

AFFIDAVIT

My name is David Jones. I am submitting this affidavit to Mr. Thomas Devine, who has identified himself to me as the legal director of the Government Accountability Project of the Institute For Policy Studies. I have instructed Mr. Devine to share my statement with the Nuclear Regulatory Commission (NRC) Commissioners. I am submitting this affidavit to protest the chapter on case studies in the Torrey Pines Report. In general, the section on whistleblowing misses the relevant point. In particular, the references on page 8-4 to my own interview are so incomplete as to be inaccurate, and the conclusions with respect to my own case are unsupported.

In overview, the analysis of whistleblowing missed the real problem - the lack of organizational freedom required by 10 CFR 50, Appendix B, Criterion I for all quality personnel. The real issue was whether Quality Assurance (QA) personnel had the freedom to identify and verify corrective action of violations, not merely whether individuals were wronged. In other words, the real issue is whether the program was compromised by lack of organizational freedom. This was the root cause of the QA breakdown, as I told Torrey Pines. But Torrey Pines' report skipped the root cause and quibbled about the individual personnel actions.

In the process, Torrey Pines shrunk the scope of the issue drastically. Whistleblowers constitute only a small portion of the personnel who were charged with responsibilities to per-

form Quality Assurance duties and were prevented from doing so by management at Zimmer.

Torrey Pines also substituted a smokescreen to partially explain the root causes when it identified a lack of communication as the reason for the breakdown. There was never a serious lack of communication that I observed. If you were conscientious toward quality, it always was made clear that you were not a team player and that persistence would result in personnel actions to reduce your authority. The methods included techniques such as: adding roadblocks on the organizational chart through interim layers of authority staffed by relatively inexperienced personnel; and by insulating diligent QA employees and preventing them from following through on corrective action by transfers or premature reassignments that removed their authority to participate further in resolving the original item in dispute. These practices and others that occurred at Zimmer are directly contrary to the basic organizational freedom which establishes and maintains the integrity of the QA program.

I discussed the above principles and many specific examples of retaliation during my interview with Torrey Pines, which went on for over three hours, to the best of my recollection. They took notes and, I believe, tape recorded the session. They also promised to get back to me and expressed an interest in obtaining more specifics. I agreed to cooperate, but they did not contact me again.

Some of the examples which I discussed, and which Torrey Pines ignored, are extremely significant. For instance, I

told Torrey Pines how Kaiser manager Dave Howard announced to me personally that he managed by intimidation.

I told them how another identified individual and myself attempted to correct deficiencies in the system of processing FDI and FDDR General Electric (GE) design changes and to facilitate the verification of activities which affected quality. A procedure was initiated and later deleted, that would have provided accountability for action on these Quality reports. These abbreviations stand for "Field Disposition Instructions" and "Field Deviation Disposition Request," respectively. I told Torrey Pines that we had to prepare this procedure because the FDI's and FDDR's were not getting through the system. FDI's and FDDR's all applied to the reactor and attachments, also known as the Nuclear Steam Supply System (NSSS). Incredibly, however, the identified defects were being accepted through dispositions that said the plans would not significantly impact on public health and safety.

In spite of this, the Kaiser QA manager cancelled the E.T.R. procedure. My partner on the project was harassed so badly he had to resign. Kaiser even tried to prevent this individual from receiving his remaining salary and compensation when he left. The individual only received his money after threatening to go public. I discussed the above issues with Torrey Pines, among other examples of retaliation.

In addition to being incomplete, the report is inaccurate with respect to retaliation and related issues. For example,

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Torrey Pines said that there was a casual attitude toward 10 CFR 50.55(e) reports. That is wrong. I witnessed a determined effort to avoid submitting the reports. I told Torrey Pines how an auditor's memo proposing a 50.55(e) report was returned to him by the Kaiser QA Manager, who then yelled at the auditor and instructed him to discontinue the practice of writing memos. The auditor soon was transferred. If Torrey Pines had reported that part of my interview, it would have been more difficult to attribute the problem to a casual attitude.

Torrey Pines revealed how bias could create inaccuracies when it discussed my pay status. The report accepts at face value Kaiser's explanation that my pay status was corrected. It wasn't.

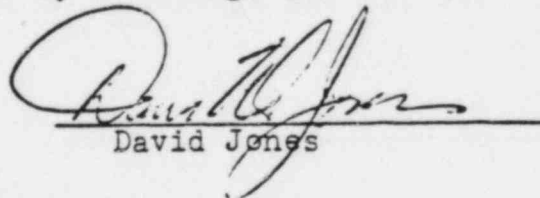
I was particularly disillusioned with how Torrey Pines handled the issue of the "NR Action Plan." Torrey Pines said that the plan was an attempt to improve the nonconformance reporting program. In my opinion, any program that establishes statistics on nonconformance reports to identify and take corrective action against the habitual NR writers - those who found the problems - is per se in violation of 10 CFR 50, Appendix B requirements for organizational freedom. The report itself states that the objective was to reduce NR's, not improve them.

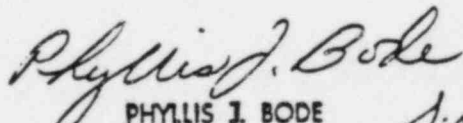
My criticism goes beyond second-guessing Torrey Pines' judgment, however. In this instance I believe that their selective use of the record they developed indicates a lack of good faith. "Corrective action" meant threatening and/or getting rid of those who wrote NR's or challenged the dispositions. I informed

Torrey Pines of the July 1982 "layoffs" of many such inspectors who had been identified by the NR Action Plan. I also recall specifically asking Torrey Pines at a May 1983 public meeting in Cincinnati if they would cite all the documentary and other references for the report when it came out. The Torrey Pines representative agreed to provide enough citations to show how thorough they had been. In fact, they didn't. Audit conclusions do not have any credibility if the basis for the findings is not available. For that reason alone, the Torrey Pines Report is not credible. I make this assessment of the whole report, even though I agree with many of the conclusions.

In light of the selective use of evidence and inaccuracies, I believe that at a minimum the NRC should obtain and make public the entire investigative file - all of the tapes, notes, interview reports, memoranda and other records obtained by Torrey Pines. Many of us told Torrey Pines the truth. Unfortunately, Torrey Pines only shared the part they wanted to. The public record on Zimmer remains biased and distorted.

I have read the above five page affidavit, and it is true, accurate and complete to the best of my knowledge and belief.


David Jones


PHYLLIS J. BODE
Notary Public, State of Ohio
My Commission Expires Oct. 19, 1984
Sept. 26, 1983

available to the parties -- 1) the investigation of the Office of Inspector and Auditor (OIA) at Zimmer, conducted under the leadership of Judge Helen Hoyt; and 2) the Office of Investigations (OI) investigation that has been ongoing for over a year.

I. GOOD CAUSE

A. New Evidence

MVPP submits that it has good cause for submission of new evidence, because it was not previously available. Prior to last week's investigative trip, MVPP had not heard of the documents it wishes to file with this Board. Contrary to the somewhat flattering inferences in Applicants' accusations of delay, MVPP does not have the capacity to obtain records demonstrating QA illegalities at will, through a magic wand or otherwise. MVPP is acting as expeditiously as possible to alert all parties to these developments.

Second, the evidence should be considered because it is highly significant. Indeed, MVPP would use the evidence as the basis for a motion to present new contentions, if the relevant contentions were not already pending. To illustrate the relevance for this Board, the new evidence and analysis help to prove the following issues relevant to the pending contentions:

∴ CONTENTION II: MATERIAL TRACEABILITY

1) Kaiser personnel have received contradictory instructions whether traceability is required through fabrication and installation.

2) Nearly 2000 feet of W 8 X 17 beams from a purchase order cannot be accounted for.

1/ "Investigations and Adjudicatory Proceeding; Statement of Policy," 48 Fed. Reg. 36358-59 (August 10, 1983).

3) New evidence and examples illustrate the practice of purchasing from non-approved suppliers and upgrading the items from nonessential to essential status, in some cases on the authority of construction personnel.

4) 1750 feet of W 8 X 17 beams were upgraded from nonessential to essential status on the orders of the QA manager, over the objections of the warehouse inspector.

5) Overall, there has been a lack of control and records on upgraded materials.

CONTENTION III: VENDOR QUALITY ASSURANCE

6) As of March 1982 there were 45,000 purchase orders that need to be reviewed to learn if legal requirements have been met.

7) The QA Manual failed to include provisions for mandatory pre-purchase reviews.

8) Additional evidence and examples illustrate the improper practice of additions to the Approved Vendors List (AVL) based solely on the personal preference of the QA Manager.

9) Additional evidence and examples illustrate how Kaiser construction and CG & E officials signed Kaiser Purchase Orders, instead of Kaiser QA representatives as required.

10) Blanket approval was given for Sargent and Lundy suppliers, without independent evaluations of the supporting data or, in some cases, disclosure of the identities of some of the firms involved.

11) In 1982, the majority of support documentation was missing for a review of 16 suppliers on the Approved Vendors List.

12) Previous versions of the Approved Vendors List have been improperly destroyed, leaving holes in the history of the AVL that inherently cannot be filled.

13) The Approved Vendors List was not updated and purged in order to keep it current and accurate. This traditional problem persisted into 1982.

14) There was conditional approval of Gladstone Laboratories for the AVL in 1973, and continued active reliance on Gladstone throughout nearly all of Zimmer's construction, despite Gladstone's almost total noncompliance with 10 CFR 50, Appendix B. The ongoing nature was detailed in a 1983 Kaiser audit.

15) Gladstone was used for the destructive testing necessary to qualify the welding procedures that governed welding throughout Zimmer, although the laboratory had only been approved on the AVL for nondestructive tests (NDT), such as X-rays. The flaw renders invalid a major portion of the welding procedures at Zimmer.

CONTENTION IV: QUALITY ASSURANCE PROGRAM -- WELDING

16) The program for weld rods failed to meet minimum standards in nearly all areas, starting with the inability to provide Certified Material Test Reports (CMTR) and continuing through using the wrong metal for electrodes as specific assignments.

17) There were no tests done on one weld procedure for the first two years of work.

18) There is an inability to locate CMTR's on the coupons used to test welding procedures, resulting in an inability to verify the base metal relied on to approve the procedures.

19) Welding procedures were approved without being tested for all the uses to which they would be put, such as pipe welding.

20) Although welding procedures are required by the American Society of Mechanical Engineers (ASME) to be redone whenever certain tolerance levels are exceeded for essential variables, at Zimmer excessive tolerances were written into the welding procedures.

21) Basic data on essential variables was not always recorded on the relevant Q-1 forms for welding procedures, and the recorded data was not always updated to reflect changes.

22) Welding procedures were improperly changed through "supplements," instead of revisions, thereby circumventing the requirement for new tests.

23) Although the ASME code required welding procedures to be requalified to the current version of the code, the Welding Task Force at Zimmer has attempted to circumvent the effort by using earlier versions of the code which have less stringent requirements. The audit team leader whose findings led to the creation of the Task Force termed its efforts "a complete whitewash."

24) All of the welding procedures qualified at Gladstone Laboratories are invalid, because Sargent and Lundy specifications required the procedures to be tested on-site at Zimmer.

25) Kaiser has improperly attempted to manipulate Audit #67 -- of, inter alia, welding procedures, welder qualifications and vendor purchases -- through transferring the unresolved issues to a new audit, instead of solving the problems under the oversight of the original auditors.

26) A top Kaiser audit official improperly asserted that the Welding Task Force addressed all of the issues in Audit #67, although some of the audit findings had dealt with unrelated vendor QA deficiencies.

27) A September 9, 1982 Kaiser Audit Status Report deleted all mention of Audit #67 and also rewrote history to remove references to whistleblower David Jones' work on a different audit.

28) As of October 6, 1981 no audit could be done of preheat treatment of welding at Zimmer, because it was not performed despite knowledge of heat treatment deficiencies since 1979.

CONTENTION VI: RETALIATION

29) In June 1982 Kaiser official Sherrill Nolder informed Kaiser President J. McCloud that after writing reports on serious QA violations and refusing to modify the truth to the NRC, she was subjected to, inter alia, the following reprisals: her certification to perform audits was removed; rude disciplinary lectures and a low performance appraisal ensued; her desk was ransacked; her time cards were altered; and other harassment intensified. Despite her letter, the retaliation continued until her February 1983 dismissal.

CONTENTION VIII: CHARACTER AND COMPETENCE

30) Additional evidence suggests four more cases of potentially deliberate records falsification, including examples where welds were not done to the item claimed in the records; the same liquid penetrant test report was used for different inspections by different inspectors over a six-month period; records were altered without explanation; and five different welder symbols were used to document the work of one welder.

31) On September 14, 1982 Kaiser's Vice President Admiral Donald Iselin testified in Congress that all welding procedures were acceptable, except for four compromised by suspect Charpy tests. In fact, evidence indicates that 16 out of 20 welding procedures reviewed had to be rewritten.

32) Admiral Iselin testified that the welding procedures were successfully retested. That claim raises serious questions, since Kaiser lacks the necessary data on flow rates needed to requalify the procedures.

33) Admiral Iselin testified that the testing problem for welding procedures was due to a small period when Gladstone's Charpy machine was not working properly. In fact, the Charpy was not even certified at all from 1951-75, when the U.S. Army caught the problem. As of 1983, the Charpy machines for destructive tests still were not calibrated.

B. Torrey Pines Report

On August 23, 1983 MVPP received from CG & E a copy of Torrey Pines Technology's "Independent Review of Zimmer Project Management." MVPP is confident that even Applicants will not find dilatory the three days MVPP spent reviewing the 491 page text and 47 page summary of the report. The contents are relevant for this Board in two areas.

First, the findings in the report are highly relevant, significant evidence in support of MVPP's proposed contentions, as well as against the credibility of Applicants' denials. The findings in the Torrey Pines report confirm nearly all of the conceptual charges of QA violations raised by MVPP. Torrey Pines' explanation for the cause of the QA breakdown is nearly identical to that alleged by MVPP: CG & E's leadership emphasized cost and scheduling concerns, at the expense of quality assurance. Quality assurance was the bottom priority of an unqualified management. Contrary to the NRC staff and CG & E's assertions, the utility was not ignorant of its contractor Kaiser's QA practices. In fact, CG & E dominated Kaiser's QA policy and exercised budget control to thwart the contractor's attempts to attain a program of minimally adequate scope.

Some of the most fundamental programmatic deficiencies continue today, over two years after the April 8, 1981 Immediate Action

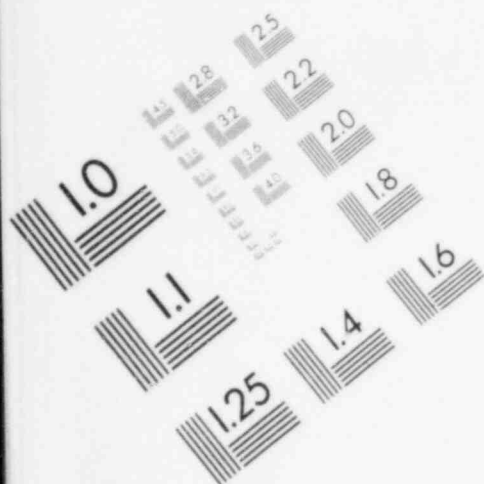
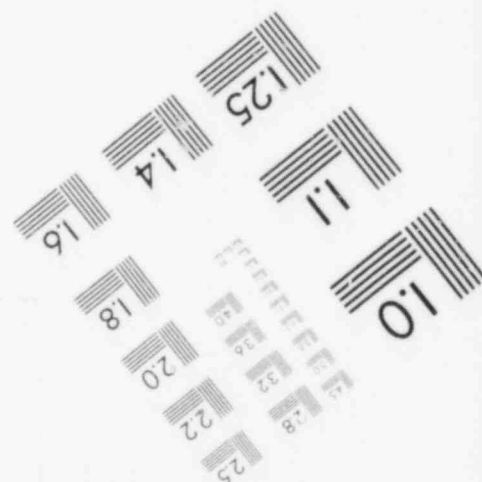
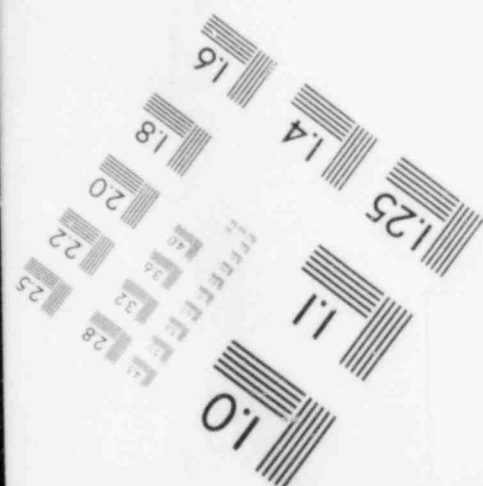
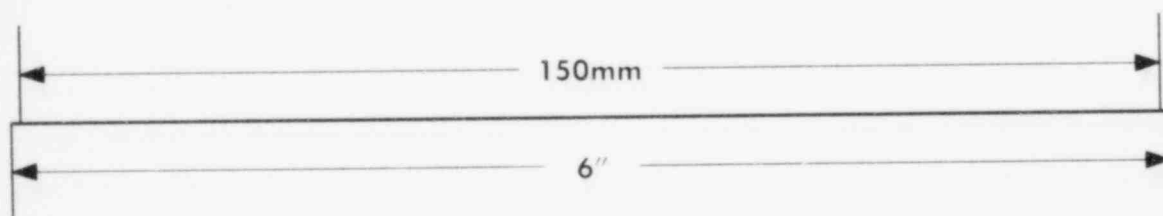
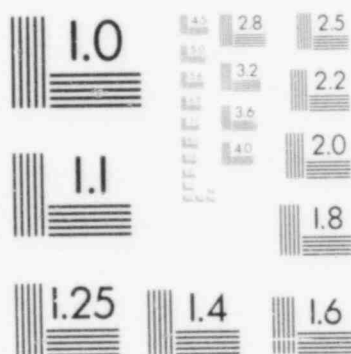
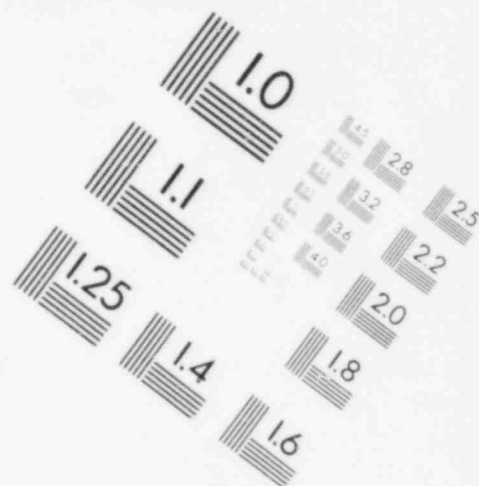


IMAGE EVALUATION TEST TARGET (MT-3)



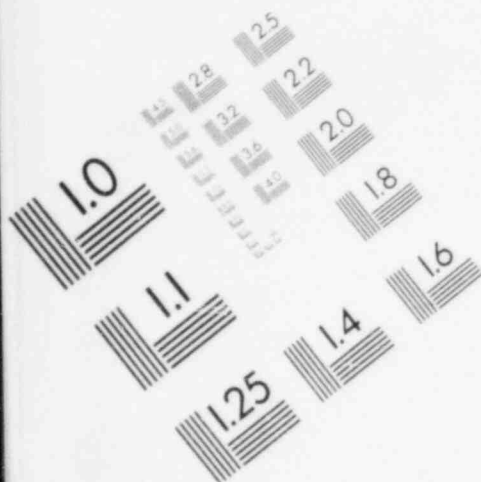
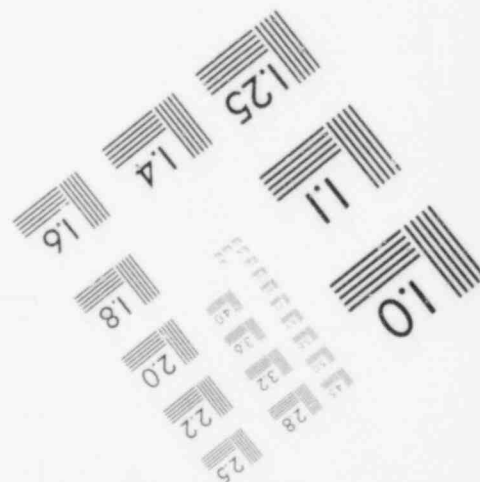
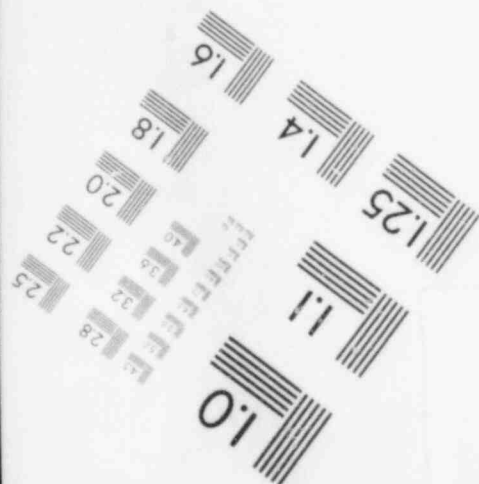
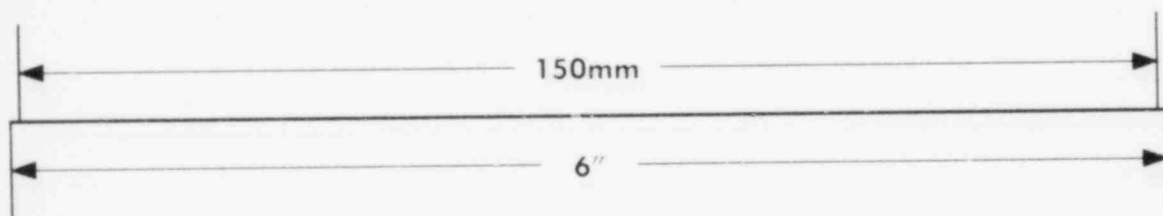
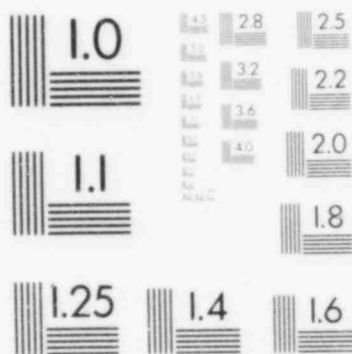
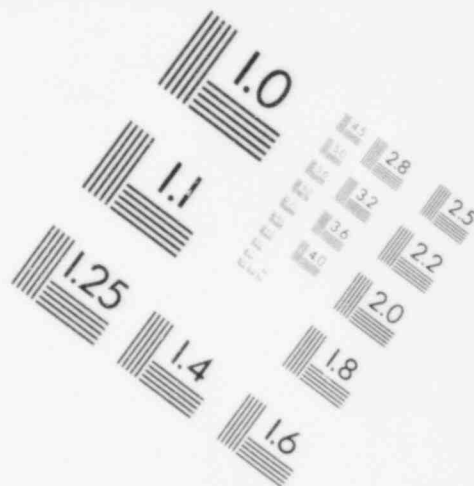


IMAGE EVALUATION TEST TARGET (MT-3)



Letter. These findings cast doubt on Applicants' frequent response that a "program" is solving the problems identified by MVPP.

Second, the recommendations in the Torrey Pines report illustrate the utter failure to date of alternative mechanisms to protect MVPP's interests. Despite confirming the existence of a massive QA breakdown caused by CG & E, Torrey Pines recommended solving the problem by retaining the status quo and all the underlying causes. MVPP submits that there is an inherent flaw with any recommendations that essentially propose "more of the same" at Zimmer. MVPP believes that a detailed analysis of the Torrey Pines recommendations would demonstrate the need for licensing hearings to directly address the issues and remedies that have apparently proved too politically sensitive for other forums.

C. Value for Discovery Motion

A brief on the new evidence and report would illustrate the value of discovery for demonstrating genuine disputes on material facts of safety significance that require a hearing. The report and new documents themselves raise significant issues for which discovery could provide a response on corrective action to test the specifics behind Applicants' reassurances.

Second, during the investigative trip MVPP counsel spoke with witnesses who provided highly significant allegations but did not have records available and could not provide statements due to fears of reprisal.^{2/} In each case, however, the witnesses either identified the documents or explained that their charges could be verified by

^{2/} MVPP also received the evidence which it seeks to submit under conditions of anonymity.

challenging Applicants to produce the records that should be available to demonstrate that QA requirements were honored.^{3/}

II. MOTION FOR LICENSING BOARD REVIEW OF PENDING INVESTIGATIONS

The Commission's August 10 Statement of Policy recognized the value for adjudicatory proceedings of evidence obtained by the NRC staff during ongoing inspections and investigations. Two such pending matters are highly relevant to MVPP's proposed contentions. MVPP moves that prior to a decision this Board review the full investigative files and any reports for the following two investigations which are not yet publicly available -- 1) the investigation by Administrative Law Judge Helen Hoyt of Thomas Applegate's allegations of misconduct by the Office of Inspector and Auditor during a 1981 investigation at Zimmer; and 2) the ongoing OI investigation of Zimmer performed primarily by Mr. John Sinclair.^{4/} Both investigations have involved intensive investigation of evidence and interviews with witnesses both on Zimmer, and on the adequacy of the NRC's staff performance at Zimmer. Neither report nor any findings are publicly available.

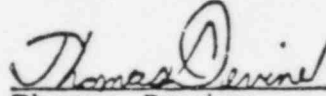
In conclusion, MVPP recognizes that it is unusual to file repeated briefs. The case is unusual, however, because of so many new official findings and developments. Further, MVPP believes that it has no duty to submit significant relevant evidence that is

^{3/} Consistent with this advice, MVPP further seeks leave to file a proposed initial Request for Production of Documents in order to demonstrate the value of discovery for the QA issues raised by its new evidence and the Torrey Pines report.

^{4/} Normally such a review would be at the request of the NRC staff. The staff has not made any effort on the record to so inform this Board. Fortunately, the Commission's Statement of Policy permits a Licensing Board to initiate a review on its own authority. (48 Fed. Reg. 26359).

necessary for this Board to make a fully-informed decision. If the motion to submit new evidence is granted, MVPP requests one week after receipt of the order to file its brief.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Thomas Devine", is written over a horizontal line.

Thomas Devine
Counsel for Intervenor MVP?

August 26, 1983

I HEREBY CERTIFY that copies of the foregoing "Miami Valley Power Project's Motion For Leave To Submit New Evidence and For Licensing Board Review of Significant Pending Investigations" has been served upon the following by mailing first-class, postage prepaid, this 26th day of August, 1983

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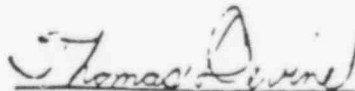
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Thomas Devine
Counsel for Intervenor MVPP

AFFIDAVIT

Attachment #

My name is I am submitting this affidavit freely and voluntarily, without any threats, inducement or coercion, to Mr. Thomas Devine, who has identified himself to me as the legal director of the Government Accountability Project of the Institute for Policy Studies. I have instructed Mr. Devine to send this affidavit to the Nuclear Regulatory Commission ("NRC") Commissioners, with all identifying characteristics deleted. On page 8-4 of the Torrey Pines Report, I was listed as "Mr. R.". I am submitting this statement to register my protest against the summary in the report of my interview with Torrey Pines representatives. The summary is both incomplete and inaccurate. Finally, the conclusions in the table, which exonerate CG&E, are unrealistic.

To illustrate how the report is incomplete, I disclosed to Torrey Pines the lack of quality control ("QC") inspections or surveillance during weld repairs conducted as a result of the Quality Confirmation Program. The summary table does not mention this issue.

In other respects the report is inaccurate. For example, Torrey Pines stated that I alleged "poor quality welds." That is incorrect. I said the welding program was poor, not the welds themselves. I told Torrey Pines that individuals were trained and certified to do original welds but were assigned to engage in weld repairs, which is a distinct and more difficult procedure. I also explained that the procedures actually used were too vague and therefore allowed an excessive amount of individual discretion, particularly since the personnel had not been trained to use those procedures.

Finally, I said that as a result, in practice the welders "repaired" the welds by grinding them out entirely, doing new welds and making them look nice with a few extra passes.

Torrey Pines reported that I disclosed cases of "improper documentation." That is an understatement. The records on welding were false. The problems discussed above were not reflected in the ^{ACCURATELY} records for the specific work assignments.

With respect to these issues Torrey Pines concluded, "Also, Catalytics (sic) Welding (sic) records have been found acceptable by CG&E. Allegation of bad welds seem (sic) inaccurate. CG&E action and attitude was appropriate." Quite clearly the abuses and inaccurate records described above are not "acceptable." If CG&E drew that conclusion, it must have missed the problems or refused to accept the obvious. If Torrey Pines thinks such an "action and attitude was appropriate," I question Torrey Pines' judgment on this issue.

The discussion of retaliation was similarly incomplete and inaccurate. Torrey Pines said I "alleged mistreatment of C. Griffis, a catalytic employee." That synopsis is too sketchy to be meaningful. I said that the employee, a QC inspector, was removed from the area and transferred after he wrote a Nonconformance Report. Mr. Devine has informed me that this type of "mistreatment" of Kaiser employees was among the illegal reprisals that led to a \$200,000 fine in November 1981 against CG&E.

The report concludes, "Info. shows Griffis was not mistreated. I wonder how Torrey Pines came to that conclusion. The authors did not claim to have interviewed him. I also do not understand how Torrey Pines could have made this conclusion based on a document review, since they spelled the victim's name wrong -- it was "Griffiths," not "Griffis"; and had him working for the wrong company -- he worked for CG&E, not Catalytic.

I have read the above three page affidavit, and it is true, accurate and complete, to the best of my knowledge and belief.

SUBSCRIBED AND SWORN to before me this 24 day of SEPTEMBER
1983. *Hamilton County, Ohio*

[Signature]
Notary Public

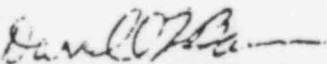
February 12 1987
Date Commission Expires

AFFIDAVIT

My name is . I am submitting this affidavit to Mr. Thomas Devine, who has identified himself to me as the Legal Director of the Government Accountability Project of the Institute for Policy Studies. I have instructed Mr. Devine to send this statement to the Nuclear Regulatory Commission (NRC) Commissioners, with all identifying characteristics deleted. On page 8-4 of the Torrey Pines Report on Zimmer, I am identified as "Mr. Q." I am submitting this statement to register my protest against the summary in the report of my interview with Torrey Pines representatives. The summary is both inaccurate and incomplete. Finally, the conclusions in the table, which exonerate Cincinnati Gas and Electric (CG&E), are unrealistic.

I have read the September 24, 1983 affidavit of identified in the Torrey Pines Report as "Mr. R." I fully agree with all the statements in Mr. R's affidavit, and adopt them as my own for purposes of this statement. I also wish to add several other topics that Torrey Pines failed to include in the record. First, Torrey Pines failed to report that I disclosed how Mr. R and I were supervising welding repairs, although we had never welded ourselves. Second, Torrey Pines failed to report that I was assigned these duties without any prior training.

I have read the above one page statement, and it is true, accurate and complete, to the best of my knowledge and belief.


DARRELL BAUMANN, Notary Public
State Of Ohio
My commission expires 7-24-84