



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

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OIA

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(2) File
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June 1, 1982

MEMORANDUM FOR: Zimmer File

FROM: A. Bert Davis, Deputy Regional Administrator

SUBJECT: MEETING WITH U.S. ATTORNEY, CINCINNATI, OHIO
ON MAY 20, 1982

Messrs. Cummings (OIA), Davis, Warnick, and Foster met with U.S. Attorney Mr. Barnes, Assistant U. S. Attorney Ann Tracey, and Assistant U.S. Attorney Tony Nyktas in Cincinnati on May 20, 1982. The meeting was requested by Mr. Barnes in letters of April 21 and May 7, 1982 to Mr. Warnick. The highlights of the meeting are discussed in this memorandum.

The NRC personnel discussed the roles of the regions and the Office of Inspection and Enforcement, as they relate to investigations, since regionalization was established. We also described the forthcoming change in investigations involving the establishment of the Office of Investigation. We discussed examples of special inspections and investigations as we anticipate they will be distinguished under the new organization.

NRC representatives also described the work that has been accomplished under this investigation since the inspection report of the first phase of the investigation was issued on November 24, 1981. We stated that our efforts had been focussed on computerizing and prioritizing all allegations and detailed followup of the work being performed under the quality confirmation program and the Immediate Action Letter.

The representatives from both offices discussed the potential of a criminal investigation impeding a health and safety investigation. Mr. Barnes indicated that his primary responsibility to the public was to assure that the plant was correctly built, and he would not want to take any action which would compromise this primary responsibility. NRC representatives stated that we believed the risk was small that a criminal investigation would significantly impact our civil investigation or our ability to assure that the plant would eventually be properly constructed. We did allow the possibility, however, that a criminal investigation could cause people to not cooperate with us as fully as they might if no criminal investigation were proceeding.

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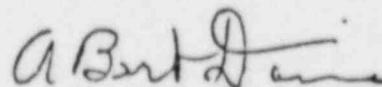
Mr. Barnes stated his concern that a May 14, 1982 letter from Chairman Palladino to Congressman Ottinger states that no IE investigations or special investigations have been performed at the plant since November 24, 1982. NRC representatives stated that the letter did not mean the NRC had not done any investigations, but rather meant that the Office of Inspection and Enforcement had not done any investigations since that time. Since Ms. Janeen Hall of Congressman Ottinger's staff is concerned about the investigation not proceeding, Mr. Cummings said he would take the necessary steps to attempt to clarify what was meant by this letter. We agreed to provide Mr. Barnes with a copy of RIII reports of inspections and investigations performed by NRC at Zimmer since November 24, 1981.

Mr. Barnes asked what areas identified in our investigation may have criminal implications. We stated that record falsification and intimidation of QC inspectors may involve criminality. Mr. Cummings committed to review the November 24, 1981 investigation report and provide a formal answer to this question. He did not commit a date for accomplishing this.

Mr. Barnes discussed the subject of a formal referral of the Zimmer findings to the Department of Justice. Mr. Cummings indicated he had kept the DOJ informed of the progress of the investigation but could not refer to a piece of paper which would constitute a formal referral.

We discussed how the NRC would respond to possible future questions concerning whether or not DOJ will proceed with an investigation. It appears that the best course of action is for NRC not to comment on this subject but rather to refer the matter to DOJ.

In response to a question as to how DOJ intended to proceed, Mr. Barnes indicated that they would review the investigation report, decide which elements of that report may have a potential for criminality, then decide when and if they would proceed with a criminal investigation.



A. Bert Davis
Deputy Regional Administrator

cc: J. Cummings, OIA
R. F. Warnick, RIII
J. E. Foster, RIII