

# GOVERNMENT ACCOUNTABILITY PROJECT

Institute for Policy Studies

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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).

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 GAP raised them with the Commission and the Special Counsel.

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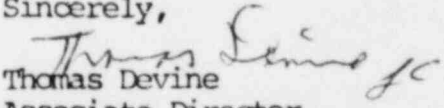
The Special Counsel had ordered the Commission to respond to both allegations. The documents Mr. Applegate requests may help to explain why the Commission chose to defy a legal requirement of the Civil Service Reform Act. We submit that it inherently serves the public interest to further understand the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

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