



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

November 30, 1981

IN 2027N 7615

MEMORANDUM FOR: Wilda Mullinix
I&E

Rick Parrish
OGC

Natalie Brown
SECY*

Art Schnebelen
OIA

FROM: John C. Carr, Chief
Freedom of Information and Privacy Branch

SUBJECT: FOIA REQUEST FROM THOMAS DEVINE FOR DOCUMENTS REGARDING
THE OIA REPORT ON THE ADEQUACY OF IE INVESTIGATION AT
THE WILLIAM H. ZIMMER NUCLEAR POWER STATION (FOIA-81-488)

cert
I want to Parrish
but I think OGC
has reviewed all
reports, but these are
referred to him
request. - The
is Special Panel
note (DET) action
S/Trans one file
but OIG will
have to review
on to refer
There is no
we can answer
directly since
must have had
document - poor
document at h
to find in
Case -
(N)

Please find enclosed a copy of the subject FOIA request. Please advise Carol Ann Reed of my staff by December 7, 1981, of your response to the following:

- (1) Does your office have documents subject to this request? If yes: How much search time will be required? NOTE: If expected search time exceeds two hours, do not begin search until first talking to FOIA Branch staff contact.
- (2) Approximately how many documents do you anticipate will be withheld from public disclosure? What is their nature?
- (3) Do you anticipate any problems in processing this request and responding in the allotted time?
- (4) Which other offices might have documents subject to this request?

Please provide DRR with all documents subject to this request no later than NOON, December 9, 1981.

Also enclosed is a copy of the FOIA time record form which should be completed by the staff in your office and returned to DRR with your response.

John C. Carr

CONTACT: Carol Ann Reed
49-28133

*The Office of the Secretary should coordinate the response to this request with the offices of the Commissioners.

8505290470 841227
PDR FOIA
BAUSERB4-415 PDR

FOIA-81-488
1

GOVERNMENT ACCOUNTABILITY PROJECT

Institute for Policy Studies

1901 Que Street N.W. Washington, D.C. 20009

(202) 234-6382

November 23, 1981

Director
Office of Administration
Nuclear Regulatory Commission
Washington, D.C. 20555

FREEDOM OF INFORMATION
ACT REQUEST

FOIA-81-488

Rec'd 11-30-81

To Whom it May Concern:

On behalf of our client, Mr. Thomas Applegate, and pursuant to both the Freedom of Information Act (5 U.S.C. §552) and the Privacy Act (5 U.S.C. §552a), we request copies of all notes, memoranda, telephone logs, tapes, diaries and/or other records prepared by U.S. government employees in connection with an August 7, 1981 Nuclear Regulatory Commission ("NRC") Office of Inspector and Auditor ("OIA") report entitled "Special Inquiry re: Adequacy of IE Investigation 50-358/80-9 at the William H. Zimmer Nuclear Power Station" ("Zimmer OIA Report"), as well as the investigation the Zimmer OIA Report is based upon. In particular, Mr. Applegate requests all earlier full or partial drafts and/or proposed supplements to the Zimmer OIA Report, as well as all records related to any deletions from its final version. If any material covered by this request has been destroyed and/or removed, please provide all surrounding documentation including but not limited to a description of the action(s) taken, relevant date(s), and justification for the action(s).

Handwritten notes:
10/15/81
2/16/82
12/1/81
12/1/81

Handwritten notes:
} simple
?
NAME of FILE

Mr. Applegate requests that fees be waived, because "finding the information can be considered as primarily benefitting the general public." 5 U.S.C. § 552(a)(4)(A). The fee waiver should be granted for three reasons. First, he submits this request to further the goals of his December 10, 1980 whistleblowing disclosure to the Office of the Special Counsel of the Merit Systems Protection Board. The Special Counsel required an NRC investigation only after finding a reasonable belief that Mr. Applegate's disclosure evidenced illegality, mismanagement, gross waste and a substantial and specific danger to public health or safety. Unquestionably, the Special Counsel finding and the ensuing OIA Report — which fundamentally challenges the generic nature of NRC investigations — proves that Mr. Applegate's concerns serve "the public interest." He seeks these documents in order to monitor the adequacy of the NRC response.

Second, the findings of the Zimmer OIA Report totally ignored two vital issues in Mr. Applegate's whistleblowing disclosure —

- 1) the failure to adequately review his criminal allegations of widespread blackmarkets, smuggling, and theft; and
- 2) the failure to contact witnesses in April 1980 who would have exposed a series of issues six months before GAO raised them with the Commission and the Special Counsel.

8204140010 2pp.

FOIA-81-488 ✓

Director
Office of Administration
Nuclear Regulatory Commission
November 23, 1981
Page Two

The Special Counsel had ordered the Commission to respond to both allegations. The documents Mr. Applegate requests may help to explain why the Commission chose to defy a legal requirement of the Civil Service Reform Act. We submit that it inherently serves the public interest to further understand the process that leads to government illegality.

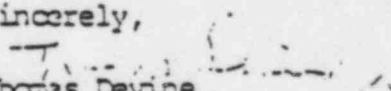
DOJ
101
1268
2 Res
2. - Special
Calm

Third, press accounts have contained charges that the report was "watered down." Although deleted portions would not represent the Commission's findings, it is in the public interest to fully air the facts and competing policies in the debate that produced this controversial document. The issue is of the utmost importance to the American people — the adequacy of NRC efforts to protect public health and safety.

For any documents or portions of documents that you deny due to a specific exemption, please provide an index itemizing and describing documents or portions of documents withheld. The index should provide a detailed justification of your grounds for claiming each exemption, explaining why each exemption is relevant to the document or portion withheld. This index is required under *Vaughn v. Rosen* (I), 484 F.2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1974).

We look forward to your response within ten working days.

Sincerely,


Thomas Devine
Associate Director