



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

September 7, 1983

MEMORANDUM FOR: Chairman Palladino
Commissioner Gilinsky
Commissioner Roberts
Commissioner Asselstine
Commissioner Bernthal

FROM: James G. Keppler, Regional Administrator, Region III

SUBJECT: RESPONSE TO REPORT TO THE CHAIRMAN ON ALLEGATIONS OF
THOMAS APPLGATE CONCERNING CONDUCT OF THE OFFICE OF
INSPECTOR AND AUDITOR

This is in response to the Chairman's memorandum of August 4, 1983 transmitting a copy of the captioned report and affording me the opportunity to comment on the report's findings and recommendations. I appreciate the opportunity to comment and enclosed herein are my comments on specific statements made in the report about Region III, including comments made directly about me. We have not commented on the programmatic recommendations in the report.

I would like the record to note that at my interview by Judge Hoyt and Mr. Aloat, I was shown a copy of the Chairman's memorandum of May 6, 1983 which states that the focus of the investigation was to be on "whether or not the Director, OIA and that Office made a good faith effort to carry out their responsibilities in this matter." I was clearly given to understand that RIII was not the subject of the Hoyt/Aloat investigation. This was consistent with my previous understanding of the scope of the investigation. For this reason, I was not as helpful to Judge Hoyt and Mr. Aloat on certain matters of interest as I could have been had I understood in advance the scope of their interest. Although they did advise me that I could bring any additional matters to their attention following my interview, the press of events did not afford me the opportunity to take advantage of that offer. For that reason, I particularly appreciate this opportunity to offer my comments.

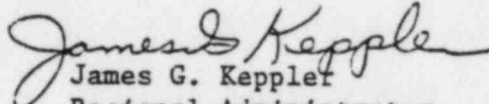
Judge Hoyt and Mr. Aloat make the finding that my actions "gave the impression that Applegate and GAP had a formal role in the initiation and conduct of an official NRC investigation." (p. 30). They conclude that my actions "border[ed] on an abdication of management control and ... constitute[d] poor judgment by a senior NRC official." (Id.). We believe that the steps we took were necessary steps to assure that all relevant information was obtained from Mr. Applegate. We see no basis for the finding that we gave the appearance of including Applegate and GAP in a formal role in our investigation. Certainly the fact that we included Mr. Clark (GAP) and Mr. Applegate on our distribution list for the Zimmer investigation report is nothing more than an example of standard agency practice.

8312110267
XA 23pp.

9/7/83

RIII believes that its actions in working closely with alleged and public interest groups is consistent with the wishes of the Commission. RIII continues to work closely with alleged and public interest groups to obtain all relevant information for NRC consideration.

On August 28, 1983, following an earlier telephone conversation with Mr. Alost, we were provided a copy of Mr. McCarten's statement. Although we were not specifically requested by Chairman Palladino's memorandum to comment on Mr. McCarten's affidavit, we do not feel we can let Mr. McCarten's criticism and accusations with respect to actions by me and my staff in the Zimmer investigation go unchallenged. We believe many of Mr. McCarten's statements are irresponsible, and that we have conducted our evaluations and investigation openly and responsibly. We will provide the Commission our written rebuttal of Mr. McCarten's affidavit by September 23, 1983. Notwithstanding the above, if the Commission believes they are compelled to initiate an investigation into the charges made or implied by Mr. McCarten, we will cooperate with that investigation.


James G. Keppler
Regional Administrator

Enclosure: Comments of James G. Keppler
on Hoyt/Alost Report

cc w/enclosure: W. J. Dircks, EDO

Comments of James G. Keppler on Hoyt/Aloot Report

Hoyt and Aloot Transmittal Memorandum, page 2

Addressed below are particular statements in the body of the report which apparently form the basis for the assertion that I made "a series of poor judgements and unfortunate statements and commitments" in the supervision of RIII's investigation into the Applegate allegations. We also respond to the assertion that we gave an unduly restrictive interpretation of "public health and safety" in pursuing possible regulatory deficiencies at Zimmer.

Report, page 6

In a statement attributed to Mr. McCarten, it is stated that when the 19 Applegate allegations were received in RIII in January 1981 further investigation on the matters brought to us by a former QC inspector at Zimmer in December 1980 "was held in abeyance pending completion of IE's investigation of the GAP/Applegate allegations." This statement is basically correct. We made a conscious decision to give priority to the Applegate allegations in view of the anticipated visibility that would be given to them. However, as evidenced by Sections IV and VI of Zimmer Inspection Report 81-13, the former QC inspector's allegations, as well as allegations subsequently received onsite from other QC inspectors, were also pursued as part of Investigation Report 81-13.

page 11

The report states the opinion of Mr. Devine that RIII permitted "a deliberately misleading indication that CG&E management was not aware of the problems at the Zimmer site." It was our view in November 1981 that CG&E was generally unaware of the problems at the site. This view is reflected in Investigation Report 81-13 and my November 24, 1981 press briefing (copy enclosed). This lack of CG&E awareness was a major concern that we had and was a principal basis for our civil penalty action. We were aware that OIA had developed information indicating that CG&E had not been responsive to Kaiser requests for increased QA/QC resources. We were also aware of the possibility that the further NRC investigation might uncover information indicating that CG&E was aware of the QA/QC problems.

page 13

On this page allegations are reported to the effect that relevant information in RIII files indicating hardware problems at the plant and CG&E's knowledge of the QA/QC breakdown was ignored or deleted by RIII officials. We are aware of no basis for this statement. Hardware problems verified by the NRC at the time were identified in NRC Investigation Report 81-13 and were discussed at the October 27-28, 1981 Commission briefing. It was true at that time that, based on limited NRC independent measurements, we believed the majority of the problems were largely programmatic in nature. However, because of these programmatic problems, we concluded it was necessary to require CG&E to initiate a comprehensive quality confirmation program to identify and correct hardware problems.

Any potential wrongdoing associated with CG&E's knowledge of the QA/QC problems at the site was a matter which RIII believed was being handled by OIA and has subsequently been referred to OI. RIII did not ignore or delete any information on this subject.

page 13

The report states the view that there was "a hesitancy on the part of IE officials to pursue, even on a preliminary basis, potential criminal violations and a general lack of interest in the potential systemic causes of particular regulatory violations." Initially, we intentionally did not pursue allegations once we had determined that there was potential criminality involved and that there was no immediate health and safety concerns. In this regard, we were following IE policy (See Tr. of Commission meeting of October 28, 1981, page 21; 10 CFR Section 1.64). RIII also believed that it was following explicit instructions from OIA not to interview high-level CG&E corporate officials (required to develop a case for possible criminal referral), although Mr. Cummings disputed that such instructions had been given. (See Tr. of Commission meeting of October 27, 1981, pages 116-117; Tr. of Commission meeting of October 28, 1981, pages 14-15, 19). Nevertheless, the civil penalty proposed in November 1981 did include violations for false quality assurance documents and for harassment and intimidation of quality control personnel. Thus, RIII did pursue the leads of its investigation up to the point necessary to establish violations of NRC regulations.

We disagree with the assertion that we failed to pursue potential "systemic causes" of violations of NRC regulations. It is true that RIII's focus was upon resolving the health and safety issues which we uncovered, but in that process we addressed the systemic implications of CG&E's problems and we required CG&E to address them as well. (See the Immediate Action Letter of April 8, 1981; November 24, 1981 letter from DeYoung to Dickhoner, enclosing Investigation Report 81-13 and the Notice of Violation; and the Quality Confirmation Program).

page 14

The report states that the four commitments of RIII to GAP/Applegate listed on page 14 of the report are reflected in the transcript prepared from a tape of the meeting. Our recollection of the meeting and our review of the transcript do not substantiate that statement. Our comments on each of the purported commitments are as follows:

1. The matter of whether interview statements would be taken under oath was discussed. (Tr. 88-90). RIII did not commit to take all statements under oath, but to apply a test of "significance." (Tr. 89-90). That standard was followed by RIII.
2. RIII has been unable to find any commitment in the meeting transcript to the effect that all sworn statements would be included in Zimmer Investigation Report 81-13. Nevertheless, RIII did attach to the Investigation Report those interviews necessary to provide the basis for findings in the report.

3. RIII did not commit to give weekly progress reports on the investigation to Applegate. The transcript indicates clearly that we did commit to touch base with Applegate each week that investigators were in Cincinnati "to obtain anything new that you [Applegate] may have." (Tr. 44). For the most part, this was done through April 1981, when the investigatory effort on the Applegate allegations was completed. (Devine interview Tr., page 13). Mr. McCarten has indicated that he advised Mr. Applegate before the last of these meetings that the investigatory efforts on his allegations were complete and that he did not anticipate holding any further meetings with Mr. Applegate. (McCarten Tr. , page 113).
4. Following the taped meeting, there was a discussion between Mr. Keppler and Mr. Devine regarding the possibility of GAP and the NRC conducting joint interviews when the initial interview conducted by NRC had developed information differing from that in the affidavits submitted by GAP on behalf of Mr. Applegate. (Devine Tr., page 13). My objective was to assure that we got to the bottom of any matters in dispute between GAP and the NRC. As recognized in the Hoyt/Aloot report (page 15), this suggestion was subsequently vetoed by Mr. Stello as being an inappropriate investigatory method. Therefore, joint interviews were not conducted.

page 17

The report states that Jim Foster was assigned in the latter part of 1981 "as the lead investigator and principal editor of the Region III report." Mr. Foster did not replace Mr. McCarten as the lead investigator until Mr. McCarten's departure from the agency in February 1982. Mr. Foster was initially brought in because of his writing skills to assist in putting together the report. In addition, the services of a technical writer were obtained from IE to assist in this effort. It was recognized that this would require a substantial effort because of the amount of material on which the report was to be based. Regional management also believed that Mr. McCarten was a poor writer.

page 17

The report states:

...it is difficult to understand why Keppler, having by February 26, 1981 knowledge that the Applegate affair had become a cause celebre, would have permitted himself to be drawn into commitments which could potentially hamstring IE's then pending investigation.

As explained above, of the four commitments allegedly made at the February 26, 1981 meeting the only two that were actually made were: (1) to contact Applegate weekly during onsite investigation into his allegations to receive any relevant new information he had obtained, and (2) to take interviews under oath when they were considered significant to the investigation. There was nothing improper about these commitments and they did not "hamstring" the investigation.

More debatable, perhaps, was my suggestion to Mr. Devine that we conduct joint investigator interviews. As noted above, this suggestion was never implemented.

My objective in the February 26, 1981 meeting with Messrs. Devine and Applegate and in the commitments and suggestions which I made was to assure that Mr. Applegate's allegations were fully understood. My motivation was to avoid the criticisms that were leveled against RIII's investigation of the first set of Applegate allegations. I was not "attempt[ing] to placate Applegate", (report, page 17).

page 21

The report states that Mr. Applegate alleged that he was the subject of an investigation by RIII. There was no such investigation. It is true that Mr. Applegate's former employer (Major Cox) when Applegate worked on an investigatory assignment for CG&E was contacted, but the purpose of that contact was to learn any information he might have regarding Mr. Applegate's allegations.

TRANSCRIPT OF PRESS CONFERENCE

CINCINNATI, OHIO

November 25, 1981

STRASMA:

My name is Jan Strasma. I'm the NRC's Public Affairs Officer from the Chicago Office. With me today on my left is Robert Warnick who is Chief of our Investigation Section who was active in the investigation out at Zimmer, and in the center is James G. Keppler, who is Regional Administrator for the NRC's regional office in Chicago, Region III which covers eight states in the Midwest including Ohio. He will have a brief opening statement discussing the findings and then we'll go with whatever interests you.

KEPPLER:

Good morning. We are issuing today the report of the NRC's extensive investigation of alleged construction problems at the Zimmer Nuclear construction site. This investigation effort is perhaps the most extensive investigation effort undertaken by my regional office and has involved 13 NRC inspectors and investigators over a 10 month period. The investigation is still ongoing. As a result of violations of NRC requirements found during the investigation, the NRC staff is proposing a \$200,000 fine against Cincinnati Gas and Electric Company. The company will have until December 24 to respond, either paying the fine or protesting it. The fine is proposed for three basic violations: (1) false quality assurance documents; (2) harassment and intimidation of quality control personnel; and (3) numerous examples of failure to implement an adequate quality assurance program. The violations were identified in an extensive investigation conducted between January 1981 and October 1981. The investigation covered allegations made to the NRC by a former contractor quality control inspector at Zimmer; allegations provided to the NRC by Mr. Thomas Applegate through the Government Accountability Project, a Washington D.C., public interest group; information supplied by present and former site contractor employees during the course of the investigation; and items identified by NRC inspectors during the course of the investigation. The investigation which is still continuing, identified a widespread breakdown in the utility's quality assurance program for construction of the Zimmer facility. The breakdown resulted from the company's failure to exercise adequate oversight and control of the principal contractors in the area of quality assurance. The majority of the problems were identified *fully only* in the investigation and focus on the ineffectiveness of controls implemented by the licensee and its contractors for assuring the quality of work performed. In that regard, numerous deficiencies were found concerning traceability of materials, handling of non-conformances, interface between construction and quality control, quality records and the licensee's overview about ongoing work.

Based on these findings, consideration was given to the need to suspend construction activities. However, recognizing that the nature of the problems disclosed were largely programmatic and the fact that ongoing work would not compromise the ability to accurately determine the quality of completed work, it was concluded that halting construction activities was not required. Rather, attention was placed

KEPPLER:
(Cont'd)

on establishing controls to assure the quality of ongoing and future work and to define a program to both confirm the quality of completed work and correct any identified deficiencies.

On April 8, 1981 the NRC's Region III Chicago office required Cincinnati Gas & Electric to substantially upgrade its quality assurance program in order for construction work to continue. The improvements included hiring of additional staff, upgrading of inspection procedures, retraining of quality control personnel and a 100 percent duplication by Cincinnati Gas and Electric Company of subsequent safety related quality control inspections performed by site contractors.

The impact of the identified quality assurance deficiencies on the actual construction has yet to be determined. Limited independent measurements were performed by NRC contractors in selected areas of concern in an attempt to characterize the actual safety significance of the quality assurance deficiencies. Although a few problems requiring corrective action were identified the majority of the tests and examinations disclosed no hardware problems. Notwithstanding, recognizing the significant quality assurance problems identified during this investigation, the NRC has required the licensee to establish a comprehensive quality confirmation program to determine the quality of plant systems important to nuclear safety. The NRC will confirm the adequacy of the licensee program and will be making additional independent verifications. Deficiencies identified by these programs will require resolution prior to the plant being allowed to go into operation. Although we have a fair amount of work remaining to be done to complete the investigation, we have chosen to issue a report at this time because we believe the major issues have been developed and the required corrective actions defined and also in recognition of the continued public interest in this matter. While we believe we have identified and dealt with the more significant matters, we intend to keep an open mind during the remainder of the investigation and should additional problems become apparent it may be necessary to expand the quality confirmation program. That concludes my prepared remarks and I will be glad to take questions.

QUESTION:

Could you distinguish between the 100 percent duplication by CG&E of all subsequent safety related quality control inspections and the quality confirmation program. Are those two separate activities?

KEPPLER:

Yes. The 100 percent overview of quality assurance...quality control work by CG&E relates to ongoing and future work. The quality confirmation program deals with past work.

QUESTION:

The quality confirmation program - does that require CG&E to go examine the welds - such things as welds - with the appropriate technology, or is it a review of records primarily, and radiographs?

KEPPLER: No, they have to determine that the quality of work that was identified to be questionable in the past - they have to determine that it's there either through a review of records or through additional nondestructive examination, or in the cases where they can't convince us that the quality of work is there, it will have to be cut out and replaced.

QUESTION: Do you have enough people available to supervise something of this scope because in the Region's defense against the OIA accusation, staff shortages or - so much asked of your staff - was an issue.

KEPPLER: We're going to have to put what manpower it takes to get the job done.

QUESTION: Mr. Keppler, what effect has this had on the delays in the issuance of an operating license for Zimmer? Has this been a factor in the delays we've seen? Do you think it will continue to be a factor?

KEPPLER: Well, it's hard to say. Projected right now, the quality confirmation program, without any major repair work, will probably go through into next Summer. Whether that represents a delay in the licensing at this stage of the game, I can't tell.

QUESTION: Has it been a factor in the delays up to this point - the fact that you have an ongoing investigation?

KEPPLER: I think that people have been diverted from construction work at the site to confirming the quality of the plant, I think there's no question about that. But you have to remember that basically the total preoperational test program for this facility has really barely gotten off the ground and that has to be carried out and completed before the plant can be considered for an operating license.

QUESTION: Sir, in spite of all the 6½ pounds of evidence you've presented today, you still seem to express some faith in CG&E. Is that what you're saying, is that why you're not halting construction, that despite all their quality assurance breakdowns, you still trust the company?

KEPPLER: We feel that the quality assurance deficiencies have been corrected and the work going on right now is being done in accordance with requirements.

QUESTION: However, in one part of the report you said since April 8th there were still quality assurance breakdowns.

KEPPLER: You're going to have from time to time, on a project as complex as a nuclear power plant, you can't build a plant with zero defects. The important thing is that these problems are into a system that can be identified and corrected and if we see that it isn't, if the work isn't being controlled properly, we will not hesitate to take the action to stop it. Stopping construction activity in my view at this time, would be strictly a punitive measure.

- QUESTION: You say false quality assurance plus harassment and intimidation, are you suggesting that CG&E attempted to coverup the initial allegations? Was there any attempt by the utility to coverup the initial allegations made by Mr. Applegate?
- KEPPLER: I don't know that I can answer that but I have not found any evidence that CG&E was in a coverup capacity. I think what in fact happened, was that CG&E placed over reliance on its contractors to do the job and what we saw - the harassment and the improper record control - was done at the contractor level.
- QUESTION:quality assurance person said Schwiers told them to erase a quality - according to your own report - told them to erase a quality assurance.....
- KEPPLER: But there were other records to show that that wasn't a deliberate attempt to coverup as far as we were concerned.
- QUESTION: Mr. Keppler, you were alerted to some problems at this plant by one of your own former inspectors. Why didn't you act on it then?
- KEPPLER: Who are you talking about?
- QUESTION: When we were told yesterday....you were mentioning Mr. Applegate's accusations about the plant's construction problems and also they said you were notified by some of your own people, a former inspector.
- KEPPLER: Not our own people. Former quality control contractor employee, not our own people.
- QUESTION: O.K. I misunderstood then, but
- KEPPLER: That was at another construction site. He used to work at Zimmer and he came forth and provided us with information.
- QUESTION: Can you put this into perspective, how large a fine is this when compared to others the NRC has levied and how serious were the problems at this plant compared to other, perhaps, similar cases?
- KEPPLER: This is the largest fine the Commission has levied to date against a nuclear facility under construction. The significance of the matter and the bottom line as I see it is that there was a major foulup in the quality assurance program at the site. I consider that matter to be very significant. To date we have not seen that this inattention to detail or proper control of the job has actually resulted in wide-scale defects on the project but that remains to be seen. We feel that the absence of a quality assurance program to convince themselves, to convince us, and to convince the public that the plant has been built properly, requires going to the quality confirmation program. That's the bottom line. How significant this will be is yet to be determined until that program's done. If it turns out at the end that the plant was built properly then it's an expensive lesson to CG&E to to the job right in terms of quality assurance in the first place. If work has to be done it's going to be an even more expensive lesson. But we felt it was necessary to levy a pretty hard fine to convince this utility and to convince other utilities that quality assurance

is an important consideration to the NRC in building power plants.

QUESTION: Mr. Keppler, you say corrective action was taken in Mr. DeYoung's letter dated today, says that your corrective actions only addressed individual problems and not underlying programmatic causal factors. What is the NRC saying about CG&E's response to these charges, do you think they've taken corrective action or are you unhappy?

KEPPLER: We think that the corrective action they've taken for ongoing work is adequate. What Mr. DeYoung is talking about, is in the past that was the case.

QUESTION: This is not the NRC's first investigation of Mr. Applegate's charges. If he had not been so persistent is it possible that the lack of quality assurance would not have come out?

KEPPLER: That's a good question and I don't know that I can give you a solid answer for that. Some of my staff members feel that we would have eventually caught these problems either through the preoperational test program when we're assuring that the systems are completed and all the pertinent paper work is there. However, there's no question in my mind that the individuals who came forth, including Mr. Applegate, brought this to the attention quicker than it would have been.

QUESTION: Do you still have faith in the NRC's teamwork system for identifying, tracing and assuring that nonconformance items and work will be made good?

KEPPLER: You're asking it with this plant or as a general statement?

QUESTION: Let's start with this plant and then go for the general statement.

KEPPLER: Let me work in reverse if I can. There is nobody more dismayed than I am that the NRC could not find these problems that went on at Zimmer quicker than we have and I think that it has to reduce public confidence when the utility has not done the job properly, when the NRC hasn't found these things in a timely manner and it takes whistle-blowers to focus attention on things. You may or may not be aware that there was Congressional Hearings held last week in Washington and this plant along with several other plants was discussed as to why the Commission has not found these problems in a more timely fashion. Manpower is one answer, clearly when you look at what the NRC's inspection program has been, and it is a sampling program, that has resulted in the expenditure of roughly one man-year of effort per construction site, when you figure that there's 2500 to 3500 workers on an actual construction site, that gives you some feel for how much we can do with our inspection program. The program - how we got into that posture - is that we felt that utilities were committed to quality assurance, were committed to seeing that the job was done right, and that a sampling program of that nature was probably adequate. When you look at the types of problems that have been found, not only at Zimmer, but at a number of other site, we are having to take a hard look at what more needs to be done to assure ourselves that these plants are in fact built right. Now I will say this, that the majority of the problems that again, have come to surface both at this project

KEPPLER:
(Cont'd)

and at the other projects to date, appear to be programmatic type deficiencies. That doesn't excuse them, but I'm saying that these things have not led to what I call major problems in the actual construction or design of the facility. Take a look at Diablo Canyon for example, that has created quite a bit of stir. We don't know at this stage yet whether any major rework will have to be done, but certainly the adequacy of the design is going to have to be verified and similarly, this project is going to have to be verified. Now, to go back to the specific question, do we have confidence that a sampling program consisting of a review of records and some observations of activity is adequate, I feel the answer is yes, but it's going to be a bigger sampling program than we've done in the past. There's no question we have to convince ourselves very strongly that the quality confirmation program has been carried out properly, and we're going to be doing some independent measurements of our own once the licensee's done with this thing.

QUESTION:

Mr. Keppler, you said that CG&E didn't have access to personnel..... could you be more specific as to how inadequate their program was? How many inspectors do they have, how many should they have, that type of thing?

KEPPLER:

Well, it's hard to quantify how many one should have. Generally, in a project like this, utilities place reliance on the constructor and on the architect/engineer to build the plant and design the plant. The role of the utility is largely one of an audit effort to assure that that work is being done. My perception of what happened at Zimmer is that CG&E basically turned the project over to Kaiser and let them do it. You might get an argument from the utility on that but I don't see much stronger effort than that. At the time, I think CG&E had about six people in their quality assurance activities, six to twelve I'm told - now they have over 150 involved.

QUESTION:

If the harassment and intimidation occurred at the contractor level and I assume you're referring to Kaiser, does the NRC have any power to bring sanctions against companies like Kaiser?

KEPPLER:

The licensee is the one that is....CG&E the utility....is the people given the license for this project and we hold them accountable for the activities of their contractors. Now if there had been a violation of a regulation called 10 CFR Part 21, which in effect requires contractors to report known defects that could have an impact on safety, then we could take action against Kaiser. But as we see it in this project, we're holding the utility accountable for the problems.

QUESTION:

Sir, some of the problems that you've stated here, \$100,000 fine goes back at least five years, you recall Victor Griffin said it was no big deal that CG&E was not responsible for on site work done by vendors. Yet here in Item 10 you say they did not assess the effectiveness of the quality control done by the vendors and you cited them for \$100,000 fine for that. Shouldn't that been uncovered when you did your investigation back five years ago?

KEPPLER: There's no question. I can't sit here before you and tell you this stuff should be uncovered today. What do you want me to say?

QUESTION: You said at the time it was no big deal?

KEPPLER: I don't think those allegations at that time were a big deal, we I don't want to tell you I still think that, but we're going to take a look at Mr. Griffin as one of the people that's on the list to talk to as part of the ongoing investigation and we'll talk to him. I want to keep an open mind that way. My staff at that time felt that the problems identified by Mr. Griffin were not significant and we've seen nothing on that aspect that changes it.

QUESTION: You said so far you haven't uncovered any hardware problems.

KEPPLER: No, I didn't say any. I said we've uncovered some but mostly what we've found is that it's o.k.

QUESTION: Could you tell us what systems were most of the problems, were they all safety related?

KEPPLER: We only look in safety related systems. I don't worry about the non-safety related portion of the plant. Let me try to be specific if I can. We found in our....let me tell you what we did in our independent measurements and then let me tell you what we found.

We inspected hardware related to 24 voided nonconformance reports. We performed metallurgical analyses of six welds. We performed metallurgical analyses of six pipes. We performed laboratory analyses of two mis-matched welds. We tested 70 pipe welds for hardness and thickness. We visually examined 69 pipe welds. We radiographed 60 pipe welds. We dye-penetrant tested 42 pipe welds. We ultrasonically examined 21 pipe welds. We tested 53 beams for hardness and fitup. We visually inspected 300 beam welds and we inspected additional areas for cable separation. That's what was covered by the limited NRC inspection. What we found were 10 cases of weld defects and dimensional problems. Four hangers - pipe hangers - unacceptably installed. Four cable separation problems and a possible problem that's still under review with welds of mis-matched pipe. With the exception of the latter, my staff is of the view that if we looked that intently at any construction site we probably would find that type of a finding.

QUESTION: So you're fairly confident you'll find more as the investigation continues?

KEPPLER: No question. If I felt we weren't going to find something more I wouldn't be doing this.

QUESTION: Did your staff (inaudible)

KEPPLER: The issues related to criminal are matters that will be considered by the Department of Justice. We do not - we are not involved in that.

QUESTION: Then you will send them on to the Department of Justice?

KEPPLER: We have coordinated with the Department of Justice regarding this case.

QUESTION: (Inaudible)

KEPPLER: I think you're going to have to ask the Department of Justice that question.

QUESTION: Because of all the problems you've found and because you're only looking at safety related construction things, because of the problems you've found - harassment, etc. etc. - how can you assure the public that Zimmer will be safe?

KEPPLER: Could you - I'm having a little trouble with your question because you acknowledge that we're worrying about the safety related things so if I - help me with what's behind your question.

QUESTION: How can the public have confidence that when you finish what you're going to do that Zimmer will be safe?

KEPPLER: Let me lay it out this way, the quality confirmation program that we are requiring to be done at this facility is a very extensive program that I think when we get done, will tell us more about the quality of this plant than any plant in the country in terms of its actual construction. On top of that, all of the plant systems have to be functionally tested before the plant will get an operating license and beyond that, we have to satisfy ourselves that CG&E the utility, is properly prepared to operate this plant. Before those things are done, construction verification, satisfactory testing of the plant and confidence in the utility to run the plant, there is not going to be an operating license issued.

QUESTION: How does this Zimmer plant compare constructionwise and the number of violationswise to other nuclear power plants in the United States?

KEPPLER: Well, I can't give you a comparison to all the plants but I can compare it say, to all of the plants in our region and I would say that the numbers of noncompliances at Zimmer over the past few years probably rank on the high side in comparison to other plants.

QUESTION: Does it compare at all to Marble Hill that critics are now asserting?

KEPPLER: Well, you're talking apples and oranges.

QUESTION: All you're saying that you didn't trust the licensee at Marble Hill that's why you stopped construction.

KEPPLER: Let's look at things. Marble Hill was stopped at the 2 percent construction completion stage. There was a serious question with ongoing work and that it might coverup if you will, preclude the determination of past work if you let it go ahead. That job was

KEPPLER: from that perspective - that job was out of control and I had no choice but to stop that job. In this particular case this project (Cont'd) was much further along. It was basically built, if you want to look at it that way and I felt that the important thing was that any additional work not preclude the determination of work that was done in the past and on that basis I - plus the fact that we got the utility to correct the problems - I felt that the project should continue.

QUESTION: Can you say that Zimmer was not out of control as you look back over the years?

KEPPLER: I think in terms of quality assurance Zimmer was totally out of control.

QUESTION: Would you guess that the NRC has been, perhaps, remiss in its general program of looking over nuclear plants while they are under construction as opposed to while they are in operation?

QUESTION: If it goes back to the whistle-blowing question.

KEPPLER: I tried to explain how I felt about it. I think clearly what we are seeing today when you look at the number of cases and the problems that are before us, is that the quality assurance program leaves something to be desired. We felt that the NRC program really in terms of people usage, had to be a sampling program otherwise you're going to have to have 3,000 people for every site. That's not a practical consideration. I am of the view today, sitting with 20/20 hindsight, that our problem is not one of - so much one of audit, although I think that's going to have to be an interim corrective measure - audit and inspection - you gotta build these plants right in the first place you can't inspect quality into a nuclear plant. You gotta build it right. So the problem has to be getting the utility and its contractors to put the proper attention on these things at the front end and I'm afraid with what I see today, there's going to be some questions about a number of power plants out there and we're going to have to come up with some kind of inspection effort either internally or through the utilities or through third parties to verify that the plants that are being built right now have been completed properly, have been built properly. One of the members of Congress also stated that we ought to go out and take two plants in operation and check them out right now. I'm sure we'll hear more on that.

QUESTION: Following up on that, are you sure that your chain of responsibility is the proper way to go after all CG&E has never built on of these before (inaudible) Kaiser has built one, GE has built reactors. Do you think it's proper to put the oness on the utility which after all has (inaudible) when these other people have the expertise in the construction?

KEPPLER: I think a lot of people share in this problem and it's - let me address that before I answer your question. I think that Congress shares in this problem; I think the regulators share in this problem;

KEPPLER:
(cont'd)

I think the industry shares in this problem. You go back in time 10, 15 years ago and there was a great deal of emphasis to build nuclear power plants. Everybody thought that was the thing to do, it was going to be a cheap source of energy for everybody and that was the way to go. And what happened is you got a lot of utilities into this business that I don't think appreciated the amount of attention to detail that was going to be required. You cannot build a nuclear power plant like you build a coal power plant. There has to be a much greater attention to detail because of the potential safety considerations involved. Now, you asked are we fair in putting the monkey totally on the utility? I think a lot of us have taken a beating over this thing. I have no way to go after the contractors - in a legal way - so I have to issue the enforcement action against the utility and again leave a message, if you will, with the total industry that we intend to place a great deal of importance on quality assurance matters and will issue stiff fines if necessary.

QUESTION: Do you think you should have a way to get the contractors?

KEPPLER: Well, I don't have a problem with the way we do business this way. I think the utility - I would think the utility, from an investment point of view - forget a nuclear safety point of view - from an investment point of view, would want to assure that it had a quality product in the end. I guess I feel that you can point the finger at Kaiser, I point the finger at CG&E just as strong.

QUESTION: (Inaudible)

KEPPLER: If CG&E elects to protest the fine then the matter will be considered by a hearing board and the agency will abide by the hearing board's decision.

I think she asked if it did protest.

STRASMA: Well, the protest and then its imposed and they they ask for a hearing.

KEPPLER: O.K. I gues that's it. CG&E will either pay the fine or they will send us a letter stating why they should't pay the fine. They may ask for mitigation or they may contest some of the items of noncompliance or what have you, we then have to evaluate the response and assuming our position remains the same, then we would impose the fine formally. Then I guess it would go to a hearing.

QUESTION: What is the minimum amount of fine to CG&E to correct the problems that have already been identified in the hardware problems?

KEPPLER: I don't know that I know that answer at the moment, but I would say that the quality confirmation program, the schedules that I've seen on that take it to next summer. I would assume that problems that have been identified to date certainly would be corrected within that time frame. I don't seem them as the limiting factor, I see the quality confirmation program as the limiting factor right now.

QUESTION: A question of procedure. The news release that you put out carefully used the words that a fine has been proposed. Is there anything further within the NRC process, I mean if all IE has recommended, is that it?

KEPPLER: I guess that's the legal aspects of our business. We tell them that we intend to issue this fine and they can either pay it or they can tell us why it shouldn't be issued but generally I don't want to say that we don't have an open mind but obviously, when we announce the proposal of the fine, we're convinced that's what ought to be done so it has to be something totally unknown that would change our view on the matter and I think the degree of involvement we've had in this investigation, I can't perceive there's many things that I don't know about it right now.

QUESTION: How satisfied are you that CG&E did not participate in fabrication of quality assurance records?

KEPPLER: Help me, I don't understand your question.

QUESTION: Item 10 Construction fabrication of manufacturing activities which effect the quality of the plant are suspect. If we're talking about fabricating quality assurance records and you mentioned radiology records, you mentioned radiographs on welds

STRASMA: Is that in the Items of Noncompliance, Item 10? Page 12?

QUESTION: Yes.

WARNICK: What we're talking about here is surveillance reports that, first of all, some items of noncompliance were entered on surveillance reports instead of being entered on nonconformance reports which means that some of them possibly could effect design changes did not receive the same kind of a review by engineering people that a design change should receive.

QUESTION: To get a little more specific, let's go to A in Appendix . It says isometric drawings of all records and other records have now furnished evidence of actual piping installed, and have reported the wrong numbers; talked about suspicious records having been maintained to furnish evidence of quality activities effecting quality. Is that contrary....

WARNICK: You've jumped back to Item A. You're talking about pipes without the proper heat number traceability.

QUESTION: The whole area of saying that this is correct when in fact it's not correct.

KEPPLER: What's your question?

QUESTION: Well, you seem to be saying that the quality assurance inspectors by Kaiser wanted to do things and then the records were erased with white magic markers and things like this and you put the blame on Kaiser. I'm wondering how sure are you that it was only Kaiser

QUESTION: that did this type of....
(Cont'd)

KEPPLER: We're pretty sure.

QUESTION: It was not CG&E?

KEPPLER: That's correct. CG&E didn't have any quality control people in the plant that's the problem. They were free by omission, if you will.

QUESTION: So are you saying that Kaiser was involved in a coverup?

KEPPLER: I didn't say that. I said there's false records in the plant. You used the word coverup, that's FBI consideration not an NRC consideration. We have identified some records that are false, we have identified some records that are misleading and we've seen some records that have been changed, now

QUESTION: Did you not say last week CG&E knew about some of that?

KEPPLER: Did I say what?

QUESTION: In a report last week by the quality assurance people who did this, they said that CG&E as well as Kaiser knew of some of these falsified records and problems.

KEPPLER: You're talking about the OIA report. You'll have to ask the OIA people.

QUESTION: Mr. Keppler, was there any indication that Peabody or any other quality - firm working in quality assurance - was run off the site by Kaiser or anybody else for insisting that things be done correctly?

WARNICK: No there is no indication.

QUESTION: (inaudible) ...the quality assurance people work for Kaiser and the Kaiser people were harassing their own....

KEPPLER: Basically, yes.

STRASMA: You've got parallel organizations. You've got QC over here and you've got construction over here. You've got construction people who resent the activities of the QC people, so they were harassing them.

QUESTION: (inaudible)

KEPPLER: Not to this extent. I can't speak for Diablo Canyon yet, but I can tell you Marble Hill certainly, but again you're talking about a plant that had very limited work done to it, but there was a very extensive confirmation program required there to determine the quality of the concrete work. I can go back in time - the concept

KEPPLER:
(Cont'd)

of a quality confirmation program is not new, there have been programs such as this to a lesser degree. I can remember back with plants such as Oyster Creek and Nine Mile Point and some of those where problems were identified - quality assurance problems - and some effort of this type was required. But I can assure you this is a very extensive program.

QUESTION:

Mr. Keppler, Marble Hill's in your region, Zimmer's in your region, I don't remember which of the other three that Chairman Palladino came down on in front of Congressman Udall, if any of them, is your job on the line or are you moving any senior people around in your regional office as a result of this criticism?

KEPPLER:

I hope my job isn't on the line - I just got promoted so I don't think so. I think the problem that we're finding with these things, as I mentioned, is not a problem is unique to Zimmer or to Diablo Canyon necessarily, or to Marble Hill, South Texas, you can name them. I think what we're finding is that the - again I hate to keep going back to the point - you really, if you are going to build a power plant with an unsatisfactory quality assurance program, and let me give you that for a starter, then I think when you have 2500 to 3500 workers on a site, one NRC inspector averaged over a year, is really not going to be able to honor a lot of problems on his own. I think that it throws questions into doubt. You could ask me how many other Zimmers are there and I can't answer that at the moment but I can tell you that this was one of the issues that was focused on. The agency is going to have to rethink its position and come up with something to provide confidence that the plants that are well along in construction today are build right. How this will be done, I don't know yet. But I can't tell you that there isn't another Zimmer out there.

QUESTION:

Are you satisfied with the work since April 8th when you assigned CG&E the main job of quality assurance?

KEPPLER:

Absolutely.

QUESTION:

You seem to be having some questions on Page 2 some of the examples and Notice of Violations occurred subsequent to the issuance of your revised enforcement policy and some prior to that time.

STRASMA:

At the bottom of the page?

KEPPLER:

Which page?

QUESTION:

2

KEPPLER:

Of the letter?

QUESTION:

Where it says some of the examples in the Notice of Violation occurred subsequent to the issuance of the revised enforcement policy.

KEPPLER: That was October of 1980.

QUESTION: O.K. that was not the April 8th?

STRASMA: That's the NRC enforcement policy where we upped our fine authority from five grand to a hundred grand.

QUESTION: If you are powerless to go after a contractor, who does have the authority?

KEPPLER: I wouldn't use the word "powerless". He asked whether or not I was fair to CG&E by levying the action against them. We don't have authority to fine the contractor but I wouldn't use the word "powerless". I can exert a hell of a lot of effort - force - on a utility to get rid of a contractor if necessary. You can argue the point and I guess in my own mind I felt that with the status of the project they way it is that Kaiser was the one that knew most about the project and I felt the proper action was not to suggest throwing Kaiser off the site, but to make sure that if Kaiser was going to be utilized for what they knew about it, that at least the work was being checked by CG&E.

QUESTION: But the allegations clearly are that if there was any coverup at all at the plant that Kaiser...

KEPPLER: That's true but the people that were involved in the problems of records and intimidation are gone now.

QUESTION: Why? How?

KEPPLER: Because I exert pressure.

QUESTION: When did they leave?

KEPPLER: They left at varying times this last year, but it was during the Spring I would say.

QUESTION: Was it your doing that Schwiens was retired early from CG&E.

KEPPLER: CG&E made that decision.

QUESTION: Did you pressure them to do so?

KEPPLER: I pressured CG&E to get on top of their quality assurance commitments.

QUESTION: (Inaudible)

KEPPLER: The utility. I can't answer that question. It varies from state to state and I don't know what the State of Ohio regulations are in that regard. That's what - the Public Service Commission, or Public Utilities Commission - something like that could answer that question.

- QUESTION: To finish my question, you said that you had found false records and records that had been changed. You also said a coverup was an FBI matter. Are you turning over the false records and the records that were changed to the FBI?
- KEPPLER: Our report will be given to the FBI, yes. The Department of Justice. And they have been briefed.
- QUESTION: What's Kaiser doing around the Country. Are other Regional Administrators having this kind of problem with Kaiser and its sub-contractors?
- KEPPLER: Kaiser is involved in a few other nuclear plants to a limited extent. A much lesser extent than at Zimmer. This is the only project at which Kaiser is the chief constructor.
- QUESTION: Does that mean that a utility that never built a nuclear plant before has got a major contractor that is only building this as - what do we have a Dance of the Virgins here?
- STRASMA: Kaiser's built other nuclear plants.
- KEPPLER: I agree with you that sitting today with what we know, it doesn't look like the best match. I think though that - again in fairness I'll go back - this isn't a problem of CG&E's own making. Everybody pushed in the business world - pushed nuclear power back in the 60's as the way to do. It was a cheap source of electricity and I guess somebody made the comment back at Congress last week that I thought was very interesting. What would it be like in the airline industry today if we had 50 different manufacturers of airplanes and 20 or 30 different companies building components for airplanes, it probably would not - they probably would be having some problems too.
- QUESTION: They are killing people in crashes, do you want to continue the analogy?
- QUESTION: (inaudible)
- KEPPLER: I don't know how to answer that question. I see a sentiment with the administration that is certainly more favorable to nuclear power than the previous administration. On the other hand, if you look around I think the costs of constructing the power plants today are so enormous. While you can perhaps do some things to expedite the licensing process, certainly we have been told to do that, I feel that the costs coupled with the uncertainties associated with nuclear, I don't see a lot of utilities flooding the gate with applications.
- QUESTION: Does your action today mean a setback to nuclear power?
- KEPPLER: A setback to nuclear power. I think that a vital element to the success of the nuclear industry - if there is to be a success of the nuclear industry - has to do with public confidence and in the sense that a Zimmer, a Diablo Canyon, the kinds of problems that relate to less than desirable performance on the part of the industry, yes, I consider it a setback.

QUESTION: Mr. Keppler, what is happening to the fiscal year 81-82 budget. Money for inspection and enforcement in your region. Is your budget being cut?

KEPPLER: No.

QUESTION: Is it being expanded?

KEPPLER: No. It's about the same.

QUESTION: Does that mean you'll have fewer persons working if you have the same budget because they're not sitting still with no increases? Are you reducing your staff to that budget level?

KEPPLER: No.

QUESTION: (inaudible)

KEPPLER: Yes. Back in the late summer. July of '82 I believe is the projected completion of that.

QUESTION: When do you see the plant getting an operating license?

KEPPLER: After July of '82.

QUESTION: May they load fuel before...

KEPPLER: No.

STRASMA: Thank you.

ENCLOSURE 7