHA people in on. Because that really is an occupational or industrial safety consideration rather than a nuclear safety consideration. But we have corresponded with them and we will be keeping in touch with them until the resolution of this matter.

Applegate

Was OSHA also related in the fire safety related problem?

Keppler

Which fire related safety problem?

Applegate

Well, I was caught down there without a way to get anybody's attention in December.

McCarren

Yes, that also was turned over to OSHA.

Applegate

In other words you see OSHA has been forbidden in the past to get into Cincinnati Gas & Electric plant.

Keppler

I don't understand, the Federal Government has a right to inspect...

Applegate

There has been quite a bit of litigation, right. OSHA tried to get into the Miami Ford Power Plant to try to find out about an accident and CG&E locked and blocked the doors, and said no, and then OSHA went to the federal court and got a restraining order and they locked and blocked the doors again and said no, you are not coming in, and this is typical of the utility that you are up against. They are going to lock and block the doors whenever they get a chance and the whole point is that OSHA did have problems in another area in another plant getting in. Now maybe this time they have not had as many problems because of the sensitivity of Zimmer, but...

Devine

Plus the NRC has tremendously more regulatory than OSHA.

Applegate

Right, and you boys apparently wanted OSHA in and CG&E was not prepared to block OSHA out. But let's just say CG&E, look at their records, how they have blocked out regulatory agencies in the past, taken them to court, taken them to federal court and tied them up to the point where by the time OSHA got there there was nothing to see.

Keppler

Are there other new areas that should be focused on?

Devine

Unless I have missed something I believe that we have shared all the general issues that have been covered. We might go into a little bit more detail on them.

Applegate

2-11-17
The only thing insofar, and before we begin talking in detail, my concern was that a lot of this information bears on the Aldredge problems with regards to the security guards having information that might lead to finding who broke into that trailer and whether or not Peabody Magnaflux is missing something and that relates to safety.

Keppler

That has been very helpful and we appreciate that. I'm sorry Mr. Devine, did you say that you had additional information?

Devine

2-11-17
I think that is significant at this point, just that Mr. Wright confirmed that nuclear fuel had been left unguarded. People could not go to the bathroom without finding a replacement for them because they are understaffed. More details of confirmation as far as any new issues, I think we have shared what we have.

Keppler

So it is fair to say at this point in time we know all of the issues that have been flushed up to you right now, as related to nuclear safety?

Devine

As far as GAP is concerned, do you have any more aces up you sleeve Tom?

Applegate

He tells me that occasionally. No, and I am not making light. Please don't misunderstand me, my sleeves are bare. Believe me when I say no, no absolutely, no more aces. When I come to this meeting I come with the full realization that you know everything that I know. Now, I can't say that might be the same on Monday.

Keppler

I accept that and I think what I would like to do is to, as I see this investigation at least continuing for some time, it is hard for me to put it, since we are still collecting information, it is very hard for me to put a bound on when I see this thing ending, but I guess I would like to leave it that our people will contact you each week that they are down there to obtain anything new that you may have. We may also want to contact you.

Applegate

You realize I may say nothing new to report. Nobody has come to me today.

Keppler

I accept that. Fine. It is just so that we will not be in a position of at a later time when we think it may help us close out a point with an individual or get a different perspective to it. And I think you have already alluded to the fact and we are finding that out because it is a very complex investigation, it is not simple.

Applegate

By any stretch of the imagination!

Keppler

We may also find that as we contact some of these people, although this has not been an issue so far, we may find that some people are reluctant to talk to us and we may want to talk further to you.

Applegate

We have talked about the idea that there are some people who want to talk to you directly, such as I will give an example Bill Ross, is a former security guard who is on our witness list who is currently the Chief Investigator for Claremont County Welfare Department. He is a man who cannot come to me and talk openly and cannot come to the Government Accountability Project and just spill his guts. What he wants desperately is for someone to come to him with a subpoena in their hand and say we need to talk to you. Okay, now be it the NRC or be it the Justice Department, Mr. Ross has some valuable information with regards to activities that might relate to the safety aspects of the plant. Now I know that the NRC has subpoena power. Please provide that for Mr. Ross because Mr. Ross needs one of those before he can leave his job and he is interested in protecting his job and protecting what he has done. I am sure that with a subpoena in his hand from the NRC he can say, hey, these guys want to talk to me, this is something I did in my past, I have to be responsible for the law enforcement activities that I conducted before I came to this job. I am sure you understand, this is subpoena, it is just like the National Guard has said it's time for me to go to my weekend warrior situation.

Davis

Do we have Ross' name?

McCarten

Yes.

Davis

And you are saying that the only way he will talk is if we do subpoena him?

Devine

Can you get a subpoena? Can you use one?

Keppler

We have that authority, yes.

Applegate

And I would say Mr. Harris, if you don't get any positive response from a simple letter you might have to subpoena Mr. Harris.

Kepler

Is he on our list?

McCarten

Yes.

Applegate

But he is very edgy. You call him on the phone and he is going to deny that he even exists, let alone you.

Devine

I don't know if we have Mr. Harris' address, maybe it would be helpful for me to have that.

Applegate

I had it at one time. I think he can be found through Mr. Hyde, but again Mr. Hyde is very nervous. The way he was contacted the first time he was very upset.

Devine

That was no fault of the NRC, Tom.

Applegate

No, that was no fault of the NRC. You have to understand these guys are edgy. They don't like talking about guys that go around blowing peoples heads off.

Davis

I'm sorry, I have to go back one step, I already asked what the second guy's name was you said we may have to subpoena?

Applegate

Steven Harris.

Keppler

What I would like to do now...

Applegate

For all I know, you see this is a group of men, when I talk about Jeff Hyde, Steven Harris, Ron Wright, Jim Bedinghouse, Tim Creighton, these are all men who are involved in that NLRB suit. Okay, so they have their own egg to fry and they don't want to let out all they can. The way Ron Wright put it to me is they have a can of beans here, okay, and they have a lot in that can of beans. So they don't want to open up that can of beans or that can or worms or whatever, before they know they have to fry it. You have to understand how these good old boys talk. But the whole point is that he doesn't necessarily want to open it up to the NRC when it is going to be an NLRB matter. So you have to understand that they have reasons to protect the information that they sit on and you are going to have to guarantee these men. It may be that you would want to speak to them in groups, in mass, or contact their spokesman who is Dave Simpson, that might be important to know

Keppler

I also like Mr. Devine's suggestion that we might talk to these people in the light of them giving us some information that won't be attributed to them directly but will be used to assist us in scoping this thing. What I would like to do now is we have, as I think you are aware, been spending a fair amount of time on the additional points that were brought forth due to the information that these people provided us. Some of these areas we are having a little bit of trouble with because of the general nature of them and I would like to have Jim and Paul be able to bring up some questions that they might have so you might help us a little bit more if that is okay.

Devine

Tom just inquired as to when you will find it convenient to break for lunch.

Applegate

We were thinking of caucusing. We have accomplished a lot in our new information session, and it is quarter to 12. I was thinking I would like to caucus with Tom over lunch and talk about some things that we are going to be going through, etc. And I think these gentlemen before they get to this would probably like to have a little breather. It is quarter to 12, maybe a good time?

Devine

We know you are pretty busy. We don't want to take up any more of your time than necessary.

Keppler

Okay we will break now.

Keppler

Is it acceptable to you people if we proceed in the direction we were talking before? I'd like to go back to the first package that was submitted by GAP that raised the additional 19 plights over and above what was previously dealt with. I think we have been pursuing these for weeks now. We have had varying success on these things.

Devine

A few of them were more anecdote than substantive.

Keppler

I understand this, but some of them were fairly general and we have some areas that we would like to ask you about to sort of help us on.

Barrett

The first allegation I'd like some information on has to do with the residual heat valve that was broken accidentally when a pipefitter bumped into it. And the correct question is how you know he knew it was good or bad. Can you give us the source that told you about this valve and along with the source? Can you give us any location, valve number, pipefitter name, date ...

Devine

That would be Mr. Huwel.

Barrett

Do you have any other specifics?

Devine

I believe that when I spoke with Mr. Dinsler I went over a list of everything the gentlemen told me and got confirmation or asked him to point out anything that is not accurate. That is my general procedure. But just to economize on my own time I don't ask each and every witness that I speak with to ...

Barrett

In your conversations did they indicate any specific locations of the valve, system the valve was in, the pipefitter's name, the date of the occurrence? This says residual heat, so that gives us some ...

Devine

The best that I could do is I could, when I get back to D. C., go over my notes of the affidavit with Jim Huwel. But I tried to be as inclusive as possible when I presented and he delved through the affidavits and he did discuss it with me.

Barrett

Did Tyner provide ...

Devine

R
(I believe that his was mostly on the flushing and he did, Mr. Tyner did, and I did not speak with him. The investigative reporter that we were working with on the case spoke with Mr. Tyner and he went into some depth about the general problems of quality control at the plant and we have given some specific examples. Probably what would be helpful to you on further explanation-expansion on some of the things we have listed would be to talk to this reporter. I can give you his name and number. His name is Mark Hertzgaard and he is in D.C. His number is (202) 363-2090.

Schnebelen

What is his position?

Devine

2 He is just an investigative journalist.

Barrett

1/5 The next allegation has to do with welding rod control. Can you give us your sources and who made that remark to you about welding rod control.

Devine

2-1/5 That was Mr. Huwel also. If I am not mistaken Mr. Dinsler made a point of confirming that with me.

Barrett

Did they give you any specifics such as the crafts involved, pipefitters, iron workers, that type of thing?

Devine

You see on page seven of the Huwel affidavit he observed this at the shed where the welding instruments are kept. He, I understand it, protested to some of the supervisors who worked there. He also informed me that the ASME was concerned about the problem so you might try and get in touch with some people at ASME and find out who it was who was making noise about this.

Barrett

Did he address any type of specific paperwork which he thought was not being controlled properly?

Devine

I believe it was signing in and signing out and returning the welding equipment is what he was referring to. He said rods routinely were taken and kept away from the shack without the necessary paperwork. His concern was not only that there could be some damage to the equipment but some of it was being diverted and being stolen.

Applegate

Welding rods, as he explained it to me, welding rods were being taken in and out of the shack without the proper paperwork, without the sign-in and sign-out and where the welding rods were being used apparently, or something like that.

Barrett

Did he give you any specific time frame that this was occurring?

Devine

#5 He talked about 1979 where there was some paperwork done on it. He said that he personally observed the problems in the late summer of 1979.

Mr. Griffin talked to me about similar types of issues, but of course he was gone quite a few years earlier. So for your most timely evidence you wouldn't be able to get too much help from him.

Applegate

Except that Mr. Griffin denotes a continuing pattern.

Devine

Mr. Griffin notes a lot of problems which I think are structural in terms of how the utility is handling their quality control as well as identifying things which he protested some time ago which apparently still had not been solved. In terms of this specific issue, it is really Mr. Huwel and Mr. Dinsler.

Barrett

#6 The next one is the argon gas which was turned over to OSHA. Earlier you mentioned Mr. John Bedinghouse and Jim Bedinghouse. Do you have any specifics along the line of what time frame did this happen in?

Devine

I have to defer to Tom on that.

Applegate

Yes, John Bedinghouse. This would have been late fall or early winter of 1980, I believe. If I got my information from Jim Bedinghouse correctly. John didn't speak with me directly about that, he said that he would refer me to his father and let his father explain what happened.

Barrett

As far as the location, did he say in the suppression pool area?

#6 | Applegate

In the suppression pool area. Apparently he came out extremely nauseated. He was very upset.

Barrett

#7 The next one has to do with the pipe that fell off the truck. Who is your source for that?

Applegate

That is a continuing About three or four people are a source for that. One is John McClung, the security guard that was responsible for receiving the pipe. He had contact with someone at CG&E offices and they were the ones that instructed him to have the pipe brought in on the truck and just simply unload it. So that was John McClung. Jim Huwel was the man who helped the man unload it.

Devine

This Jim when he was taking me out to the airport last summer expanded on that to some degree and identified individuals not included in this affidavit who was handling the immediate process after the problem was discovered. So Jim probably could give you a few more names than we provided in the affidavit.

Applegate

#7 | And then again Peabody Magnaflux employees, Alan Sellers, Steve Sellers and all the people at Peabody Magnaflux that were responsible for X-raying that pipe.

Barrett

#5 The next one you indicate that you have three different sources which estimates that 20% of the plant's prefabricated wells are defective. Can you give us those three sources and any others that you have?

Applegate

One would be Jim Huwel, Pat Dinsler.

Devine

That has come up several times so maybe I could go through.

Applegate

If you're looking to whether or not I can answer that spontaneously, I would say Jim Huwel, Pat Dinsler, and the Peabody Magnaflux people. I believe it was either Allen or Steve Sellers. It might have been Dave Hang. I don't know - one of the Peabody Magnaflux people.

Barrett

Do you have knowledge of what they based their estimate on? Why not 15%, why not 25%? Why did they say 20%?

Devine

I think that it was just that. It was an estimate.

Applegate

It was an estimate based on the fact that the X-rays that they had been seeing. You have to understand Mr. Huwel was the pipefitter on the 3rd shift responsible for overseeing Peabody Magnaflux X-rays of pipe at the plant and they were estimating 20% of the wells that they were shooting had problems in them. In these 20% those were the ones they were most concerned about. Now they took into consideration the fact of shooting while there was water in the lines and shooting while there was other problems overlapping, etc. But when they explained this to me their best estimate on the 20% figure was arrive from what they had shot over a period of many years.

Barrett

They being Peabody Magnaflux with Mr. Huwel there?

y⁹

B

in fus. 29
I. called w/ records
w/ letters

Applegate

HB
Right. Peabody Magnaflux, Mr. Huwel and Pat Dinsler confirmed that. Tyner, I believe, had some input into that.

Barrett

This is of the shots that they made at the site?

Applegate

X
These were prefabricated welds they were talking about.

Devine

HB
This was just an estimate because they weren't as a routine checking the prefabricated welds. When they would check the ones that were done at Kaiser there would be overlaps in the radiographs and it would come up in conversation that there seemed to be problems in the welds that are coming into the plant as well as the welds that are being done here. I questioned both Huwel and Dinsler about what's the basis for this 20% figure and they said just based on the occurrence of how frequently it cropped up that was kind of the party line among the plant employees and that they very well could have been off. It could have been 12% or it could have been 30%.

Applegate

I think the 20% figure was something pretty universal amongst the pipefitters.

X
Devine

field weld rejections
Mr. Sellers, Steve Sellers, said that there was an unusually high proportion of rejections of welds that was done at Zimmer, about three times the normal industry average. Which was something that we found very significant in light of the records Mr. Phillip checked which found it was less than the industry average and, as a matter of fact, the utility was more aggressive by going after bad welds than Peabody Magnaflux. So we think it is something significant to check out. Although I caution you that I have spoken with

R Mr. Seller since he talked with this investigative reporter and he is much more cautious now. Not in terms of denying his previous statements but in terms of saying I don't know why everybody wants to keep going over old things we're not going to be able to solve that now, it's too old. So it will probably require a little bit of encouragement on your part to open him up.

Barrett

On the rejection rate, did he indicate to you that the ones that were being rejected were not being properly ... ?

Did not answer this question -

Devine

That is a common theme. In fact, that seemed to be a major source of the conflict between Peabody Magnuflux and the utility. It was holding up construction because they were coming up with so many rejections. And there's no alternate explanations. One was that Peabody was just too slow, that they were inefficient and they were holding up construction. The other explanations - they were finding too much stuff wrong and that's what was holding up construction. As far as we can tell there was not direct pressure. A number of the witnesses said there wasn't direct pressure to stop reporting that there were bad welds. The pressure was to stop complaining about being overruled on them.

Applegate

10 I think it should be noted too, that Mr. Huwel and I had a conversation that is on tape on the body recorder. That I have tape from him when he was not aware that I was an investigator. He discussed a lot about the welds on that tape. I think it should be noted that these gentlemen were totally unaware. They thought I was a cost accounting engineer. They were totally unaware and were not apprised of my fact or real position as an undercover investigator until CG&E made the fatal mistake of telling them. And boy, I'll tell you, that is one of the most fatal mistakes CG&E ever made.

Barrett

Is Mr. Dinsler's role in this explanation a confirmatory one or did he also ...

Keppler

Let me focus on a point just for clarification. If the contention is that 20% of the prefabricated welds were faulty, it would seem that we ought to be able to verify that completely by a check of the vendor shop. They are required to maintain the radiographs there by regulation and so we ought to be able to do a review at that place. Correct?

Barrett

Yes.

Applegate

4/8 However, let me point out as is pointed out in my affidavit that when I brought this up to Mr. Murray, the assistant project engineer, that I was getting feedback from the pipefitters and the quality control radiographers that up to 20% of the prefabricated welds at Zimmer may be faulty, his patent response was: look we have paper work from Pullman-Kellog to say that this stuff is all right: we don't really care whether or not the stuff, if it breaks down at that point, then it is Pullman-Kellog's responsibility because they gave us the paperwork and if the paperwork is faulty that is Pullman-Kellog's responsibility and not ours; we bought the stuff from them; if it breaks then we are going to be down on them. But the whole point is that was his patent response to that allegation of 20% faulty welds. He said that to go into that area and look, he made an example, he said look we had a guy out here who was accidentally shooting in the wrong area. Peabody Magnaflux is doing the same thing that this other place did and that was that when they were X-raying in a certain area they found a faulty weld and it cost us a million and three quarters to go around and redo all those damn cable trays and we are not going to redo these pipes. He just sat there and he was just really adamant so what there is problems there, we don't want to hear about it, we don't want to hear about it because we have got the radiographs from ... He was almost livid at that point. Whenever I would bring up the fact that there is a possibility that 20% of the welds down there were faulty, Mr. Murray used to just go out in left field. ?

Keppler

Who is Mr. Murray?

Applegate

Mr. Murray is the assistant project engineer who was my direct contact.

Mr. Keppler

From Cincinnati?

Applegate

Right, for Cincinnati Gas and Electric. He was my direct contact as an undercover operative.

Davis

If we go back to Kellogg where they keep on file radiographs for these welds, are you saying we cannot rely on those?

Applegate

AG
According to Mr. Aldredge he said that those can be doctored and he said certainly they can be doctored if the intent to defraud and deceive is there originally. And he talked about Pullman-Kellogg. He said the Kelloggs, the Bechtles, the Brauns, he said these prefabers they can really lay it to you. He said we get this stuff in here and it is a piece of crap and this is what was in his conversation. I would refer to his conversation with regard to the prefabricators. With regards to the prefabricators, he named them all and he said ... you know what I am talking about ... he said these prefabricators can really lay it to you. What he was basically saying in essence there, I believe, was that he believed his men down at the site that they did a good job because we reemphasized that twice on the tape, your men did the right job and Kaiser was trying to push you guys around so it looks good for them. He said "well you are right" the first time. The second time he said "you are correct." The whole point was I hit him with that twice to make sure that he understood what I was saying, that Kaiser was trying to force them to say something that was contrary to what their men found doing a good and proper job. And what their men found doing a good and proper job was that these prefabricators were coming out with welds that won't hold up.

Barrett

This is Mr. Aldredge?

Applegate

Right. Ernest Aldredge.

Devine

Hg
To add a little bit on this 20% figure it is not in Mr. Huwel affidavits but he refers anonymously to a supervisor there who agreed with him. That would be Bob Marshall. As far as the question of whether or not to trust Pullman-Kellog's radiographs, we sure understand that you can't go out and re-X-ray a nuclear power plant. It is impractical. Mr. Huwel suggested that what he thought was necessary to clear up the suspicion was to select a relatively limited number of welds that could be recommended to you by plant employees, pipefitters, and check those out so you would be basically doing an informed spot check.

Davis

We would be doing our own NDE. We know that as a way to do some of this.

Applegate

You see I have certain reservations with NES in the fact that they came in and supposedly did an independent check on Peabody Magnuflux's work. And my problem with NES is that I think they had a vested interest obviously because they ended up with the contract. I think there is some question there. Plus the fact that NES came up with some unresolved welds and we still haven't heard the end of it.

Davis

Has NES now replaced Peabody?

McCarten

Yes, they are the radiographers on site.

Devine

R

I had said earlier that it was Mr. Sellers who gave the higher figure of 39% rejections, that is Mr. Steve Bennett who had given that figure to the investigative reporter on the 39% rejection rate based on his experience. I don't know if he is on the actual witness list or not. I could give you his phone number. If you would like, probably at least as much investigative work as we have done was done by this reporter who shared his notes with us, I can ask his permission to ...

McCarten

If he wants to talk to us we would be glad to talk to him.

Devine

R

...talk to you and to share all his notes with you.

Barrett

The next one has to do with engineering designs that are routinely drawn after the fact. In other words you don't really ... We would like to have your sources on that.

#9

Devine

I believe that was Mr. Huwel and Mr. Dinsler

Applegate

Mr. Huwel, Mr. Dinsler, and Mr. Tyner. Jim Tyner is a man who does a lot of that type of work himself and the whole process was that if it didn't fit redesign it and design it to fit. Don't design it to be a necessity. It was like, they were explaining to me that the water intakes down by the river were facing the wrong way at one time or another and they had to redesign the way the water intakes were. And they still don't have that problem solved or apparently they had not resolved it when I was there because they were burning out feed water pumps at a rate of every time you switch them on. And I think that what Huwel was alluding to at that point was in the same situation with an 8" pipe versus a 10" pipe-they told people when they put in the 8" pipe that this wasn't going to fit and wasn't going to work and it was going to have to be redone. And they went ahead and put

#11

#1

519
1

in the 8" pipe anyway and then all that piping had to be torn out and reinstalled as 10" piping just exactly as the men had said. If you had followed the original specifications you would have what belongs here but you have done so much redesigning and so much rework on a lot of this stuff that nothing fits anymore. And that is when they came down with the reason why a lot of this has slowed down according to Mr. Huwel and Mr. Dinsler and Mr. Tyner was that they redesigned so many things to fit conveniently for one reason or another that a lot of the original stuff didn't fit anymore.

Barrett

Do you have any other specific indications or information regarding the pipe sizes other than what you just addressed? You know - piping systems.

Applegate

I think that Mr. Huwel, Mr. Dinsler and Mr. Tyner as well as the Peabody Magnflux people had identified certain welds some of which I understand were cleared up under the first investigation and apparently still stay resolved. I don't know what the situation is there. Some of which were part of a group that are still unresolved. Some of which were in a questionable category. I don't know. If I read right in the first report from the Nuclear Regulatory Commission there were three groups of pipes. During a subsequent inspection September 18 and 20 and December 11 and 12, 1979, several more discrepancies were identified. CG&E then hired NES. The review included 2,390 radiographed welds. Of those 958 had report discrepancies. That is the big question mark. 543 had some technical problems and 14 were held to be unacceptable. So apparently some of the ones we have identified with Mr. Huwel and Mr. Dinsler and Mr. Tyner were some of the 14 and some were part of the 543 and some of them were part of the 958 but what Dinsler, Huwel and Tyner were saying was you have these discrepancies and there's your 20% and it is in that figure somewhere. What they are saying is a lot of these pipes are not right down there and that they are going to have to be either or. And in a lot of situations the utility according to Mr. Murray was in the position that we can't redo those pipes. There is no way we can redo those pipes. Because we would have to tear out so much other stuff to get to those pipes. So the whole point is we plan to open up that big question mark hanging over them?

#8
with
Huwel
Dinsler
Tyner
technical
problems

Barrett

Other than the pipes that you described now and earlier, you don't have any more specifics as far as pipe sizes or anything like that to help us tie in information that ... design ... ?

Applegate

No. I think you have the numbers on KAU - right?

Devine

#9
On the designs; it is not a size of pipes but architectural design.
Dr. Fankhauser would be a person to talk with on this problem that they had in the suppression pool with the reenforcement bars not being where they were supposed to be in the blueprints. And that is going to require pretty good detective work on you folks part. You see that was from a source that you can't locate anymore. I think that the accuracy of the criticisms can be confirmed fairly well just by checking the designs versus the locations of things. He does have some background on this individual because he talked to him for awhile ... in his home. He just hasn't been able to reach him again.

McCarten

A lot of these workers were fairly transient.

Applegate

The transiency of the workers was of great concern to all of the people that talked to me. The fact that there were a lot of boys there from New York and there were a lot of boys there from Pennsylvania and there were a lot of boys there from this and the other place that they had never been around and a lot of them just came down there to party and there were gentlemen there who had other people taking welding tests for them and were not qualified welders and things like that. That was the whole point. You had a lot of transients coming in there that were flashing union cards that were of questionable character.

McCarten

Who specifically gave you the information regarding people cheating on their welding examinations? Is there somebody we can talk to that has specific knowledge about this?

Devine

Mr. Hofstadter was the guy for Husky.

Handwritten: 2/10/72
McCarten

That was a vendor though. What about at the site?

Applegate

I think you would want to talk to Jim Huwel and Jim Tyner and again Pat Dinsler.

Barrett

The next allegation has to do with electrical cable tray hangers and cable filling cable trays. Again, we would like to know your source for this.

Devine

Handwritten: 2/10/72
My direct source was Hofstadter although I know it has been confirmed in some of these notes from the reporter. As to which of these witnesses spoke on that I would have to do a little researching.

Barrett

You address two things in that allegation. One is faulty welds and the information I would like to know there is what type of welds are you talking about. Are they cable tray hangers or do you have any specifics on the welds that you are talking about?

Devine

I believe you have the Hofstadter affidavit.

Applegate

You have the Hofstadter affidavit?

Barrett

Yes we do. I just wondered if you had any other information other than what you... again I am trying to exclude anything that you have already given us from any additional information you may have.

Devine

R The main additional information that I can provide to you Sir is that in some cases an affidavit might have been ... referred to an official anonymously. I can supply you the name of who they were talking about and also the reporter's notes on this which I am going to get permission for. Other than that we kind of work like reporters. We get two or three people who will talk about something and/or confirm an issue we are willing to write it up and request that it be looked into further but we haven't really held back on anything other than we might not have said which individual confirmed which particular charge in a disclosure.

Barrett

In the cable tray that you state being dangerously full. Did the people you were talking with describe why these things were dangerously full?

Devine

(R) On that I couldn't give you an answer right now. I would have to go back and talk to our researcher who was working on that directly.

Keppler

Is the thrust of your question whether it is amperage or physical load?

Barrett

Yes. I want to know why they think that they are ...

Devine

I believe that is with regard to physical load rather than amperage.

Barrett

The dead weight of the things?

Devine

Yes. They were too closely packed. They were too tightly packed. And that could lead to excessive heat for the space where they were being held within the tray.

Barrett

So what I am hearing then you are actually addressing both of them. You say they are too tightly packed which generates too much heat. So you are more concerned about the amperage then than breaking a hanger down?

Applegate

Well both. I would say both equally.

Barrett

The next one has to do with the heat exchanger control panel that was mistakenly operated or operated improperly to 1200 lbs. to pipe that was only designed to carry 300 lbs. What is your source for that?

Devine

*5-17
i 2*
That was Mr. Huwel and Mr. Dinsler and I believe that you ought to be able to confirm that just by raising the topic routinely in your interviews because Mr. Dinsler was not in the immediate area and heard it and said .. my God or something ... I would assume a number of employees witnessed that.

Barrett

Do you have any more individuals?

Devine

None.

Barrett

AM
Going back to the issue that you raised with the drinking. You also identified a concern about people that are prone to violence on the site. Again I ask for the sources for that and also can you give us specifics other than what we talked about this morning?

Devine

2/14 Well, not other than what we talked about this morning and in Mr. Huwel's affidavit.

Applegate

I would say everybody we talked about this morning. All of the security personnel would verify that, as well as Mr. Huwel and Mr. Dinsler. Every conversation it comes up there were these transient people that were coming in and out; a lot of them had prison records, a lot of them were very violent people plus the fact when you were doing things like PCP and Angle Dust you had the potential there for violence. I don't know if you have ever experienced a situation where someone has laced a marijuana cigarette with PCP or if you have had an experience where, I am not saying you yourself, but I have had experiences in my investigative career where I have had to deal with individuals and I think it is a rather well know fact in law enforcement circles that anyone who is on this type of drug or who is using this type of drug routinely as well as moonshine. I think that a lot of people who do the old shine get rather violent in nature because of the type of drug they are on. It is almost pure grain alcohol. The whole point is that there were a lot of fights and there was a lot of violence down there because of the excessive amounts of drugs and alcohol.

McCarten

It is based on your observations then, this allegation?

Applegate

I saw a couple of situations myself while I was there that could have literally exploded into deadly dueling fights. Plus, I would like to indicate that there were guns on the site which is strictly in violation of the law.

Devine

R Maybe, Mr. ... could help you on that issue. I didn't speak with him but the reporter did and he was quite forthcoming and ...

Davis

Do you see a relationship between that violence and improper construction of any kind?

Applegate

Yes. I see a relationship and I think the people we have talked to see a relationship because when you have men that are involved in all these extracurricular activities they can't be very involved in their work. And a lot of times they had too many employees down there simply because they wanted to keep the unions happy or they wanted to keep somebody happy. They had all these guys down there partying while other people were trying to get their work done and they would interfere.

Devine

And also it is just a matter of common sense I think Mr. Davis. Like this fellow Mad Dog who was running the hot gun operation there packed with weapons. It was like a joke. He had so many knives on display.

Applegate

Don't mess with Him as he walked in you could see that he was carrying many weapons. It is just like if I walked into this room and strapped under my coat was a large 44 magnum with a 7" barrel I think you gentlemen would agree that it might be intimidating to you all.

Devine

If nothing else it is a distraction.

Applegate

#17
If nothing else it is a distraction to you sitting around at this table. Somebody is going to be sitting there saying I wonder if he is going to get mad and pop off me. And the whole point is this Mad Dog and Jim Hardy and all these people that were running around raffling off guns and raffling off prostitutes and everything else they knew to be hardcore characters and watch out and be aware, etc. and a guy might be sitting there doing a weld and everything at the same time he is looking over his shoulder to make sure somebody isn't coming after him with a Bowie knife. Because he offended his wife at the lunch hour or something like that.

Devine

I would be very surprised if we were able to get direct evidence on this. This thing was so well organized in terms of the criminal activities with books for the raffles for every different black market operation. They were all printed up and stapled so you could pull out each ticket. It is a very well organized operation and I just want to know who is organizing this thing. This is well put together. It seems like there has to be some sort of tie-in with an effective organization whether or not it is the union or whether it is organized crime or whatever. You talk to people and you always ask that question who is behind this? - do you know anything about the Mafia? - if there is a bookie operation that has outlets all across the country, shouldn't the Mafia be involved here? And the response I consistently got is I didn't want to know. I had enough common sense not to ask those kinds of questions. We are just concerned with something that is this well developed that organized crime might be connected with it. And I just think it is a matter of any kind of common sense, organized crime is not interested in safety issues it is a business operation. And if it is that bad it almost terrifies me that those are the people who are making decisions on where to cut corners of having any type of influence over the employees that we are relying on here.

Applegate

That is the point. That leads right into what I want to bring up and that is here you have people of responsibility, supposedly responsible, when you have people like Bob Marshall and Bill Murray and Fred Lautenslager etc. and the supervisors, C. K. Smith, etc., (the people that were in charge there for Kaiser and Cincinnati Gas and Electric) turning their heads and telling the security people to turn their heads to this type of activity. The whole point is was this condoned and if it was condoned for what reason was it condoned. Was Fred Lautenslager getting fat off of this or was somebody else making something off of this. We know Bob Marshall got a room added onto his house and we know he got his wife's car redone down there at the plant, etc. What were they getting... common sense would tell me... I can't understand how these practices flourished as much as they did and as long as they did without all these people... now I don't know if I would put Bill Murray in that category because he was one of the strong people who wanted to hire me to find out about some of this activity. But the whole point is they couldn't control it so instead they condoned it and in condoning it weren't they in a sense becoming complicity. I think that is probably a question for DOJ. The whole point is in my estimation when you have Fred Lautenslager and he is sitting there looking at a handful of marijuana butts and the security guard says he found them in this area and I found them in this area and I found them in this area and Fred Lautenslager knows darn good and well they are doing sensitive work in this area and they are sensitive work in this area and they are doing sensitive work in this area and these employees that are doing this kind of stuff were doing sensitive work on the plant, why is Fred Lautenslager telling the security people not only do I want you to turn your heads but I want you to quit bringing this stuff into me because I don't want it on my conscience. See what I am saying?

Devine

Tom we will probably get back to...

Applegate

I am just saying this is the followup on your question.

Barrett

4/16 Earlier this afternoon you also addressed welds that were being rejected by PM and later accepted by Kaiser. Other than the information you gave can you give us specifics as to what welds were rejected and later accepted?

Devine

I would have to defer to Tom on any specific weld. I believe Jim Huwel talked about those and the source for those specific welds would be the Peabody Magnaflux employees as well as Jim Huwel, Pat Dinsler...

McCarten

When you talked to them you had a tape recorder on so that will be on the tapes?

Applegate

Not at all times. Only one conversation did I have with Jim Huwel did he ever get into that type stuff.

Devine

Tom, who are the PM employees who wanted to set up a meeting for you to show you the evidence and you were called back...

Applegate

4/16 Allen Sellers, Steve Benning and Dave Hang. They wanted to set up a meeting for me to review the material that they said was going to be incriminating about these welds. When I indicated to the utility that I was going to have that meeting that is when the utility promptly fired me and decided I was of no use to them anymore, that I was getting into an area they didn't want me to get into and that was also the weekend that there was the breakin of the trailer.

#7 →
breakin

Barrett

Does that include all the ones that have addressed this concern involving accepting after reject? In other words the gentlemen you just spoke of, PM and Mr....

Applegate

Right.

Barrett

One last question and I will be finished. The comment was made that a KEI employee has a detailed journal of safety hazards and incidents at Zimmer. Can you specifically tell us who that individual was?

Devine

41²
Sir I am not sure if I have his name here but Mr. Huwel is the initial source of that information. And I can also go back and check my notes on that if Jim for some reason does not remember anymore who it was that he referred to.

Applegate

41²
I would indicate that as far as journals are concerned apparently Dave Simpson of that new list that I gave you this morning kept a journal of problems.

Barrett

When they were talking about these safety hazards do you know if they were of the nature of OSHA concerns or NRC concerns?

Devine

What was that again?

Barrett

In this journal they are talking about...

Devine

Personal concerns.

Barrett

Personal concerns? Safety hazard concerns?

Applegate

Right.

Barrett

Not NRC structural...

Applegate

Personal concerns that are related in the jurisdiction of the NRC.

Devine

Maybe you could explain the distinction you are drawing.

Barrett

Is it something where somebody does not have adequate fire protection or maybe overcome by gas or is to the point where there is bad welds in pipes?

Keppler

Distinguishing between an industrial hazard versus a nuclear hazard?

Barrett

Yes.

Devine

I believe it was all inclusive.

Applegate

I believe it was a nuclear hazard inclusive.

McCarten

#17
I have one last question. You made a lot of statements about PM employees being intimidated and we have a lot to work from that but you say union pipefitters also. What is your source for that? Is that Mr. Huwel who gave you information about the intimidation of union pipefitters?

Applegate

Right.

McCarten

What was he referring to, his intimidation or...

Devine

When he was fired went through a kind of evolution for this union. Initially backing him on local level and then apparently getting some word from the international level to back off and concerns that the plant would go to nonunionized employees if they pushed this too much. So I think when talking to him we can find out.

McCarten

Talking to him we could find out...clarify that.

Barrett

Does Mr. Huwel address any specific pipefitters to you?

McCarten

Himself...

Applegate

Himself, but there were others.

Barrett

He didn't give you names?

Applegate

He didn't address names, no.

McCarten

He was the total source for the union pipefitter intimidation problem?

Applegate

Yes.

Devine

We also ... the investigative reporter talked to a number of union officials and in reviewing his notes they were just not forthcoming at all. Just did not want to discuss it at all.

McCarten

They did not want to discuss the nuclear safety issues or the firing as a result of Mr. Applegate's investigation?

Devine

I believe it was more of the firing as a result of Mr. Applegate's investigation. In fact the notes are equivocal in successive conversations with progressive less backing of Huwell from the first conversations to the followup ones.

Barrett

That is all I have.

Keppler

I think we have accomplished what we wanted to get out of this. You indicated there were some things that you wanted to talk about. Before we do, I think it might be beneficial if we just went through and reiterated the commitments we made here this morning and this afternoon so if there is any others that are of a question in our mind we can focus on them right now. Mr. Davis has marked down what he heard me commit to and others and maybe it would be good to run through these if this is satisfactory with you.

Davis

As we went through today and Mr. Keppler made some commitments, I tried to write them down. The first one was that we would interview Mr. Huwel, Hyde, Harris, Dinsler, Tyner, and Griffin and of course anybody else we need to interview based on the information that they gave to us.

Applegate

I think there was Mr. Wright and we discussed some new people.

Devine

We haven't talked about all the possible witnesses at this meeting for all the different issues. Mr. Hofstadter we felt was a very credible witness from my own discussions with him. Mr. Martin passed on his affidavit, asserted to me he never really got an opportunity to tell his story accurately. Just about anybody we put on the witness list we would hope you would get in contact with at least over telephone or by letter to make some inquiries to them.

Keppler

I think the intent here was to discuss those witness who could help us with the new things that were brought up this morning.

Devine

We have discussed everything we have submitted to you.

Keppler

Certainly the information you have given us before, we will be proceeding to talk to those witnesses as well.

Davis

The next item I have down here was that we would look at the concern with respect to the blow out walls in the area where the fuel is stored and make a determination as to whether or not that is stored adequately. The third one I've got is that we would cooperate with the Department of Justice in providing them information but that also we recognize and passed on to you that the Department of Justice is relying on you to provide information to them which is presently in the mail as I understand it, and we passed on to you that they would appreciate receiving documented other evidence as it comes up in the area of criminality not associated with the nuclear safety issue.

Devine

Now, do I understand correctly that you will be requesting or inviting participation by Justice in this?

Keppler

We talked about this at lunch time and we can make DOJ aware of your interests in this but we have no control over the Department of Justice to require them to do certain things.

Devine

Not to require them to, but to invite their assistance or request it. You can't order around somebody from another agency when you don't have any authority. But you can say "we need your help on this, some of this is outside of our jurisdiction," both for the purpose of getting people to talk freely and to be able to follow through on issues that affect safety when you don't have jurisdiction.

Keppler

I think the key point is again we have not encountered thur far any reluctance of people to talk to us so I couldn't very well go to DOJ and...

Applegate

Excuse me but would you include Mr. Hyde in that?

Devine

Well they haven't reached everyone yet.

Keppler

Could you comment on that?

Devine

As far as protection...

Applegate

Was there any reluctance?

McCarten

We haven't talked to Mr. Hyde yet.

Applegate

Which one did you talk to?

McCarten

Bob Burton talked to him.

Warnick

He talked to one or the other, he didn't talk to both.

Applegate

He talked to Hyde and he talked to him while he was at work and there was some reluctance.

McCarten

No, that was a security guard.

Barrett

Hyde is a security guard?

McCarten

Yes. Bob agreed to contact him later because he did feel uncomfortable. He was on a watch. But his concern was keeping himself away from the job. That's the way Bob explained it to me.

Keppler

I think that if we encounter difficulty in having people communicate with us that is one issue, but I am not aware that we've closed that door yet. I think secondly, you know we invited DOJ to this meeting. We will certainly provide DOJ with all of our investigation findings and will answer any questions they have. But I sense the difference is you feel that we have an obligation to require DOJ to do their job and I guess I have trouble relating to that.

Devine

I sure do understand you having difficulty relating to that. What we are referring to is that we're aware, as you I'm sure are very painfully aware, of the limits of your authority to follow through on some of these issues. And we think it would be helpful for you to, if you are investigating these things and it is obvious to a good investigator where things can start to lead and where all of a sudden you are up against a legal barrier for pursuing them. If you ask the Department of Justice to assist on these and take it farther than you have the authority to and perhaps even share some of your theories on what the possibilities are that you are just hampered legally from following through to the end. It would be more difficult for them to ignore it or not act aggressively on it then if you said, "well there's possibilities, this is what we've got so far, this could be leading into significant areas. Here's our theories on it. But of course we cannot pursue that any farther and the ball's in your court now." I think that you would have the legal authority to share on your suspicions or concerns or hypotheses about where some of this evidence might lead to and we would appreciate your taking that initiative.

Davis

I think we would be willing to do that, not only willing but we would be obligated and interested in doing it if we sense the relationship to nuclear safety. If we sense no relationship to nuclear safety, (now you have to put yourself in our shoes, Zimmer is not our only responsibility. We have a lot of other nuclear power plants and we have to jealously guard our limited manpower and put it where we think it is right to put it. And we don't think it is right to put it in an area that is DOJ's and develop their cases for them.) We can't expend manpower that we need to put other places.

Devine

Oh sure. And Mr. Davis, I wouldn't want to debate you at all on that statement. Of course it doesn't require any additional manpower to share on your concerns by the people who are already working on an issue where you can only go so far. That's really all we are asking about. I don't really sense any particular conflict in terms of we're asking you to do more than you could or would do with your resources. I would like to just question you a little bit on it. You asked us if we thought that it was related to safety. That there might be drug problems, various organized crime elements, etc... What is your feeling about that? What is the Commission's perspective on whether or not intensive criminal activities can effect the safety of the nuclear power plant?

Davis

I don't know if I am ready to answer that yet. We discussed this at lunch and that's a tough one. However I guess I would say that if we were to come to the conclusion that it did or could we wouldn't necessarily have to pursue it to try to get somebody arrested. We might have to go take a radiograph of the weld that these guys made. So you go down a different path depending upon whether you want to solve our problem or their problem.

Keppler

I think that's the issue - is the disposition of the matter, and I sort of sense that you are trying to ask us to put on our DOJ hat while we're doing a job and I am not sure we have that kind of expertise to put on a DOJ hat.

Devine

No, we're more interested that you ask DOJ to come in and be your partner on this because as you pointed out, quite reasonably, you might see where there's a lot of criminal activities and this could lead to a safety problem. You can go after the way it's manifested itself in the plant and it's gotta be Justice who goes after the activity per se.

Applegate

Let Justice find out to what extent this occurred and to what extent that volume of information that DOJ must come up with affects the safety related aspects. As Mr. Davis pointed out here you might have to go and take a weld of the guy who is sitting there while he was on moonshine doing this. You know, making a weld. So you might have to go into the safety related aspect from the standpoint that these men may not have been totally capable while they were doing the job. And if DOJ comes up with a conclusion that there were, you know a lot of people down there messing around, then I think it would be reasonable to assume almost common sense to assume that these men were just like drunk driving. You know, building a nuclear power plant while they were involved in criminal activity. The two don't mix. Alcohol and driving doesn't mix. Alcohol, drugs, prostitution, and guns, bookie operations and so forth don't mix when you are building a nuclear power plant.

Devine

We would hope there would be a very close partnership between your work and Justice's work in order to be able to do the type of followup that's appropriate for you all. If the full extent and identity of individuals who were drunk on the job is determined, that allows you to isolate which parts of the plant you should be doing the spot checks on. And it may be Justice's job to find out who all the people who were engaging in this type of conduct were. But if they share the information back with you then you can go out and do the checks on the results of those individuals.

Applegate

I don't mean to make it so simplistic.

Davis

Let me ask the OIA man something. Suppose we go to the Department of Justice and say, "hey, we've got some information on some individuals that there's moonshine being used, and drugs being used, and beer being used at the Zimmer site while people were working down there building the plant. We would like you fellows to look into this." What are they likely to say to us? Yes, we will jump right on it and we think it is illegal and something's gotta be done about it or will they say go stick your head in the sand, we don't care?

Schnebelen

I don't think they will quite say the latter, not in those words. I think they are more apt to say, "Can you furnish us any hard documentary evidence which will support this. But not only that but will that evidence be direct violation of a federal statute." You've gotta be careful with the DOJ in that they are not about to go out and expend their resources for theft of property. Federal property or government property is different. A power plant that is being built is not federal property. Therefore, if somebody is stealing pipe, bricks, wood, water, sand, the FBI in essence does not worry about that. Now the State people might. The County, the City, the Federal. I mean the State people might say before a Grand Jury and say go and indict him.

Applegate

Except Mr. Everett seems keenly aware that DOJ might have an interest from the economic standpoint. The economic crime unit of which he is a part is very interested from the standpoint that if there was a large amount of facilities misused and abused and stolen from the site then this would have an economic impact on the rate payers thereby the citizens of the utility who paid for it. So in other words what I think Mr. Everett is trying to say is if all this criminal element had such a deleterious effect on the plant as to cost it \$300,000,000 or a \$100,000,000 worth of crime then we are interested from the standpoint for the United States taxpayers and that U.S. government funds went into building this plant and we are interested in the standpoint that some of those funds were abused and misused and possibly stolen.

Schnebelen

Well, I'd have a hard time...

Applegate

I don't know.

Schnebelén

I'm sure what he's saying is true.

Applegate

I don't know. I can't speak for Mr. Everett but that is the impression I get.

Keppler

He's going to have to review that. and DOJ is going to have to review that. And it isn't clear how that interfaces with us.

Devine

I think basically in terms of just asking to be able to share information as much as possible. I don't know how closely you routinely work with Justice on a case of this type but that is the reason I asked.

Keppler

I don't know if we've had a case like this before.

Applegate

I was going to say that this may be a precedent setting matter but of course this whole thing has been a precedent setting matter.

Devine

Just that as they're doing their law enforcement investigation, it might help you on your safety investigation to say, "we want to check the welds that so and so was responsible for because I don't think he was sober."

Keppler

I'll yield to the OIA people here but I personally wouldn't have any quarrel with calling up DOJ making them aware of what we're doing and if they want to accompany us they are more than welcome. But I don't think I would try to push people into doing something that I don't have any control over their area.

Applegate

I think with regards to Mr. Everett I don't think you're going to have to push him.

Keppler

Well I invited him to this meeting.

Applegate

No but I think...

Davis

We didn't push him. He said do you think we ought to come and I said that is up to you, as I recall.

Applegate

Well okay, I think it was a standoff point of do you think we ought to come and I think maybe now you're coming into the realization well maybe they should have come.

Keppler

I don't know that I exactly have an opinion.

Applegate

Just from the standpoint of clarifying the position the DOJ interfaces with NRC. However I think also in Mr. Everett's decision making process, and again I am not speaking for Mr. Everett, but we have only spoken to Mr. Everett in the recent past and he has not had a chance to review our material. Now when he gets a chance to review our material he may just call this whole meeting all over again and say we'd like to go over this matter again with you or we would like to at least go over this matter with you because we've gotten this information and we are interested. And it will all depend on how they feel.

Keppler

Maybe we ought to make Mr. Everett aware of the tape of this meeting.

Davis

I promised to call Mr. Everett and tell him the results of the meeting, but I think yes we give him a copy of the tape.

Devine

We have no objections at all to that.

Applegate

None whatsoever.

Devine

I do have a question on jurisdiction here. Now it's a matter of debate I guess as to how much interest Justice has or should have in property crimes. And we have done legal research on your obligations to coordinate with the FBI. But what is the matter of practices here and coordination procedure with local law enforcement authorities? Maybe the FBI isn't interested in the pipes or copper being stolen but the local or state police might be.

Applegate

The Claremont County Prosecutors Office the Ohio Bureau of Criminal Investigation and Identification and the Attorney General.

Schnebelon

I can answer that with an example. I think if you recall back we had a problem down at the Surry, the VEPCO plant down in Virginia. At that time I think there were two employees that purposely damaged some fuel rods just to show lack of security. Believe it or not there were no federal statutes which they could be prosecuted on. However there was a state statute. Therefore, they were actually prosecuted by the state of Virginia, not by the federal...

Applegate

I think you would find the Attorney General of the State of Ohio extremely cooperative. And I think if that is your recourse then keep in mind that the Claremont County Prosecutor has at least indicated to me that the Attorney General's Office will be apprised and invited into this situation. So it could be that NRC will want to talk to the Attorney General's office and share information with them rather than DOJ but again let me indicate that I think that's a determination Mr. Everett would want to make as far as DOJ is concerned since he has become keenly aware of this and since he has become keenly interested in it. And then of course as far as the Attorney General's office is concerned in the State of Ohio just being a resident of the State of Ohio for the last 29 years and knowing Billy Joe Brown like I do I think you are going to get his interest if you say we have a problem down here. But he has to be called in by somebody. And he has to be called in usually by local jurisdiction, which is the Claremont County Prosecutor's Office. So I think what we are going to have to see is the Claremont County Prosecutor's office make a recommendation to the Attorney General's Office to examine the criminal activities in the Zimmer plant.

Schnebelen

Apparently you've already done that. You've already contacted them?

Applegate

I have talked to them, right and they have indicated that that is most probably is going to be their course of action. Again this has only been within the last couple of weeks.

Schnebelen

So really then, haven't we covered the major avenue of your concern for the criminal element being diverted to the right direction to the county and then to the state?

Devine

Yes, that...

Applegate

Other than DOJ from the standpoint that you've got to understand that I believe that a lot of these are federal crimes. You know, the raffling of handguns and so forth, interstate prostitution, and things like that are federal crimes. I have dealt with federal crimes in the past. And I'm just saying I believe that maybe the Nuclear Regulatory Commission should have some interfacing with the Department of Justice and I expressed that to Mr. Everett and I think Mr. Everett has expressed some interest.

Keppler

Let me see if I can summarize four points that I think I would be willing to commit to right here. First is, Mr. Everett will be made aware of this meeting from our perspective and we will gladly provide him with a copy of the tape. Secondly, we will tell Mr. Everett that if the FBI is interested in accompanying us on any of our inspections we will keep him abreast of these things and we'll gladly cooperate with them should they want to accompany us. As far as dealing with state and local law enforcement agencies, I think certainly I would say that we would be cooperative with those agencies if they wanted to get information from us and talk to us about our investigation efforts. And I guess as far as whether or not we would go out and invite state and local law enforcement agencies to go with us on inspections, I guess I'd like to consult our lawyers first on that point.

Devine

I sure don't blame you about that last point. And as I'm sure you have surmised by this point, Mr. Applegate works very actively on this issue. What might be helpful is if you do come across any dead ends with Justice saying we just don't have jurisdiction in our opinion to pursue these particular criminal activities, if we could be kept informed of any roadblocks that have been created on the federal level quite legitimately and Tom would be able to get in touch then with some of his state and local contacts and ask for your assistance because it's just so often it happens you're more than willing to cooperate with the state and local official and the state and local official doesn't call you up and ask for it because nobody at Justice has called that person up and said, "well, I can't go any farther on this but I bet you'd like to."

Keppler

Okay.

Devine

And Tom would be glad to play that type of liaison role.

Schnebelen

I don't think you can find a roadblock between us and Justice. It's just going to be a matter of interpretation as to whether there is in fact a federal violation. That's gonna be the problem, not a roadblock.

Keppler

Wouldn't DOJ, if they conclude it isn't, wouldn't they say so?

Schnebelen

Yes.

Keppler

So then, you're back knowing that at least from their perspective you are going to have to pursue it with the law?

Applegate

Right.

Schnebelen

The problem is...

Applegate

You see I have already reported it to some areas and Alcohol, Tobacco and Firearms is already apprised of some of this stuff. You have to understand DOJ is an umbrella underneath which sits FBI, DEA and ATF. You know, ATF is Treasury, excuse me, that's right. But you've got DEA and FBI and then you've got ATF out under Treasury so the whole point is that we're getting back to this thing of how many agencies. And are we going to have cooperation. Are we going to have a guy from NRC and a guy from ATF and a guy from FBI and a guy from DEA and a guy from DOJ sit down and say all right guys let's share information here. We've got one common problem, the Zimmer nuclear power facility. Are we going to share with each other that common problem or are we going to just wait until we all make our formal, you know, and now I realize that, you know it's like DEA and FBI trying to get them trying to sit down and talk to each other is difficult. But the whole point is that this has been a

difficult matter from the outset and maybe it will be the NRC hopefully and in our estimation, at least my estimations hopefully it will be the NRC that will take the lead in bringing together these agencies and saying we've got a common problem if not only from the standpoint that some of these common problems have affected your nuclear safety.

Devine

I think the four specifics Mr. Keppler outlined are very constructive and very reasonable and I am quite satisfied with that and think maybe we should let Mr. Davis go on with his list.

Applegate

Sure.

Keppler

Did you get those four points?

Davis

To make sure we will make Mr. Everett aware of the meeting, we will provide him a copy of the transcript, we will tell him that if the FBI wants to accompany us on these things we would encourage and welcome that. With respect to cooperation with state and local governments we said that we would consult our lawyers before inviting them to go with us on any part of the investigation.

Keppler

But we would be responsive to them if they contacted us.

Davis

Right.

Keppler

Okay.

Devine

And you will share with Mr. Applegate any legal limitations that Justice informs you of?

Davis

I've got that down too.

Streeter

Would you say we are going to encourage FBI involvement or simply inform them of the situation?

Keppler

We'll encourage it from the standpoint that if they conclude its a federal issue we'll encourage them to go along with us.

Streeter

Okay.

Keppler

I think that's the key element as to whether or not they consider it a federal issue.

Davis

Okay, going on with the list. You [Keppler] said we would explore how we can protect witnesses so that they will feel free to talk to us. You [Keppler] said we would pursue methods of assuring people that we would provide information that they gave to us as background information if they are afraid to have us attribute the information directly to them. We agreed that we would keep OSHA informed of any industrial safety type findings and we would continue to coordinate and follow up on those that we've already brought to their attention. We agreed that our people will, our investigator will, contact Mr. Applegate each week whenever they are in the Cincinnati area to see if there are any new bits of information that he has obtained that are needed to continue the investigation. If we have problems interviewing and talking to people that it appears Mr. Applegate could assist us in that then we would request that assistance.

Applegate

As much as my limitations, being a shut-in.

Davis

We also said that we would subpoena Mr. Ross since he apparently needs that in order to talk to us.

Warnick

I am not sure that we need that.

Keppler

We'll do it if we have to.

Warnick

Because we've talked to him.

Keppler

Okay.

Davis

So we will say we will subpoena Mr. Ross if necessary. I already had down that we may have to subpoena Mr. Harris. And those are the ones that I wrote down.

Devine

Before we all came together as a group I appreciated your observation, Mr. Keppler, about the need to be taking statements under oath particularly with utility executives such as Mr. Marshall and others that we have criticized in their disclosure for unsworn statements in the investigation. Perhaps you could outline what your procedure is going to be on having statements under oath. We kind of went through the other extreme where people were afraid to talk with you at all who might be favorable witnesses that you will take it as background but we are also concerned about when a utility official denies it they might be more hesitant to deny a problem if they know they can be held accountable for it.

Davis

Should Jim speak to that?

Keppler

What have you been doing?

McCarten

We have been interviewing people at the NRC office on site and when we take a statement of the interview it is usually attended by two people and when we take a statement it is witnessed and they are sworn to it that it is a true statement. And then we provide them with a copy of that statement at the end of the interview and we retain the original.

Davis

You haven't done that 100% though have you Jim?

McCarten

On this case 100% I think. I've given everybody a copy of their statement. Because they stayed right there.

Davis

Did they all swear to it?

McCarten

Yes all these statements are sworn.

Barrett

To clarify that a bit, there were interviews that were conducted that statements were not taken.

McCarten

In the significant interviews we have sworn everybody to it and taken their statements.

Keppler

Your break is a definition of what you are calling a significant interview?

McCarten

Right.

Keppler

Can you lend anything to what's a significant interview?

McCarten

Anything related to the GAP allegations we consider significant. Anybody with new information regarding a new allegation or he gives us specific information we take an allegation. We've talked to some people, might characterize them as inspector trainees, who've been there for two months and we talked to them for 15 minutes and they said, I am sure you are aware of this as a lawyer, they don't know anything. They don't know any better. Those people we have not taken statements from. But people that provide us significant information either derogatory or favorable we have taken a statement from.

Devine

So anything that is concerned with the disclosure of any new allegations that you think are serious enough to pursue further?

McCarten

Right.

Barrett

Again there is another qualifier on that also. Previous to Mr. McCarten's joining us on this investigation, Mr. Daniels and I talked with individuals who gave us what we consider significant information. You know from maybe a hardware concern that we wanted to see if it's bad or good. And those individuals we have not taken statements from. We have documented our interviews or are documenting our interviews with them but we have not taken statements from them.

Keppler

Well I think if they relate to the issues at hand that we have discussed, I would like to go back and get their statements attested to.

Barrett

Those we are. The ones that are separate from this we have not yet.

Keppler

Does that answer your question?

Devine

Yes it does, sir. Is that all that's on the list? The only other thing is be sure we don't have any dispute about is that you will help us get these tapes enhanced, and where you will make copies.

Gilbert

Right.

Keppler

And you will work out the details together?

Gilbert

We will work out the details next week.

Devine

I wonder if this is an appropriate time then to turn to my agenda. Probably to just get out of the way, we are interested in learning your...

Davis

Before we start that, what do you say we go down and get travel worked up?

Applegate

Yes, lets take a break.

Devine

I think the first thing that is on our agenda is, to get out of the way is to get some idea of your upcoming itinerary on the investigation - how much longer you plan to be doing field work or when you'll be going back etc. We got in touch with some of the witnesses we have contacted and referred to, I guess about 11 of them, in the day or two between receiving notices of this meeting and arriving. And two of these 11 said they had been contacted so far and I just wanted to get some idea of the, what the future pace of this investigation is going to be. What your plans are.

Keppler

I don't know that I can answer specifically because each path we go down takes us down another path, So to imply that we can see an end in sight to this thing would be misleading. We have been focusing our primary attention on dealing with the 19 specific allegations which were brought to our attention in the first GAP package. And then pursuing the additional spin-off areas that these take us down and we have been talking to a number of employees at the plant, we have been talking to ex-employees, all layers throughout the plant. Then you've got to go and you've got to get in and start checking out some of these points and correlating the inputs from the various ones and we are at that stage where we are trying to weave some of this material together and get out and verify some of these things. So I can't tell you other than to say I still see several weeks of work involved. It may be several months of work involved. I just can't tell at this stage of the game. But we have right now a large group of people assigned to this effort. We are prepared to add more people depending upon whether or not it will help us progress. There is a lot of detail that has to be dealt with here.

Devine

Maybe you could fill me in on that a little bit how many people are working on the case? How many folks you all have interviewed so far - that type of thing. When I asked for an itinerary I didn't mean just in terms of time table but really learn what your investigative plan was.

Keppler

Well, I think to just scope it with you we have probably talked to about 40 or 50 people thus far. We have looked at some records, we have looked at some work in progress, completed work, we have to go back and talk to new people that have come up. Based on today's meeting, I am sure that we will be talking to some people that we have already talked to again. As far as the people that we have working on it, Mr. Warnick, for example, who is the supervisor of Zimmer and a number of other projects is right now personally supervising the effort down there. Mr. McCarten has been in it as an investigator. Mr. Barrett has

been down there almost ongoing. We have been using the two resident inspectors down there. I'm sorry, one of the two. We have had some construction specialists going along with our inspectors in specialized areas. How many have you been using there, three? That sort of gives you a feel and then as I told you earlier that a couple of weeks ago Mr. Davis and I started sitting down each Monday and regrouping with the people where we stand. Going through and seeing what we got, where we're headed, and trying to steer the investigation from this end.

Devine

Now do I understand correctly that you will be contacting all the people that are on these witness lists that we have provided?

Keppler

Yes.

Barrett

Should say attempt. I understand maybe one or two of these individuals is not in the country and we are unable to find...

Devine

Yes, Mr. Yohan I found out is now down in Brazil, so I think I wouldn't expect you to...

Keppler

Don't be surprised.

Barrett

Don't be surprised.

Keppler

Don't be surprised. We may send somebody to Brazil.

Devine

I'd be very impressed.

Keppler

I must learn how to be an investigator to go to Brazil.

Applegate

I want to go to Brazil.

Devine

Maybe we could come along and help.

Keppler

No, I would not rule out that we may have to talk to him.

Applegate

Especially Mr. Yohan, in the sense that he was one of the ones that indicated as a matter of fact...

Keppler

I am sorry...

Applegate

You are saying you are setting it up now?

Streeter

I was telling Jim we have already taken steps to set it up.

Applegate

Because Mr. Yohan. was one of the ones indicated who had kept logs.

Devine

That's right.

Keppler

We are not leaving any stone unturned in this investigation, I can assure you.

Devine

Analogous to that separate point that, on the idea of how far to go in this, what are your plans on doing independent verifications? That was one of our primary criticisms before. That was paperwork reviews.

Keppler

I can't answer yet, but a lot will depend on what we actually find in terms of the quality of work. or perhaps what we can't confirm that good quality of work is there. If there is a question either way, then obviously some added confidence is going to have to be brought into the project. And how we proceed on that I am not prepared to say at this time.

Applegate

I'd like to ask a question.

Davis

Excuse me just a minute. It depends on what you are calling independent verification. That's where you get into problems. We're already doing independent verifications in that we are looking at welds, we are measuring welds, we are counting cables and cable pans, we are reading radiographs, but what we haven't done so far is do our own ultrasonic testing or make our own radiographs and thats...

Keppler

Let me give you an example. If, in fact, one can't have confidence in the radiographs and one can't ascertain that the welds clearly are sound, then one might have to do independent radiography or UT testing. But we're not there yet and we don't know... and until we get to that point of seeing and evaluating what we have, we can't really tell you. But I would not rule out the fact that we may have to do some independent measurements.

Applegate

In furthering that question, I assume that by what we talked this morning that there has been some, we've left an impression at least that there is a possibility that there may not have been quality work done because of some of this other activity that we discussed. That will be taken into consideration? I...

Keppler

I am not sure I'm following you.

Applegate

You said you have to determine whether or not quality work was done in some areas. Okay. Whether or not quality work was done might be born upon or there might be a bearing on that from whether or not there were quality people working on it. In other words, were these people up to full strength or were they drunk? And so...

Keppler

The information that you provided us this morning will have to be checked and pursued. But certainly it is an area that has to be pursued, yes.

Applegate

That will have a bearing, okay, then that's my concern.

Devine

Maybe you could define for me a bit, Mr. Keppler, what it means to decide that you don't have enough confidence in the radiographs that you're sight checking or the welds that you're just looking at before you go out and do independent tests, your own X-rays on them. What type of circumstances would make you suspicious enough that you would go out and double check it independently?

Barrett

I could give you an example. I am not saying we have or least right now don't have, any knowledge that we have uncovered where radiographs should be documented and in packages and we get to that package and that radiograph is not there, then there would be a possibility that we would go back and radiograph that weld ourselves. In other words, their records showed that that package is complete and should contain a radiograph and in fact we do not have that radiograph there, then that might be a place where we would go back and make our own.

Devine

That sounds very reasonable. What if you came on a situation of where a specific weld was identified as being one where a witness asserted that he had seen that there were flaws in it and then you see that the radiograph says there's nothing the matter with it, in that case would you be considering doing an independent check on it?

Barrett

We'd have to evaluate the entire circumstances around it.

Keppler

I think I would not just coldly say yes. We would have to look at the whole circumstances around that weld. I think you tend to make your judgments like anything else on what the preponderance of evidence tells you.

Barrett

Yes.

Applegate

Speaking of the preponderance of evidence.

Keppler

Let me just make another point. You know if one person says "hey, that weld isn't any good and I know that weld isn't any good," and there's nothing else to go along with that, then in the system that you have looked at in terms of other welds you have some confidence, then you would be probably inclined to say, I can't go ahead and just redo the work of every worker that comes up and raises a question. On the other hand, if the evidence that is before

us suggests that you really don't have confidence in the system, and this and perhaps other welds might not be good, then you might, and you can't get a better handle on it, maybe the one way to get some added confidence is to go in and make some independent tests. But I think you have to put yourself in the circumstances of making your decisions once you see what your evidence is and I have a little bit of a problem trying to judge ahead of time how I will react until I see what the preponderance of evidence is.

Devine

Oh sure, my question really is more basing your past experience when you come up against, I don't know if I should say, a situation like this.

Keppler

Let me give you an example of one that bears on the question and that's the concrete patchwork at Marble Hill. There we had really questions about the controls there and about all the patches that were made and about the soundness of the concrete in general. So we required a statistical sampling program of independent measurements covering all types of concrete placement, difficult joints, concrete in the middle of rebar, areas by which one could get a statistically meaningful confidence factor, 95% confidence, 95% assurance, that things were okay. We did the same with cadwelds that were rejected down there. We did a sampling program. Some they destructively tested to show they were sound; others they visually inspected. It was a program that was agreed upon by some consultants. We might even have to bring some consultants in on a case like this, I don't know. But there are ways to do this.

Devine

Okay, I can give you the reason why I am pressing on this is that the initial NRC reports said that the records show very low rates of rejection and so many witnesses are telling us that there was a much higher rate of rejection initially that it seems we are starting to get into a swearing contest. And under those circumstances we think it just might be a good idea to take up Mr. Huwel's suggestion that, not just from him but from a consensus of witnesses we talked to, that you identify some certain number of welds that ought to be checked and try to pin down factually who is speaking the truth.

Keppler

Well, you indicated earlier that there were some specific welds that you might steer us to, that the people might steer us to. And that may well be a solution to the problem. I don't know yet. But I have not ruled out at this stage any alternatives.

Applegate

10 We are back on the record. I want to address one thing you were talking about - the preponderance of evidence and leading to you know that and so forth. I wanted to bring up this point about Ed Hofstadter. You asked before, Paul, about did we have any more information with regards to cable trays being heavily loaded and what reasons and so forth and etc. There was an affidavit given by 10 Mr. Donald Blanch and I think you have a copy of that affidavit but I think Mr. Blanch should be one of the people that should be talked to about that problem of overloading of the cable trays. Mr. Hofstadter felt very strongly about that and also in talking about - again going back to the Aldredge tape. You know, I want to emphasize that with regards to quality assurance radiographs, you were talking about looking at radiographs and looking at paperwork, and so forth. I asked him, okay, I said, I know that the pipes are numbered and anytime you X-ray it's supposed to show on the number, to show the number on it and I've heard that it's not that hard to take an X-ray that looks like it's a picture of one pipe and have it actually be the picture of another. He responded by saying, 'oh, it's true you know if someone's gonna lie and cheat, it's very hard to go against the grain, especially if the intent to defraud is there originally." I think Mr. Aldredge is stating that he had at that time anyway some reservations as to whether or not a lot of the X-rays that you're gonna be looking at, whether or not maybe they are accurate and so I think you know when you come down to a point of you know looking at the welds, and so forth and etc., you're gonna have to take it with a grain of salt. Either that or you're going to have to find out from Mr. Aldredge and pin him down. Don't just let him brush aside the conversation as well, he didn't understand what I meant. I mean it's understandable. I think anybody who listens to that tape and again I will stand as you know, anything you need in the way of verification on that tape, Tom, what are we hearing here, I can't exactly hear it, or something like that. Get them audiolized and then if you have any questions, I'd be glad to sit down and listen to the tapes with you. There is a sound studio in Cincinnati that will listen to these tapes and I have my copy of the tapes. It's not a very good audiolization of them but there is a sound studio in Cincinnati that can do that. It's rather expensive, but the whole point is that I think Mr. Aldredge's conversation has to be looked at very seriously with the idea that there was something about the way they were doing quality assurance radiographs and then at a later time they were asked to leave because they were rejecting too much and slowing down production. This was what was imparted to me by Steve Benning, Allan Sellers and Dave Hang, was that every time they reject something, you see, they were slowing down production and anytime they slowed down production, that caused them a problem from the quality control people. Then they had Kaiser quality control on their back and CG&E on their back saying don't slow up production, go ahead and accept it. And that was the major problem that they seemed to be having, was that when they would reject something, rather than having it go through the normal channels of rejection and getting fixed or getting finally accepted that CG&E and quality control in Kaiser and construction people in Kaiser were more concerned about the slowdown of production. So I think that aspect needs to be looked at when you talk to Aldredge just for what it's worth.

McCarten

We need to clarify what you said there, because he doesn't specifically say that they are doing that but he does make comments along that line.

Applegate

He certainly intimates towards it.

McCarten

Yes, he doesn't say it specifically and we will talk to him about it.

Davis

And that is important because if you asked me that same question, I would tell you the same thing.

Schnebelen

Hypothetically its true.

Davis

It certainly is possible. You can fake records and...

Devine

Yes, that's what we found very intriguing about that conversation. Certainly Mr. Applegate is doing most of the talking and Mr. Aldredge was more agreeing in general. But if there are some problems then he wondered why he did not correct them, his impressions, at the time.

McCarten

We have to look at the whole picture.

Davis

Yes, but you know we can't...

Applegate

In the Aldredge conversation, -

Devine

It's not conclusive, but it sure makes you stop and think, what he assumed was a confidential conversation - if he did not feel there was anything funny going on with their dismissal or their motives were not improper that he did not tell Tom, we don't have any complaints about this, I don't know why you do. But he was careful about his wording.

Applegate

He was careful but I would go to another one where I made the comment about why they got kicked off the site and you said you worded it exactly quote, unquote almost - and then said I yes, wasn't there any feeling within your people that there was something more to this than just asking you to leave? And his comment was, "well yes, there is - our situation has been dictated by Stamford corporate people and their position is that they are on a lot of utilities and a lot of power plants, not only in testing but in building precipitators, scrubbers, environmental controls in other areas. And we've been told basically that to try and go in and defend this issue, might have an adverse effect on the other utilities taking the position that Peabody is going after a sister utility here and maybe we shouldn't be considering them for any further work." Now I don't think he was making any inferences there. I think he was coming right out and saying that if they went in and tried to defend this matter, you know, he said it later on in a little bit more detail, he'd be off every RFQ request for quote, bid list within 30 days, every major fabricator, within 30 days - 600 million dollar company flush." You know. And I think he's adequately stated it there and that's the whole point of what I'm trying to get from the Aldredge thing, is hey, look, there were other reasons than the fact that you weren't performing which is the reason that was supposedly given for their dismissal, was that they were not performing. There were other reasons. What are those other reasons and who the hell was putting pressure on them?

Devine

Well Tom, I'd like to get into some of the issues that we just had questions about with investigators' methodology in general because

of course we made strong criticisms in the initial disclosure and we tried to base these criticisms on doing research from other governmental agencies who oversee the NRC as well as the complaints of the witnesses we have talked to, their impressions of what should have been done and I just want to make sure that we are not misunderstanding some things because of course this is going to be going on for awhile and currently we are trying to work in partnership. But if we are not satisfied, I sure wouldn't want to because it was based on a misunderstanding. So maybe I could make some queries on your approaches. First thing, in overview we've been checking the NRC public document room of the previous inspection reports on Zimmer over the last few years - and just in translating the reports we have some questions to clear up. The first one is what is the distinction between an item of noncompliance and something which is just a safety problem? What other criteria for making a formal finding of noncompliance?

Keppler

Noncompliance is a violation of a regulatory requirement.

Devine

I just noticed in a few of the reports, there would be the interior statements that this was not done in accord with something CFR, something but it wouldn't be included as an item of noncompliance in the summary, in the official findings of it. Now would that just be an oversight or is there some further distinction that I am not aware of?

Keppler

No, if it's an item of noncompliance - if there is a violation of a regulatory requirement it is handled as an item of noncompliance. If there is a perhaps a regulatory guide or a standard or some other system that's defined which is not incorporated as a regulatory requirement, then that might just be an observation made by the inspector.

Devine

What would be the enforceability then of a violation of the FSAR which often times is a much more detailed than the regulations could go into?

Keppler

A violation of the FSAR has no - in a plant under construction - has no enforcement status.

Warnick

The FSAR by amendment. It starts out as a PSAR and they are continually amending it.

Keppler

They could turn around and amend the FSAR as they go do it.

Devine

If I understand correctly the regulatory guides are the way your regulations are interpreted, flushed out, and the plant - the utility has its option to follow them literally or to provide a substitute through their FSARs. Is that correct on my part?

Warnick

Where we've taken our branch, the licensing position, is that - as described in any particular reg. guide then yes, they have to meet that or give something that's an acceptable alternate for that.

Devine

So then what is the value of an FSAR if it's not enforceable while the plant is under construction?

Warnick

Well, the FSAR is to reflect the as-built condition of the plant.

Devine

I see. So once it actually is in operation it would be held to that standard?

Warnick

Well -

Keppler

No, the FSAR basically is to provide the substance by which the licensing people review the plant, to determine whether an operating license can be issued. It defines the plant siting, the design of the plant, the safety systems and so forth. Now, if during the construction of the plant or the period of time which it takes to construct the plant the utility decides to either change something because three years later might be a better way of doing something, obviously you don't want to preclude the right to make the plant better. But by the time the plant ultimately gets licensed, then the FSAR as revised is consummate with the final design of the plant for all intents and purposes. Then what happens is once the Commission has decided that the plant design is safe and meets the safety objectives of operations, once the Commission has concluded the plant has been built properly, once the Commission has concluded that the plant has been tested properly, and once the Commission concludes that the utility is capable of running the plant safely, only then does an operating license get issued. Then there is a formal finding made by the Commission. There is a safety evaluation report put out by the licensing people and there is an inspection finding made by the I&E people. When that is all done and meshed then an operating license can be issued. With that operating license goes what we call a set of technical specifications. Those are the Ten Commandments so to speak, by which the utility can operate. They must comply with the technical specifications and any other regulations that are incorporated through the license. Does that help?

Devine

I think so, I just want to be sure that I understand what the legal significance is and when - when a FSAR on paper doesn't reflect the conditions in reality. And as I understand your explanation it would be for a part of the licensing process to get an operating license is when that would be relevant.

Keppler

Yes, let me take the ultimate extreme with you. Let's say that the Zimmer plant says that we're going to build a boiling water reactor. I'm going to be a bit facetious the way it is done, but theoretically

they could build a pressurized water reactor. There's nothing that precludes that so to speak in the construction permit itself. Now obviously that would be a ridiculous extreme to go to and we would not let it go that far. But if someone says, if some licensee says, we are going to add a valve or take a valve out of the system, they don't need to come to the Commission with every change that's made and say can we do this ahead of time. They go ahead and do it and then ultimately sometime before the license is granted, this document is - all these changes are made, usually on an ongoing basis, and sometimes they're called to the attention of licensing by us, sometimes the utility brings it to the attention, but there is a - those points are I guess what I want to say are reflected in the final review of the plant.

Devine

I see. Now would that be - I might be skipping ahead of myself with this, but if you find out that an FSAR is not being complied with (i.e., training for welders - one of the things that's come up in this plant, their FSAR says we will do it in this fashion and they are not) what significance is that for you now? Is that something that you would take into account on a decision to suspend the construction permit? Could you do anything with that information other than file it? In 1982 report the thing?

Keppler

If it said that the welders were being trained under a certain program and let's take the extreme of there was not training at all, I think obviously we would want to do something about it. We would not wait until 1982 to do something about that. On the other hand, if the NRC inspectors made a determination that a training program of another type was comparably good, then they probably would not do anything about that.

Devine

So this is really a guideline for your exercise of discretion. Is what you're telling me at this point?

Keppler

Well, basically what we focus on in the inspection process is the principles of the 18 quality assurance criteria, 10 CFR 50, Appendix B that serves as the guideline by which we inspect against, not so much the FSAR. And if design changes are made or other substitutions that are consistent with the 10 CFR Part 50, Appendix B criteria are met that usually suffices to us. Now if there is something in the FSAR that

is very critical in terms of how something is done, then that can be brought into play. We may focus on it -

Applegate

Such as the testing of welders and the training of welders -

Keppler

Well it depends. There are many ways to test welders - there is not only one way to test welders.

Applegate

We found that out.

Keppler

Okay.

Streeter

Do you understand, Tom, the difference between the PSAR and a FSAR?

Devine

Yes. I think that is very helpful to me.

Keppler

I think that you are going to have to talk about specifics that way but I think I sort of laid it out for you how we would handle something like that particular item.

Devine

Yes. The next question I have is really more to get your side of the story on something which we criticized about, receive an explanation. We had criticized the initial report for having conclusions that

were too narrowly drawn and I just would want to get an explanation as to how you decide how broad your issues should be drawn and to provide a specific example for you. On the item of noncompliance that Mr. Phillip found, he said there was a violation through not having a hold tag on one of these pipes. In his summary also went on to describe how one of the employees was working on that pipe and was told by another employee, a supervisor, to lay off on it and we were critical that the report did not investigate further than and find out what was the responsibility of the supervisor who said not to put a hold tag on it - what was his motives, what is their explanation for that, how are they going to be held accountable for this. So maybe just in the context of that particular example, you could describe to me your criteria for how broad to draw the issues.

Keppler

Let me say that with OIA doing an investigation of Mr. Phillip's report and the specific investigation that he did - I would not want to comment at this point in time on the specifics of that case.

Devine

Okay.

Keppler

Let me comment in general as to how we would go about it. I think basically the approach that is used is to try to not be narrow with the allegation - take the allegation and to obviously look at it itself to try to factor in the generic implications of it if you could - does it apply to one weld, does it apply to other welds, is it a system problem or is it a specific problem. I don't think we try to look at it as an isolated case with blinders on as a general comment. We are interested in looking at the broader application of it. A lot of times I think communications is an essential element in this too. Generally speaking when you are talking about allegations and you are talking with people who may not be directly in the business, I think sometimes we don't always communicate as well as we should. And I don't know - I am not implying that that did or didn't take place in this case, but I do think that we tend to think of things in the fact that we're in this business 24 hours a day - 7 days a week so to speak, and we're dealing with people who either bring up an issue through hearsay or through contacts of other people and I'm not sure that we fully

communicate all the time. I think we interpret the problem our way and then we proceed to go at it our way. I think also that we also try to put ourselves, if you will, into a position of documenting the allegation in the terms that we understand it best. And I guess I'm inserting a little bit of my observations in the earlier case but I feel we try to look at the thing broadly, we try to document it as though it's going to be read by the public and not try to look at it in an isolated fashion.

Devine

I really do appreciate your requesting that we look at this on a more general level rather than our specific criticisms. I guess in some ways what I'm questioning is your standards for your staff in the Region then and in light of that with this kind of discussion, would you say that if a problem is brought to your attention then, that you would not limit yourself to just looking at the effect of that problem, but in most general terms you would try to find the cause of why that had occurred?

Keppeler

I think so.

Davis

I think there is one thing though that we have to acknowledge and that is we do an inspection program at these plants during the phases of construction and when we are doing an investigation we don't necessarily repeat everything that's been done in the entire inspection program.

Devine

I would hope not.

Davis

If the investigation were to lead us into an area that has been inspected in the past with no problems found, that might in some cases be enough to cause us to say hey, we don't have to go there. Our inspection staff has already looked at that. That is a judgment call a lot of times you know.

Keppler

I think that was the point I was trying to make. Our standards are for us to understand fully the problem and whether or not we think we have addressed the problem based on the information we have. And I think in my own mind, at least a point I am interested in very much in terms of how other people view our efforts, is how well we portray what we actually do.

Devine

Well, there I don't think we really had any criticisms about the report. We were able to critique it because it was very straightforward about what was done and what wasn't done. And there was no intent to distort or in any way try to hide or claim that more was done than actually was. I appreciated that. The next question that I had was what is the formal follow-up procedure on unresolved issues? We've been coming across in our review of inspection reports just a real pattern of inspections that were done and a few items of noncompliance and large number of issues that were reported as unresolved. And we are interested in what type of procedure you have to resolve those issues, to clear them up. How long do you give for those things to be cleared up or how much you double check the utility reports that they solved the problem. How do you deal with the unresolved issues that are disclosed in your reports?

Keppler

Well, unresolved issues are issues that are tracked to make a determination whether there involves enforcement action or whether there involves an issue that has to be corrected. As far as the time element goes, for a plant under construction there is no time element other than the fact that the plant doesn't get an operating license until that issue has been resolved to the satisfaction of the NRC. Now the only time there might be a time element involved is if the work or the issue in question is something that will be covered up by subsequent work, whereby you won't be able to resolve it later on. So then we might put a hold on a point until - before allowing work to go ahead in that particular area. But I don't, my reaction from a regulator's standpoint is I don't care if it takes 20 years to build a power plant or two years.

Devine

I was just wondering because I think that some of these things could pile up over the years.

Keppler

They are tracked by, we have a tracking system by our inspectors to satisfy these.

Warnick

And the lead inspector has the responsibility to follow up on them, what's still open and what's closed.

Davis

And each item of noncompliance has to be gone back and closed out formally.

Devine

Now who is the lead inspector at the Zimmer? I don't ...

Keppler

Mr. Barrett.

Barrett

On certain items.

Warnick

On this, see we have just gone through an organization change. Paul has been the lead inspector on construction and Tom Daniels, our senior resident, has been the lead inspector in the operations - preoperations testing area. Now we have combined our project section into one and Tom Daniels has the lead at that plant. Paul still has the lead, we have not made the complete turnover on the construction items and of course Paul has the lead in this investigation.

Devine

One question that I have had come up in my discussions with Mr. Griffin is on the quality control system. The core of his complaint is that there was no independent quality control program for vendors other than GE which had its own. And that in the defense industries that he's worked in there's normally been a procedure going out to the vendors manufacturing operation and checking to see if their work was being done well. And his complaint at Zimmer was that

they were just taking the vendors' word for it which seemed consistent with the constructions that we have complained about to PM on the prefabricated piping. Mr. Griffin told me that he was informed several years ago that the NRC told him that all of his criticism were accurate but they didn't violate any regulations. Is that correct, that there is no requirement in the law or your own regulations to do more than get a certification from a vendor that...

Keppler

I remember when this issue came up, I don't recall off the top of my head what the resolution was, but maybe you could address it, Paul.

Barrett

Okay. In response in general to your question, the licensee has the responsibility in accordance with the QA program to verify suppliers their material - is they cannot be later designated as safety related material onsite. They must go and assure that that vendor has a QA program that's comparable to their own for the part that they supply. You know, if you only do welding, then you must have a QA program commensurate with your welding activities. You don't have to full blown program. CG&E, for example, would have to go to Kellogg and run audits or whatever and review their QA program to be sure that their program will supply good quality products to the Zimmer nuclear plant.

Devine

So they would not be able to just accept a certification?

Barrett

That's right.

Davis

One thing you might be interested in. Our Region IV has a vendor inspection program where they go out to various suppliers of components of nuclear power plants and make their own determination too.

Devine

The NRC does that themselves?

Davis

Yes.

Keppler

As I recall, and you can help me here if I'm wrong, the issue that Mr. Griffin raised was that if GE procures a part from somebody else and GE does a vendor inspection of that part, does Cincinnati have to go do a vendor inspection of that part.

Barrett

No, not necessarily.

Keppler

And I think that was the point in question.

Devine

Well, that was an example, as I understood that was more of an illustration of his concern. Really the core, as he summarized it to me was that the Kaiser quality control people were told that we have to put our trust in the manufacturers and that as far as they needed to go was to obtain certifications and to get telephone references from other utilities that these vendors had done acceptable work in the past. That was really his structural criticism is that it was really little more than - more like hiring someone for a job where you go out and contact their previous employers, you get a certification from them that they will work hard and I think he was talking about GE as an illustration of what he thought was a very high quality program but not so much the specific standard that would be a violation of law.

Barrett

And they have to substantiate that their certifications have quality meaning to them. There are, if you'd note that there are times when you can take an item that is a standard industry grade item and use it for a nuclear application.

Devine

But that was another issue that he raised is that the quality control program doesn't relate to everything, it relates to essential components much more strictly than nonessential components. One of his criticisms was that plants were being delivered as nonessential components and upgraded to critical status after they were there. What type of checks do you all have available on that type of thing?

GRIFFIN
UNAPPROVED VENDOR CONCERN

Barrett

Anytime that somebody wants to do something like that they have to prove to us that that component can perform its safety service as dedicated. They either go back and retest the component or go back and some way prove that that component has met the same requirements as any other safety grade item.

Devine

So the licensee has an obligation to prove to the Nuclear Regulatory Commission... They have to satisfy you all if they want to upgrade a component?

Barrett

Yes.

Davis

They really have to satisfy themselves too. Under their QA plan. We audit and determine that they do that.

Devine

Right, and he was saying that the Kaiser QA plan had been satisfied but he was saying that they did that as a routine. He in effect was saying that Kaiser was consenting to just going through the motions on upgrading things and I am very encouraged by the explanation that they also have to satisfy you all, not just themselves.

Davis

I don't think we should mislead you. They have to satisfy us on an audit basis. We are not 100% auditor of a power plant. It's our job to determine that a licensee is building it properly in accordance with his QA plan but we are not 100% receipt inspector or 100% audit controller or quality controller.

Applegate

So in other words some of this responsibility will fall back to Kaiser and his quality assurance program and whether or not that quality assurance program is of a standard.

Davis

And CG&E

Keppler

That's right.

Davis

You've got the whole gammit, okay. You have the vendor...

Applegate

Right, and some of our basic criticisms then do fall into this area of quality assurance program at Kaiser and CG&E. Again, we go back to the allegations and whenever we have something like that then what we have to do is like we are doing, we have to take a bigger sample and we have to in some way determine that the plant is adequately designed and built or not.

Devine

So Kaiser would have to at least justify to you their decision to upgrade components. You may not go in there and be looking right over their shoulder and doing a site inspection but they would have to provide some basis other than just saying that it was upgraded.

Davis

Yes, it would be in their quality assurance plan.

Barrett

That's right. To clarify that though, they do not every time they make a move such as you're talking about come and say, hey we are not upgrading this system. I mean this piece of material, again, they buy standardized materials in some cases which meet standard industry grades and then when they buy them they don't know whether they're going into a non-safety related system or a safety related system. But they are allowed to dedicate some of those components if they do meet the standard industry grades to safety systems. They do not come and say, hey, I'm now upgrading this piece of material to go into it. They are required to assure themselves that that material does meet the grade that it is required to meet.

Devine

When do they have to report to you on, they have made a change in a component?

Barrett

If they change a system, upgrade an entire system, something that goes against the FSAR as it stands now then they will let us know that they are changing the FSAR. Not us here, they will notify NRR.

Devine

So really all the local QA program has to do is say that this was, these materials were received consistent with standard industry quality?

Barrett

Now, I was just giving you an exception to the rule. We have certain items that fall into that category. If you go into 10 CFR Part 21 and read that you'll have maybe a better feel for what type of items I'm talking about.

Devine

Yes, I'm just wondering how big the exception is.

Barrett

I did not want to give you the idea that they could go out and buy everything nonsafety related and put it all in there and all of a sudden dedicate it as safety related.

Devine

I guess this ties in quite a bit with my next question. In 10 CFR, Appendix B, quality control is described as needing to be referenced. Maybe I can even get the specific quotation. But I was concerned that that meant that there needed to be anything more than a certification, a reference is such a general term.

Barrett

Can you elaborate on that, I don't understand what your question is.

Devine

Maybe I will just look for that after the meeting. The next thing that I wanted to ask was on the NRC/Department of Justice memorandum of understanding on criminal activities, theft of nuclear materials, etc. When I first spoke with Mr. Cummings after we had turned in our disclosure, he informed me that I was mistaken that this memorandum applied to the Zimmer plant because there wasn't any nuclear fuel there. And of course there is some nuclear fuel there, though it's not irradiated I didn't catch that distinction though from reading the memorandum of understanding. When does your responsibility to coordinate with the FBI or Department of Justice start in your reading of your legal obligations?

Schnebelen

As far as theft goes?

Applegate

Well, possible theft, criminal activities.

Devine

Quite a list of criminal activities.

Schnebelen

I think the same example I gave you with Surry, there was destruction of nuclear fuel in your interpretation, yet there was nothing that the Department of Justice could do on that. Therefore if they couldn't do it in that case, I don't think it would fall in the purvue of our memorandum of understanding with DOJ.

Devine

So if DOJ doesn't have authority, then we don't have to coordinate. If DOJ does have authority, then you...

Schnebelen

Actually, to go to DOJ you've got to have a statute, there has got to be some public law that they've broken.

Applegate

Well I am not the Department of Justice but I have prosecuted an eight state prostitution ring. Okay, I was on the investigative end of one of the largest prostitution rings in this country that was broken. Okay? I know that to take a girl across the states line and put her up for raffle at the Zimmer nuclear power plant is against federal regulations. Okay?

Schnebelen

I can't address that.

Applegate

Okay, I know that to raffle firearms in any way, shape, or manner is against federal regulations. Okay, I know that the sale of moonshine liquor is against federal regulations. I know that the sale of illicit drugs, marijuana, PCP, quaaludes, speed, downs, so forth and etc. is against federal regulations. Now we have brought what we feel is a preponderance of evidence to the effect that there has been this type of activity conducted at the Zimmer Nuclear Power plant when the Nuclear Regulatory Commission under of its memorandum of understanding, then make a recommendation to the Department of Justice to examine these matters and make a determination as to whether or not there has been a violation of federal regulations. And again, I think what Tom is saying about with the presence of nuclear fuel on the site, that puts into force the FBI's requirements for investigating crime at the site.

Schnebelen

Now you're backing in. You're adding up. I forgot the Abbott and Costello concept of numbers. But what you are backing into is the concept of a memorandum of understanding utilizing all these federal quote federal statutes that are being broken by employees of a private concern with the...

Applegate

With the cooperation, and so forth of management.

Schnebelen

But that's still not a federal government employee.

Applegate

Well.

Devine

You are saying federal law has to be violated before this memo takes effect. That's very reasonable.

Schnebelen

Basically that's the name of the game.

McCarten

Isn't it just the Atomic Energy Act?

Schnebelen

That's the Act. The Act also.

Applegate

The Atomic Energy Act.

McCarten

The memo refers to. Not the Hobbs Act.

Gilbert

Or the DEA Act or the Drug Enforcement Act.

Applegate

Well, that's...

Gilbert

That's your responsibility to report.

Schnebelen

See, you've done that. That is the point that we keep making to you. At least we feel you've done your job.

Applegate

What we're saying is you see what happened is that February, in January of 1980 I reported this to the utility and there is something also in federal statutes that requires people to report evidences of federal crimes. The utility did not do that and as a matter of fact they threatened me not to open my mouth about it. Okay? I was told that I couldn't get anywhere, I was told that I was a mouse compared to their cooling tower and that I would not get anywhere with the Nuclear Regulatory Commission and that nobody was going to listen to me and bla, bla, bla. But the whole point of what I am trying to say is that these things were done with the cooperation and assistance of management at the site. Now when and who does anyone take responsibility for these yahoos down here conducting one heck of a party? That's what I think we're trying to get some clarity on insofar as the memorandum of understanding, correct me if I'm wrong, Tom. But I think insofar as memorandum of understanding is concerned we're trying to get some clarification if, when does it become the DOJ's responsibility to enter into these matters or when does it become the responsibility of the Nuclear Regulatory Commission to refer to DOJ and say under our memorandum of understanding we have evidences of criminal activity at one of our power sites and under our memorandum of understanding we would...

Davis

Well Tom, look...

Applegate

... encourage you to come.

Davis

We've covered this issue about four times today so far and we've reached an agreement and we're going to talk to Mr. Everett of the FBI and all that.

Applegate

Well I didn't - Tom brought up the memorandum of understanding.

Davis

We are going to do that, we are going to pursue it. It's planned in accordance with our agreement.

Keppler

I think the one...

Applegate

Do you understand that that is the first time that's been said to me since January 1980?

Davis

Well, but it's the fourth time today.

Applegate

The fourth time today but okay, maybe I need to hear it four times because I've heard about six times that my head's going to be blown off for telling you all. So maybe I need to hear it four times, maybe I need to hear it five times, maybe I need a man from DOJ to sit in this empty chair and say we're going to look into it.

Devine

I don't have any further question on that.

Keppler

Well, I have one point.

Applegate

But as long as he's got the memorandum of understanding thing, I just wanted to reemphasize and I may reemphasize one other thing and that is about the construction permit. But I just wanted to reemphasize that these activities took place, that it was burden on the people of the State of Ohio, that it was burden on the people of Claremont County that it was a burden on the United States taxpayers because there were federal funds went into building this plant.

Keppler

I think the one point I make again that he brought up that's very real, the memorandum of understanding relates to the Atomic Energy Act.

Gilbert

Criminal matters that relates to the health and safety. That's the key to this memorandum.

Devine

That and the Energy Reorganization Act which I guess just carried it over.

Keppler

Yes.

Devine

Is that correct?

Schnebelen

Yes, that's correct.

Devine

Okay. I think that I probably have the answer to my next question but that was on what the relevance of drunkenness at the plant is and I assume from our discussions already that it becomes relevant if it can be some causal relationship to safety problems.

Keppler

I treat the significance of drunkenness in the same boat as I treat the significance of drugs.

Devine

Of course, drugs is a criminal activity and drunkenness - personal.

Keppler

But from health and safety point of view, it concerns...

Devine

I just have really two questions left here to wrap this up. The next one was on the standard operating procedures for inspections. I've just have been, I don't know the proper term for it is, but very impressed with the distinctions in the approach to the first inspection that Tom was the catalyst for and approach to this inspection/investigation. I have been very impressed with how thorough you have been in following through all these leads now and of course heavily criticized some of the initial efforts on it. What is the approach? I know you have very limited resources and thousands of things that you could constructively look into in depth. When a complaint comes in, do you routinely as part of your normal procedures to investigate, to interview the line employees as well as the management? What is your normal procedure for resolving contradictions when a complaintant says one thing and provides some evidence for it and management denies it? What are the instructions that you folks follow for resolving contradictions for who to talk to in these inspections?

Keppler

Let me first of all correct a statement you made earlier. I think you said I was critical of our earlier investigation.

Applegate

No sir, we were...

Keppler

I said you were critical of it.

Devine

Yes. Thats...

Keppler

That is correct and I acknowledge that and I guess I will wait to see the report from our OIA people as to how critical I am when they discuss their findings with us. That investigation is ongoing. Let me distinguish first, just to give you a little background, let me distinguish between inspections and investigations. We have an inspection program that is, say what they call a defined pre-planned type program at which we look at certain activities during the course of the construction of a new nuclear power plant. We try to sample all safety related construction systems by observing work in progress, we look at records and we talk to people. Sort of a combination of all of those things. We also have on our staff five investigators and these people are largely tied to looking at allegations that are brought to our attention independently of the inspection program either by plant employees or by members of the public. At other times we may use investigators to follow up on an incident that may occur at a power plant where the determination, the precise determination, of sequence of events or how people reacted, the factual aspects of how people reacted may become very important. The reason we do this is the background of our inspectors is largely a technical background in a precise area of nuclear safety or construction so forth. The background of our investigators is an investigative type background and I think a very key difference if I might - at least one key difference-I might distinguish is that generally speaking inspectors go after things looking for the logical explanation of what happened. I think it is fair to say that they are interested primarily in the technical aspects of a job and there's an element of some trust between the licensee and the way he does business. Investigator is I think a more inquisitive type person. He asks questions from a little more distrusting point of view and he tries to check his facts a little better. He goes after things by maybe asking the same question five different ways, to each of five different people. So when we get allegations they are usually handled by an investigator or sometimes if there is a technical element to the investigation we send in an inspector, one or more inspectors, along with an investigator. That sort of describes the program. As far as the techniques go I guess maybe talking to an investigator might give you a better idea but my understanding of the techniques of an investigator is he tries to pursue first an understanding of an allegation that is made, what the person is trying to tell us. They talk to as many sources of people as they need to try to draw some conclusion as to the factualness or the significance of the allegation. They are taught, you know, there's no holds barred as to who they talk to from the president of the company on down to the lowest individual on the site. In fact they often have talked to people who are not at the site. There are no bounds on who they talk to. It's a judgmental thing as to how far they take it and how well they determine what they feel they need to determine. Now I guess to scope just a second for you, our policy has been and I continue to

believe it's the right policy is that we investigate all matters that have potential nuclear safety significance. Our policy has been that we do not investigate matters that do not relate to nuclear safety and that's a matter of contention here between your group and us. Which I guess we have to wait for further decisions on but that has been our policy. And it's largely been our policy because that's our background. We don't know anything for example about going out and involving ourselves in criminal aspects. And to try to tell I guess basically at the risk of over-kill. For us to go out and try to tell DOJ how to do their job or some other government agency in law enforcement I, you know, it just boggles my mind that that's what we ought to be doing. And we haven't been. We've been focusing on what we have expertise in, that is nuclear safety.

Applegate

I want to clarify one thing. I've never suggested that the Nuclear Regulatory Commission was responsible for going out and checking into hot guns and that type of activity. I think what I am trying to clarify in my mind is that the Zimmer Nuclear Power Plant is no Saint Peters Basilica. Where you can say mass anywhere you want. In the sense of the Zimmer Nuclear Power Plant it is not a sanctimonious piece of ground where criminal activity can be conducted without someone saying no and without someone having the primary responsibility to say come in here and slap their hands or do whatever. Now because it did involve such multi-level people, okay, we're talking about top level management, middle level management down to workers because it did involve all of these people and because all of these people were involved in the process of building a nuclear power plant I think it is reasonable to assume at least on my part that primary regulatory agency there would have the responsibility of saying all right now we're going to have these people come in and smack your hands. Because while you were partying and doing whatever you were supposed to be building a nuclear power plant. Now we have to go in and investigate and find out whether or not you built it right.

Keppler

I understand your position.

Applegate

Okay, so that is...

Applegate

To finalize and summarize my position okay, because what I'm saying is let's not condone it, you know I'm sure the Nuclear Regulatory Commission by no stretch of the imagination wants to it's just that I need for somebody to clarify for me. Who's going to be responsible for taking care of St. Peter's Basilica in Cincinnati? Zimmer's private little swatch of land that they do whatever they darn well please.

Keppler

Let me say to you that with respect to this particular investigation I have adjusted my own thinking to the point that because there's a credibility issue in question on our part and so forth. I am trying to lean over backward to do the most complete job we can in terms of answering the issues involved. I have told my people it's not satisfactory to say that's an OSHA problem. I'm telling my people I want followup on the OSHA problem. So we're trying to be as responsive as we can on this issue. That's my decision and I may be faulted for it later I don't know and I don't care. We have broadened intentionally the scope of things we are looking at this time.

Devine

I'd like to follow up on your response and see if I interpret it correctly. I had inquired about what guidelines there are for investigators to resolve contradictions and whom to speak with and you responded if I interpreted it correctly, it's a judgment matter but there's no holds barred. Is it correct then that it is up to the individual investigator's judgment as to whom he will talk with and to how he will resolve those contradictions or is there some policy direction you impose?

Keppler

I think it is up to the inspector/investigators and his supervisor. There is no written policy in the office if that's what you're asking for.

Devine

Well, written or orally.

Keppler

Yes.

Devine

The last thing that I'd like to go into is how do you exercise your discretion or judgment on what penalties to go after when you find some problem there? If I understand it you can decide there isn't a problem or you can say its a noncompliance and should be corrected or its noncompliance and it should be fined. Or you can go further and say this is so serious that the construction permit should be suspended. I checked the standards in CFR on suspension of construction permits and they were very broad and you have the authority to do that almost at any time it seems like and obviously it's a very severe step that wouldn't be taken. What does it take? What is the criteria for suspending a construction permit as opposed to imposing a fine as opposed to not imposing a fine just reporting a violation?

Keppler

I think it might be helpful if I gave you a copy of our enforcement criteria.

Devine

Yes I would appreciate that.

Keppler

That pretty much gives you at least a feel for the way we escalate enforcement actions versus the kinds of actions that we take at the regional level. But obviously the more severe enforcement sanctions are attached to the severity of the problem found. You asked what it would take to suspend construction work at a site. I think there have been many cases where construction work has been stopped either in total or in part. I would say most of it has been in part. Although Marble Hill was a good example of where we stopped construction work on all safety related systems.

Devine

That is really the catalyst for my question. You told me you didn't hesitate to stop Marble Hill and I assume that's because they went over a certain line. When it happened you didn't hesitate?

Keppler

Yes and the line being that I thought there was a major breakdown across the board in the quality assurance program. I felt the basic work that was going on and the people didn't know what they were doing. There was no control over it and poor work was found. There was actual faulty construction involved. There was clear evidences of programatic breakdowns in the QA system. We recently stopped work up at the Byron Station in the area of electrical work. We stopped all safety related electrical work up there. Because the contractor involved and the utility involved didn't have adequate controls in place to preclude actual faulty construction. That we stopped on a temporary basis until we felt that the program was in shape to permit it. We've stopped work at Zimmer in certain areas.

Applegate

Recently?

Keppler

We stopped work on the RCI.

Barrett

Hangers.

Keppler

Hanger work on RCI.

Barrett

Tech SIL - Fire stop materials.

Applegate

When?

Barrett

Last fall, I don't know the exact date - August 1980.

Applegate

Well the only thing that I can say with regards to you is again what I've stated before and I won't belabor the point. But that is as an investigator I know I would find it extremely difficult if the people that I was investigating were breathing down my neck or if they were had the opportunity to be taking one step ahead of me. And as I've indicated to you the utility as well as Raymond International, the owners of Kaiser, the construction people, have made attempts and we don't know how much of my information they've gotten, how much of the information that you're checking on they've gotten but we do have indications that they're trying to get ahold of every piece of it that they can. I think they would love nothing more than for me to drop my briefcase in their front lobby but and to that extent we've had problems. My home has been broken into. There are people that call. Like I said there was that one call when I was there that one afternoon where they tried to sleeze us with a secretary. When I say sleeze us with a secretary I mean she misrepresented herself. She was obviously the secretary of a law firm and there was obviously a lawyer standing right behind her but, and we found that out, but the whole point is that they are trying to get ahold of this information in my estimation so they could cover themselves. Because it would be ridiculous to assume that they didn't have a vested interest. And I'm not saying I'm out for blood with CG&E or I'm out for blood for Kaiser, or that I want to get them or anything like that. That's not the case. That's just frankly, flatly not the case. I am frankly and flatly in favor of a complete, thorough, and objective investigation of what I brought to the forefront-it's the problems of Zimmer. And I think that can be best accomplished with a clean site and when I say a clean site I mean one where the construction permit has either been voluntarily revoked or mandatorially revoked.

Devine

Tom, I want to follow up just a bit on Mr. Keppler's explanation. For example would it be necessary if you were going to make a decision to suspend a construction permit on the basis of questions about the welds in safety related systems through the plant, would you have to have independent X-rays on them or could you do that on the basis of discrepancies you found in your own review of utility records? If you were going to be suspending a construction permit because there was serious questions about the reliability of the welds, would you have to go out and do independent verification of those welds or could you do it on the basis of the discrepancies you found through site checks or through the paperwork by the company or examining their own X-rays? Would you have to go and contract for ultra-sonic tests before you would feel comfortable to take a step like suspending a construction permit license.

Keppler

Not necessarily. I think it would depend upon what evidence there was to support there was a real problem with the welds.

Devine

So there's no precondition?

Keppler

No. If you are convinced that faulty construction is taking place and the program for controlling construction is inadequate then I think you have no choice but to go ahead and stop the project. The problem that I have with Mr. Applegate's statement is that I could put myself on the other side of the coin and say that to require a stop work at the project when evidence clearly doesn't support that there is faulty construction, I think I would be accused of being out to get Cincinnati if I did that.

Devine

I think you would be justifiably accused.

Keppler

Yes. So what I have to do is base whatever action we take on what the facts are of the matter, and we haven't determined yet what the facts are.

Devine

I sure understand that. I just wanted to clear up what internal requirements you have for exercising this discretion. It sounds like its not a case of well before we take the step we have to have this particular type of evidence. It's more of a judgment.

Davis

Not black and white.

Devine

Well folks I don't have any further questions for you. I think Tom's probably, correct me if I'm wrong, said everything that's on your mind. I sure appreciate the time that you've taken for so many of you to sit here and listen to us and respond to our questions.

Keppler

We appreciate you coming in and it's been helpful to us and I'm sure we will be talking further. I guess there is a point that I would make, I think you Jim, you ought to leave with Tom how you're going to contact him and when and so forth, so that doesn't become a problem to either one of you. And I guess I would say to you Tom that if you feel it's necessary to call the office and get some information feel free to do it collect.

Applegate

I think basically that things are, insofar as I'm concerned unless there's new information that comes to me, things are basically in the hands of the GAP people.

Devine

As far as contacting you pretty much the ground rules we worked out is that Tom will get in touch with us and we'll contact your office.

Applegate

If I have any extreme concerns. The only thing...

Devine

The weekly meetings you've set up to review.

Applegate

The only thing I think that probably, you know, I think this was a very important meeting. Very informative on both sides of the fence at least I hope so on your side. I know so on mine. The only reason I think I was probably