

Foster
Winters



UNITED STATES NUCLEAR REGULATORY COMMISSION

OFFICE OF PUBLIC AFFAIRS, REGION III
799 Roosevelt Road, Glen Ellyn, Illinois 60137

NEWS ANNOUNCEMENT: 82-04
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NRC HEARING ON ZIMMER PLANT TO RESUME JANUARY 25 IN CINCINNATI, OHIO

The presiding Atomic Safety and Licensing Board has scheduled resumption of hearing on January 25 in Cincinnati, Ohio, in the Nuclear Regulatory Commission licensing proceeding on the application submitted by Cincinnati Gas & Electric Company for a license to operate the Wm. H. Zimmer Nuclear Power Station, Unit 1, being built near Moscow, Ohio.

The hearing will reconvene at 1:00 p.m. on Monday, January 25 in Courtroom 805 in the U.S. Post Office and Courthouse, 5th and Walnut Streets, Cincinnati. It will continue there for the rest of that week and February 2 through February 5 of the following week. Except for January 25, the hearing will begin each day at 9:00 a.m.

These hearing sessions will be concerned with emergency planning and monitoring with respect to the application to operate the Zimmer plant.

The Board will hear oral limited appearance statements from members of the public the afternoon of January 25. If there is a large number of individuals who wish to make such statements, the Board will limit each statement to about five minutes. Written statements may be filed with the Board at any time.

The Licensing Board consists of the following Administrative Judges: Dr. Frank F. Hooper; Dr. M. Stanley Livingston; and John H. Frye, III, Esq. Dr. Hooper is associated with the School of Natural Resources at the University of Michigan at Ann Arbor. Dr. Livingston, a nuclear physicist, resides in Santa Fe, New Mexico. Judge Frye, a lawyer who is Chairman of the Board, is a full time member of the NRC Atomic Safety and Licensing Board Panel.

(NOTE: The Nuclear Regulatory Commission permits the use of still, motion picture, and television cameras during licensing proceedings when allowed by the rules of the hearing facility. Cameras must use available light and be operated from a fixed position throughout the proceeding. Equipment should be placed before the start of the hearing).

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January 19, 1982

CINCINNATI, OHIO

EDQUIRER APR 22 1982

MORNING - 184,138

SUNDAY - 267,113

Panel Asks Criminal Probe Of CG&E Zimmer Records

The U.S. attorney general should immediately begin investigations of alleged criminal activities by Cincinnati Gas & Electric Co., involving falsification of records at the Zimmer nuclear power plant, members of the Cincinnati Environmental Advisory Council said Wednesday night.

The council, which makes recommendations to Cincinnati City Council, passed a resolution urging the city manager to request that U.S. Attorney General William French Smith appoint a special U.S. attorney to make the probe.

CG&E RECENTLY was fined \$200,000 by the federal Nuclear Regulatory Commission (NRC) for poor recordkeeping during construction of the \$1.25 billion nuclear power plant in Moscow, Ohio.

A number of groups critical of development of nuclear power facilities, including the Government Accountability Group, have been pressing for the criminal investigation, based on the alleged alteration and falsification of the records, harassment of inspectors, and failure to make required quality assurance investigations.

The NRC findings were turned over to the U.S. Justice Depart-

ment last September and subsequently to the U.S. Attorney's office in Cincinnati.

Assistant U.S. Attorney Partick J. Hanley has said he would not reveal if such an investigation would be made, but he also said that a criminal investigation of the Zimmer operations would be not be done until the NRC civil probe is completed.

"CHRIS BARNES (U.S. attorney in Cincinnati) should step aside and let a special investigator look into it," David Altman, vice chairman of the Environmental Advisory Committee, said Wednesday.

"Those criminal allegations should be looked into and the CG&E officials involved should either be cleared or indicted," he said. "It is inconceivable that those officials should control Zimmer with those allegations hanging over their heads."

A simultaneous criminal investigation could benefit, rather than hamper the civil investigation, by encouraging CG&E employees and construction workers, particularly lower-level employees to "loosen up," said Pasquale Scarpino, chairman of the advisory council.

Press Intelligence, Inc.

WASHINGTON, D.C. 20005

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CINCINNATI, OHIO

POST

APR 22 1987

EVENING - 190.303

New Zimmer probe is urged

By Mary Carmen Cupito
Staff Reporter

Cincinnati's Environmental Advisory Council recommended unanimously Wednesday that the mayor and the city manager call for an immediate federal investigation of alleged criminal activities at the Zimmer Nuclear Power Station.

However, the city previously had agreed not to intervene in the plant's licensing process. In return, Cincinnati Gas & Electric Co. said it would install air and water monitors at the plant

that would give simultaneous readouts at the Cincinnati Water Works.

W. PETER HEILE, assistant city solicitor, said the city manager, who is out of town, would want the legal department to look at whether calling for such an investigation would violate the agreement and jeopardize the city's ability to monitor immediately the plant's radioactive emissions.

The environmental council, which has only advisory powers,

drafted a letter for the signature of the city manager and the mayor, asking U.S. Attorney General William French Smith to appoint a special investigator to probe allegations of falsification of records and harassment of inspectors at the plant.

The U.S. Attorney's office here refused to comment on whether it will undertake a criminal investigation.

THE NUCLEAR Regulatory Commission has fined CG&E \$20,000 for inadequate quality

assurance during construction at the \$1.2 billion plant in Moscow. It is continuing an investigation of other complaints about the way the plant was built.

Tom Carpenter, a member of the Environmental Advisory Council and a member of the Cincinnati Alliance for Responsible Energy, an anti-nuclear power group, said the council's attorneys believe the recommended letter by the city would not jeopardize the agreement between the city and CG&E.

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Foes Assail U.S. Attorney For Delaying Zimmer Probe

BY BEN L. KAUFMAN
Enquirer Reporter

Critics of Zimmer nuclear power station Friday accused U.S. Attorney Chris Barnes of footdragging on charges of criminal activities at the Moscow, Ohio, construction site.

"It's time for the U.S. attorney's office to get on with the case," Washington-based lawyer Thomas Devine said. "They're not doing their job effectively."

IF ANYTHING is being done, it's well concealed, Devine argued, because key witnesses are not being contacted. "We know. We called them up and asked them."

Devine issued his verbal challenge at a press conference and then he documented it in a seven-page letter and supporting documents delivered to Barnes.

Devine is legal director for the Government Accountability Project (GAP), a nonprofit watchdog. He was in Cincinnati as attorney for Zimmer whistleblower Thomas Applegate.

Devine and Applegate noted "street crimes" such as theft and gambling at Zimmer, but they concentrated on alteration or falsification of quality assurance documents and failure to conduct required quality assurance investigations.

Those documents and inspections are required by the Nuclear Regulatory Commission (NRC) for all safety-related systems. Foul-ups could be crimes under the Atomic Energy Act as well as civil violation of NRC regulations.

BARNES SAID he would review Devine's materials, but any

Department of Justice criminal investigation at Zimmer would wait for NRC to finish its civil probe. That has "top priority."

Applegate's charges are based on what he saw during his undercover probe of timecard cheating for Cincinnati Gas & Electric Co.

He took his suspicions to GAP when utility and Justice Department officials rebuffed him. "I know a conspiracy and cover-up when I see it," Applegate said.

GAP pressured the NRC into probes which have brought one \$200,000 civil penalty against CG&E for problems including quality assurance record keeping.

CG&E is building the power plant and is to operate Zimmer if NRC licenses it. If all goes as scheduled by CG&E, Zimmer should produce commercial amounts of power next year.

"Zimmer is a crime scene," Applegate said, and present and past U.S. Attorneys have ignored it. "There's something wrong in the U.S. Attorney's Cincinnati office," he complained.

DEVINE AND Applegate will tell their stories at an anti-Zimmer rally from noon to 4 p.m. today at Fountain Square.

It is uncertain what is going on at Zimmer, given Barnes' silence and NRC caution in public remarks.

NRC inspectors from the Chicago regional office continue to investigate Applegate's charges and new evidence arising from initial investigations. They are sharing the results of their investigations with Barnes' staff.

What is unclear is whether a criminal investigation has been started.

NRC officials said there is no neat yes or no answer as far as their efforts are concerned.

DEVINE SAID he was not satisfied with those responses and he called on NRC officials to come clean.

Too much NRC information has been denied to GAP on the grounds it was required for criminal probes, he said. "There has to be something going on behind the scenes."

Applegate said he can link specific CG&E officials to criminal acts at Zimmer, but he refused to do at the press conference. He wants to share that information with federal officials and let them do the job, he said.

Applegate said he would be willing to pursue criminal charges against CG&E officials himself if federal officials don't do the job. That may be tougher than he thought.

The Department of Justice handles prosecutions under the Atomic Energy Act. If the department chooses to ignore complaints, there is no other avenue open to a private citizen under federal law, an NRC lawyer explained.

A U.S. attorney elsewhere in the area affected by Zimmer might undertake a case if Barnes refuses, that NRC lawyer said, but that's a slender reed upon which to lean.

A SPOKESMAN for the Ohio Attorney General could find no clear state law violated by even criminally deceitful quality assurance records at Zimmer. He said recourse would be through federal officials . . . at the Justice Department.

Zimmer Under Scrutiny

Justice Department Questions Prosecution

BEN L. KAUFMAN
Staff Reporter

Files from the continuing probe at the Zimmer nuclear power station are being turned over to the Justice Department for possible criminal prosecution, a senior Nuclear Regulatory Commission official said Wednesday.

"We've been in co-operation with the Department of Justice," James J. Cummings, director of NRC's Office of Inspector & Auditor, confirmed. The NRC investigates and levies civil penalties, he explained. The Justice Department becomes involved when criminal violations are suspected.

Cummings said he did not have enough information to say whether there had been successful criminal prosecutions at other commercial nuclear power plants. He indicated they must be rather rare, or, given his job at the commission, he would have heard about them.

ZIMMER HAS been under intense NRC scrutiny since the agency was pressured into investigating complaints by a private detective, Thomas Applegate, of alteration and falsification of quality assurance records at the construction site. Those records

ZIMMER

CONTINUED FROM PAGE A-1

are supposed to assure the adequacy of safety-related systems at the \$1.25 billion facility.

Cincinnati Gas & Electric Co., which is overseeing construction, recently paid a \$200,000 civil fine for what the NRC said included shoddy quality assurance procedures.

Cummings said that quality assurance problems also could involve criminal prosecution.

The NRC's Region III inspectors, based in Chicago, are responsible for the investigation. When their work is complete, probably before year's end, Cummings said there will probably be a joint NRC/Justice Department review of any possible criminal

violations of the Atomic Energy Act.

So far, Cummings said his staff, based in Washington, D.C., has not looked into regional inspectors' findings for criminal violations. He is waiting for regional inspectors to finish their work.

THE JUSTICE Department got its first official look at NRC suspicions about Zimmer last September, when the NRC turned in a "draft copy" of its interim report, Region III spokesman Russ Marabito said.

The documents went to Assistant U.S. Attorney Patrick J. Hanley in Cincinnati, he said.

Hanley responded that no criminal investigation would begin at Zimmer before NRC's civil probe was done, Marabito said.

Group questions document probe at Zimmer plant

Press Intelligence, Inc.

WASHINGTON, D.C. 20005

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CINCINNATI, OHIO
POST MAR 18 1982
EVENING - 190.303

By Ron Liebau
Post Staff Reporter

The U.S. Nuclear Regulatory Commission was investigating as early as July 1981 whether construction documents were being intentionally altered at the Zimmer Nuclear Power Station.

However, that investigation never produced a specific referral to the U.S. Justice Department for criminal prosecution.

The role of the NRC and the Justice Department in pursuing possible criminal conduct pertaining to some construction records is being questioned by a public interest group.

Documents released in November by the NRC show that two investigators from the its Office of Inspector and Auditor interviewed a CG&E official on July 9, 1981.

THE INVESTIGATORS told William W. Schwiers, since retired as CG&E's quality assurance manager at Zimmer, that they were investigating "intentional alteration of Quality Control (QC) Records and willful omissions regarding QC records," according to an NRC report of the interview.

Most of the questions to Schwiers concerned CG&E's quality assurance program and its relationship with Kaiser Engineering, the Oakland-based general contractor.

"They were looking into the possible criminal aspects of the documentation," said Jan Strasma, an NRC spokesman.

STRASMA SAID the investigators conducted numerous interviews with different con-

struction and quality assurance personnel. The investigation did not result in a specific referral to the Justice Department for prosecution, he said.

The NRC has provided the U.S. Attorney's office in Cincinnati with copies of inspection reports dating back to last year. Strasma said there also have been informal contacts between NRC investigators and the U.S. Attorney's office.

Tom Devine, associate director of the Government Accountability Project, said Wednesday that he has been stymied in attempts to find out if a Justice Department investigation is underway into alleged false construction documents.

THE U.S. attorney's office in Cincinnati refuses to comment on whether an investigation is in progress.

"We have not had an official criminal referral," said Ann Tracey, an assistant U.S. attorney. "I'm aware, though, that there certainly are some allegations and findings indicating the possibility of some criminal violations."

GAP represents Tom Applegate, a former private detective whose allegations of construction mismanagement prompted an investigation by the U.S. Nuclear Regulatory Commission. The investigation, which is continuing, resulted in a \$200,000 civil penalty against CG&E.

CG&E, the primary builder of Zimmer, which is owned by CG&E and two other utilities, acknowledged in February that some records were inaccurate or incomplete but strongly denied any records were falsified.

Tougher probe urged at Zimmer

The Cincinnati Post

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CINCINNATI, OHIO
POST
MAR 17 1982
EVENING - 190.303

By Ron Liebow
Post Staff Reporter

A Washington-based public interest group said today it will ask the U.S. attorney's office in Cincinnati to explain what is being done to investigate possible criminal activity at the Zimmer Nuclear Power Station.

"I want to flush out what has been a dormant issue and which is too serious to ignore," said Tom Devine, associate director of the Government Accountability Project.

DEVINE SAID allegations that construction documents were falsified or altered at the \$1.25 billion power station in Moscow, Ohio, were referred to the U.S. attorney's office last summer by the U.S. Nuclear Regulatory Commission.

Falsifying construction documents may be a criminal violation of the federal Atomic Energy Act, Devine said.

"What we are trying to do is challenge the U.S. attorney's of-

fice to make a public accounting about what response they have made to the criminal referrals on these various charges," said Devine.

Christopher Barnes, U.S. attorney in Cincinnati, could not be reached for comment this morning. He previously refused comment.

AN NRC investigation report released last November found that some records that were supposed to ensure quality work was performed were false. A copy of that report was delivered to the U.S. attorney's office here, according to the NRC.

The Cincinnati Gas & Electric Co., the primary builders of Zimmer, which is owned by CG&E and two other utilities, acknowledged in February that some records were inaccurate or incomplete, but strongly denied any records were falsified.

CG&E President William H. Dickhoner said that to state records were false implied there was criminal intent.

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RFW

EDITORIAL COMMENTS BY FOSTER...



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

February 25, 1982

MEMORANDUM FOR: Robert F. Warnick, Director, Enforcement and Investigation Staff
FROM: J. B. McCarten, Investigator
SUBJECT: ZIMMER DOCUMENT^S AND INVESTIGATION LEADS

SHOULD BE UNDER SUBJECT,
AND SHUTTERED.

9/1982 MEMO

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

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

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

4. Due to my assignment to the Zion investigation team, I was unable to review or augment the computerized list of allegations so that all leads are tracked. I have, however, provided Investigator Foster with all the statements taken by me and copies of all my interview notes so that he can perform this much needed task.

NEEDS A LEAD-IN... AND RELOCATE INTO END OF MEMO...

On three occasions during the Zimmer investigation, the Region III EIS Enforcement and Investigation Staff has informed OIA and DOJ that Region III would pursue all issues which may constitute violations of criminal law. The investigators currently assigned to this case have no training of any kind from a federally recognized Criminal Law Enforcement Training Center, or any experience in the investigation or enforcement of criminal law. The Region is not fulfilling its commitment to OIA and DOJ without assuring personnel with the requisite training and experience are assigned to this case. I recommend ^{THAT} an individual from the IE:HQ staff with the ^{NECESSARY} experience be assigned and given the proper authority, independent of the Region III staff, to conduct this investigation.

I BELIEVE THIS IS IN ERROR.

FEDERAL



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Robert F. Warnick

-2-

February 25, 1982

SHOULD BE AT BOTTOM OF PAGE 1.. FOLLOWING #4.

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


James B. McCarten
Investigator

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