



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

March 3, 1981

CC VS
RDY
JGK-144

PRINCIPAL STAFF	
DIR	ESS
D/D 2/3	PAO
A/D	SLO
DR&PI	
DE&TI	
DEP&OS	File ✓

Mary Eastwood, Esq.
Acting Special Counsel
Merit Systems Protection Board
1717 H Street, N.W.
Washington, DC 20419

Dear Ms. Eastwood:

Today I sent the enclosed letter to the Acting Assistant Attorney General, Office of Legal Counsel, U.S. Department of Justice, requesting his legal opinion on the scope of the Special Counsel's jurisdiction under 5 U.S.C. 1206(b)(2) and (b)(7). The Commission does not intend to respond to your letter of December 29, 1980 requesting a report from the Commission on certain allegations made by Thomas W. Applegate until we have heard from the Department of Justice. I appreciate your cooperation.

Sincerely,

Leonard Bickwit, Jr.
General Counsel

Enclosure:
As stated

Office of the Special Counsel

1717 H Street, N.W.
Washington, D.C. 20419

DEC 29 1980

Honorable John Ahearne
Chairman
Nuclear Regulatory Commission
1717 H Street, N.W.
Washington, D.C. 20419

Dear Mr. Ahearne:

The enclosed information is transmitted pursuant to the provisions of 5 U.S.C. 1206(b)(2). As you are aware, that provision of law requires the Special Counsel to transmit to the appropriate agency head information received by the Office which the discloser reasonably believes evidences a violation of law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

It is alleged by the original source of the information, Mr. Thomas W. Applegate, and his representative, the Government Accountability Project, that the information concerning the conduct and results of an investigation by the Nuclear Regulatory Commission at the Zimmer Nuclear Power Facility at Moscow, Ohio in May and June 1980 and other information concerning activities and incidents at the Facility construction site disclosed to this Office constitute all of the types of information required to be transmitted under 5 U.S.C. 1206(b)(2). Specifically, it is alleged that: (1) the NRC chose to exclude from the scope of the investigation serious issues brought to its attention which the NRC had a statutory responsibility to investigate; (2) the issues accepted for investigation were not investigated thoroughly or in keeping with sound investigative procedures or techniques; and (3) the investigative conclusions were inaccurate and incomplete. It is further alleged that, because the investigation was conducted in a shallow and limited manner, it allowed the continuation of numerous wrongful situations and activities at the Zimmer facility, including, among others: (1) serious faults in key safety systems; (2) an ineffective quality assurance program, due in part to malfeasance by the utility company and its contractor; (3) inadequate fire detection and extinguishing systems; (4) poor security measures; (5) presence of illegal firearms; (6) drunkenness among employees; and (7) theft of materials; which taken together may pose a substantial danger to public health or safety.

We recognize that all of the matters disclosed to this Office may not be within the jurisdiction of the NRC. Nevertheless, we are transmitting all of the information received in order to provide the full context of the allegations which appear to be within the purview of the NRC.

8112080213

I request that your report be transmitted to this Office pursuant to 5 U.S.C. 1206(b)(7) no later than sixty days from the date of your receipt of this letter. Please cite control number 10-1-70041. We note, it is our procedure to maintain a public file of agency reports received under 5 U.S.C. 1206(b)(7). Therefore, unless you provide some reason why your report or parts thereof should not be released, we will include the report in full in the public file. For further information concerning this matter, please call me or James Sugiyama of my staff. My telephone number is 653-7107, and Mr. Sugiyama's is 653-7140.

Sincerely,

Mary Eastwood by JPS.
Mary Eastwood
Acting Special Counsel

Enclosure