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July 2, 1982

WRITER'S DIRECT DIAL NUMBER  
(202) 822-1032

Mr. James A. Cummings  
Director  
Office of Inspector and Auditor  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555

Dear Mr. Cummings:

I represent Kaiser Engineers, Incorporated with regard to matters relating to the Zimmer Power Station near Cincinnati, Ohio, and specifically with regard to the Notice of Violation issued by the Nuclear Regulatory Commission to Cincinnati Gas & Electric Company in November 1981.

In the course of that representation, we reviewed Region III's investigation report No. 50-358/81-13. Attachment A to that Report reflects that Floyd Oltz, a Kaiser employee, was interviewed on February 25, 1981, (p. 11), and on June 4, 1981, (pp. 3-5), and that at least the latter interview was tape-recorded and a transcript produced. However, the transcript was not attached to the Report, nor was any statement by Mr. Oltz.

We, accordingly, requested from Region III a copy of the transcript of the June 4 interview, which was provided to us. We subsequently asked to be allowed to listen to the tape from which the transcript was prepared, and Mr. Robert Warnick of Region III agreed to make it available. However, he said it was in the custody of your office, and when we reached Mr. Puglia of your staff he suggested that we put our request in writing to you.

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PDR FOIA  
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Mr. James A. Cummings

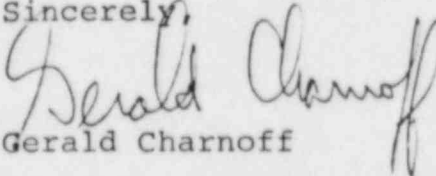
July 2, 1982

page two

We would like to listen to the tape of the June 4 interview of Mr. Oltz to verify the accuracy of the transcript we have received. We would also like to listen to any other tape recordings of interviews of Mr. Oltz or other Kaiser personnel during the course of that investigation. If it is more convenient, we can come to your office for this purpose, or we would borrow the tape and listen to it at our office if that is agreeable. Please call me at the above number, or my partner Patrick Hickey at 822-1103, and let us know a time when we could do this.

Thank you for your cooperation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Gerald Charnoff".

Gerald Charnoff

January 5 1983

MEMORANDUM FOR: L. Bickwit, General Counsel  
FROM: James J. Cummings, Director  
Office of Inspector and Auditor  
SUBJECT: RESPONSE TO CONGRESSMAN UDALL'S DECEMBER 7, 1982, LETTER

In response to Congressman Udall's December 7, 1982 letter, I bring to your attention the following:

The Office of Inspector and Auditor's (OIA) investigation into the Applegate allegations - "Adequacy of IE Investigation 50-358/80-09 at the William H. Zimmer Nuclear Power Station (OIA file 81-18)" - was opened in December 1980 and a final report issued August 7, 1981. The scope of this investigation, as defined by the Chairman in a December 15, 1980, memorandum to me, was quite specific. OIA was to determine whether the Office of Inspection and Enforcement (IE) staff had conducted an adequate investigation of Applegate's allegations (emphasis added). At the same time IE was directed to investigate certain new safety issues raised by Applegate (see Attachment A - Ahearne memorandum to Cummings dated December 15, 1980).

In early August 1981 - almost a year and a half ago - OIA concluded that the overall IE investigation of Applegate's allegations was unsatisfactory. The basis for that finding was, among other things, that:

- the investigation failed to determine the correct status and history of several welds;
- the overall investigative effort was neither vigorous nor sufficiently broad in scope;
- the finding of "non substantiated" with regard to the allegation that defective welds in safety-related systems had been accepted is not consistent with the facts.

These findings are clear and unambiguous and, by any standard, the language is hardly that which would be used if OIA's objectives were to put either the NRC or CG&E in a favorable light.

As a result of OIA's August 1981 report and subsequent correspondence between OIA and the EDO, both the Commission and Congressman Udall's office were alerted to the potential problems regarding the Zimmer Nuclear Power Station. To now say that the exclusion of the Harpster interview from OIA's report contributed to the delay in public recognition of the true status of the Zimmer project is just not supported by the facts and is in my view a lame excuse now being offered to divert attention away from those who failed to recognize and take

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action on a problem that was clearly identified some year and a half ago  
- by OIA (emphasis added).

In this regard I would like to provide you with the following quote from a July 23, 1981, letter to Chairman Hendrie from Edwin Harper, Deputy Director, OMB, discussing efforts to eliminate fraud and waste from Government: "One point, which I particularly want to call to your attention, is the result of a study done by one of our most experienced Inspectors General. He found that virtually every major public scandal over a period of several years had been preceded by an audit report that was available to management some six months prior to public exposes of the problem. The basic point of this letter is to encourage you to stay in touch with the activities of your 'Inspector General'."

In connection with OIA's Applegate investigation Terry Harpster, a former Region III IE Inspector, was interviewed by OIA Investigators David Gamble and John Sinclair on March 6, 1981. About July or August 1981 I reviewed Harpster's interview in detail for the first time and decided that it was not relevant to the Applegate investigation but was relevant to another OIA investigation - "Zimmer Plant - Allegation re Deficient Construction (OIA file 81-39)" which had been opened in May 1981. This latter case dealt with much broader issues and was to address potential criminal issues which were being uncovered as a result of an ongoing IE investigation at the Zimmer plant. Accordingly, I directed that the Harpster interview not be made a part of the 81-18 report and that a copy of the Harpster interview be placed in the 81-39 file and be made a part of any report issued in that case. I have again reviewed Harpster's March 6, 1981, interview and believe that my July/August decision was correct as the interview is void of any information which is related to the question of whether the IE staff had conducted an adequate investigation of Applegate's allegations (see Attachment B - Harpster interview dated March 6, 1981). Additional information on this subject is contained in my June 24, 1982, memorandum to Bert Davis, a copy of which was furnished to both the Commission and Dr. Myers in June 1982 (see Attachment C).

On its own initiative OIA brought potential criminal issues involving construction of the Zimmer plant to the Department of Justice's (DOJ) attention in May 1981 - almost two years ago. This too is hardly the action which would be taken by an office that was interested in placing the Zimmer project in a more favorable light or trying to delay public recognition of the alleged wrongdoing at the Zimmer site.

NRC is currently in Federal Court litigating Mr. Applegate's suit against the agency relative to his FOIA request. Until the court adjudicates this matter it would obviously not be in the Government's interest to discuss any aspect of this matter publicly.

Finally, given the onesidedness of the Udall letter and the publicity which Congressman Udall's office saw fit to afford the letter before getting a response from NRC, I can only conclude that the whole exercise was designed not to determine the true facts but to make a media splash. It is absurd that OIA is now being charged by Congressman Udall with covering up the Zimmer matter when in fact it was OIA's initial independent reporting of the Zimmer

situation - over a year and a half ago - which was the forerunner to disclosing the problems associated with the Zimmer plant.

Attachments:  
As stated above.

cc: Chairman Palladino  
Commissioner Gilinsky  
Commissioner Ahearne  
Commissioner Roberts  
Commissioner Asselstine  
M. Chopko

Distribution  
OIA File 81-18  
OIA rdr

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DATE	1/5/83						

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

December 15, 1980

*Reg. Sec.  
CtA  
entirely appropriate  
10/21/80*

MEMORANDUM FOR: James J. Cummings, Director, OIA  
FROM: John F. Ahearne *MA*  
SUBJECT: THOMAS W. APPEGATE ALLEGATIONS

I request that OIA conduct an investigation into whether the Office of Inspection and Enforcement conducted an adequate investigation of the allegations presented to it by Thomas W. Applegate regarding activities at the William H. Zimmer Nuclear Power Station. The I&E findings are set forth in I&E Report No. 50-358/80/9 (July 2, 1980).

I also wish to advise you that I&E has commenced an investigation of the safety issues raised at pages 13 and 14 of the pleading which the Government Accountability Project of the Institute for Policies Studies recently filed with the Merit Systems Protection Board.

cc: Victor Stello, IE

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ATTACHMENT A

## Interview of Terry Harpster

Terry Harpster, Reactor Preoperations Specialist, IE, on detail as a Special Investigator to the Subcommittee on Energy, Environment, and Natural Resources, Government Operations Committee, U.S. House of Representatives, was interviewed on March 6, 1981, by Investigators David Gamble and John Sinclair, OLA.

Harpster said he worked in Region III of NRC from 1974 through 1979. He said he was a technical support inspector initially for all plants in

Region III. He later became a project manager for particular plants: first for DC Cook Unit 2, then Monticello, then both Zimmer and Monticello at the same time. Harpster said he began his inspection activities at Zimmer in October 1977 as a preoperations start-up inspector. He said he was assigned to this position until he left Region III in September 1979; however, he had no real involvement with Zimmer after the Three Mile Island (TMI) accident in March 1979. Harpster said that a pre-operations inspector picks up a plant when construction is far enough along, i.e., about 60 percent completed, to review certain programs, e.g., the quality control program for preoperational work. Harpster said that Tom Vandel was his counterpart as the lead construction inspector. Vandel had inspected Zimmer prior to Harpster's arrival but there was a period of overlap when they both worked there. Harpster said John Menning worked with him as a preoperations inspector who he was training. Harpster said that Menning "took one look" and left the NRC because the program was so bad. He related that one of Menning's reasons for leaving was that he saw how little support the inspectors got on the job. Harpster understood that Menning left to attend the University of Arizona where he is working on his Ph.D. in metallurgy.

Harpster said that when he picked up Zimmer the licensee (Cincinnati Gas and Electric Company) had little appreciation for the amount of resources needed for the plant. He said they barely met ANSI Standard 18.1 which is the criteria for staffing. Harpster explained that even this standard is a loose one which has since been upgraded. Harpster said that one of his jobs was to show the plant management what was required to get the plant off the ground. He said that his inspections documented a number of problems at Zimmer. Harpster said that, for example, the employee who was being placed in charge of the start up operation only had about three months of actual experience in the plant. He explained that the licensee counted as nuclear experience the amount of time operations employees were onsite during the construction of Zimmer. Another example was his impression that the plant personnel felt that, once the parts were bought for the plant, they did not need any support from their corporate offices. He also believed that many plant personnel felt a nuclear plant was similar to the operation of a fossil fuel plant. Harpster said that he tried to resolve some of these problems informally; including going up through the licensee management chain to Vice President Earl Borgmann, but with no luck.

Harpster said he was successful in getting a meeting set up in Bethesda to discuss apparent weaknesses with licensee's organization and staffing. He said this meeting was held on July 13, 1978, only after he "screamed" at licensing officials in Bethesda, particularly Irv Peltier who was then project manager in NRR responsible for issuing the safety evaluation report (SER). Harpster said that he presented his concerns at that meeting and the utility agreed to upgrade their program. He recalled that the specific response was to "buy" an engineer from General Electric to assist them.

Harpster said that the overall problem was that NRC's licensing process was rolling much faster than he could "ratchet" improvements at the plant end. Harpster said that NRC's requirements were a "joke." He said that NRR was about to issue the SER and they set up a meeting of the Advisory Committee on Reactor Safeguards (ACRS) to which he was not invited.

Harpster said he went up the Region III management chain and presented his concerns. He said he attended the ACRS meeting anyway. He recalled that when licensee officials were questioned by ACRS Chairman Bender, they said several things that were not true. Harpster noted that not only did he feel they were not true, but Manning also believed they were not true. Harpster said he presented this conflict to his boss, Robert Warnick, when he returned to the regional office. He said that he and Manning later talked with one of the licensee officials who had testified to the ACRS (Jim Schott who was the plant manager of Zimmer). During their conversation, Harpster had Warnick read Schott's testimony to Schott over the phone. He said that Schott then agreed that the testimony did not convey the correct impression. Although Schott assured Harpster and Manning that he would clarify this at the next ACRS meeting, he did not. Harpster believed that Schott's subsequent testimony even aggravated his earlier statements.

Harpster said he briefed his management on this matter. He recalled that his Regional Director, James Keppler, sent a letter to the ACRS informing them of the situation. Harpster understood that this letter was later forwarded to the Atomic Safety and Licensing Board (ASLB).

Harpster explained that, after the ACRS meeting, he also informed Peltier (in Manning's presence) of his concerns. He said that Peltier later claimed that he did not recall Harpster's expressing his concerns to him. Harpster explained that Peltier is a "pro-nuclear" "pro-licensing" employee. He also explained that during a start-up of a nuclear plant, NRR is on a very tight schedule; the IE inspector is often viewed by NRR as an adversary when he uncovers deficiencies which NRR has already "blessed."

Peltier told Harpster that he had informed the licensee about an IE investigation underway on the subject of the licensee's testimony before the ACRS. Peltier also informed Harpster that Charles Barth (attorney with the Office of the Executive Legal Director) had called James Yore (Chairman of the ASLB Panel) and told Yore to throw away Keppler's letter describing the discrepancies. Harpster pointed out that these latter two matters were the subject of a recent investigation by OIA. Harpster said in summary that this was a situation where the system broke down: NRR



Harpster said that Borgmann was also putting the heat on him by, for example, sending a letter to Keppler. Harpster also understood that the Chairman of the licensee sent a letter to President Carter and others. Harpster said that it was about this time that the TMI accident occurred. He said he was assigned to TMI and he has not been back to Zimmer since. Harpster said that, when he left, Zimmer still had problems. A principal one was that, as a practical matter, there was no QA program for operations. He said that all Zimmer had was one person assigned to this function and that person could not possibly do all that the job required.

Harpster said that realistically the IE modular inspection program does not deal with the things you have to focus on early in a plant's life. He said that an inspector must deal with the problems he knows are important and then deal with other problems in addition. Harpster said that he had to deal with the construction people somewhat at Zimmer. He said that the licensee had minimal involvement with the construction at Zimmer: everything was controlled by its contractor. He said that this is a problem because, after the plant is built and the contractor leaves, the licensee would not have any expertise to handle the plant. He said that for example there was no one on the licensee's corporate staff for reactor instrumentation and control systems. Harpster felt that this licensee was "in over its head."

Harpster said that people often bring matters to an inspector's attention. He said that an inspector can deal with some of these matters, but there are some which he cannot. Harpster said that sometimes so many things are wrong that a plant is out of control. Harpster concluded that "Zimmer was out of control." Harpster explained that a licensee's ability to get money for the construction of a nuclear power plant (by, e.g., the sale of bonds) is based upon the percentage of completion of the plant. He said that this results in a situation where the construction personnel attempt to turn things over as completed before they are ready. Harpster said that what then happens is that the licensee staff is not properly prepared or trained to handle them. He said when the licensee finds things that are wrong, they cannot fix or test them properly. What they must do is give the problems back to construction to be remedied. Harpster said this is indicative of a construction QC program that does not work. He said this is a situation which an NRC preoperations inspector tries to head off. He said that one example of this was that the licensee had not ordered any spare parts. According to Harpster the time required to obtain additional or replacement equipment is so long it causes a major problem to licensees trying to resupply or obtain back-up equipment.

Harpster said that sometimes plant management puts so much pressure on their personnel that the personnel cannot get things done. He said that these personnel then sometimes use NRC inspectors to accomplish the same things: they feed inspectors information so it appears that the inspector found the deficiency rather than the plant personnel. Harpster said that, from what he could see, it appeared that the construction program

had defects and he was about to inherit them. Harpster explained that he was not directly familiar with the construction activities but he saw the results - including the QA problems. Harpster said that Inspector Fred Maura has documented much of these problems from the operations side.

Harpster said that both the site construction manager, Mr. Gear (phonetic) and the site QA manager Mr. Schweirs were friends of Vice President Borgmann. Harpster believed that Schweirs was assigned by the licensee to keep the plant manager (Schott) under control. Harpster said Schweirs even called the regional office to try to get some of the IE inspection reports changed. Harpster said Schweirs also asked him to send IE inspection reports to him (Schweirs) so he could decide which matters would be sent on to Schott.

Harpster said part of the problem was that NRC does not have explicit regulations to inspect against. He said that the preoperations inspector is faced with the task of trying to get control of the site and helping the licensee to solve its problems. He said that the inspector only documents a small percentage of this "helping work." Harpster said the licensee had no people involved with preoperations and test acceptance. He said that everything was bought under contract so the contractor was able to do whatever it wanted. Harpster said the licensee then had no one who knew how to handle the problems that were "built-in."

Harpster said he tried to get the plant managers out to take tours of the plant. He said that one assistant plant manager said he was scared to tour the plant because of the convicted felons working out there. Harpster said that sometimes the licensee's own security force could not handle disturbances and they had to call the local sheriff's office. Harpster explained that there is some drinking of alcohol on all nuclear construction sites. However, the licensee at Zimmer did not have much control of things. Harpster said there were a lot of "tough guys" working at the plant and the situation got worse when they were drinking.

Harpster said that there are many allegations at any nuclear power plant; however, usually only a certain number are true. Harpster said that one could tell that there were a large number of problems at Zimmer because so many allegations were coming up.

Harpster said there was a lot of pressure on individual IE inspectors because of the momentum generated by the NRC licensing process. Harpster said that pressure is also created on construction personnel by the contractor's weld production schedules. He explained that the construction manager has to have a certain number of welds completed to keep the piping installation on schedule. He said that problems arise when the construction personnel are pushed. Harpster said that for a QC inspector to stop construction for any deficiencies, he would have to hold up many phases of the construction of a \$1 billion plant; so the QC inspectors normally do what they are told.

Harpster said that nuclear power plants employ personnel specifically designated to serve as their liaison with NRC. He said that this is helpful because it overcomes the problem IE inspectors face in trying to find their way through the great amount of paperwork at the plant. Harpster said, however, this liaison person also "steers" the inspectors' activities. Harpster said that dealing with this liaison person does allow the inspector to get through NRC's modular inspection program very well. Harpster noted that there is no real internal audit of the NRC's inspection program.

Harpster described the "helping activities" that an IE preoperations inspector engages in as a process of getting all the procedures and controls in place. He said that this activity constitutes only about two lines in the IE procedures, but it is the largest part of a preoperations inspector's time.

Harpster estimated that the interest cost alone in holding up construction of a nuclear power plant for one day would be several hundred thousand dollars. He observed that, with the increased pressure on NRC to license power plants, he would expect even more pressure to be placed on IE inspectors. He said that pressures on the licensee personnel to make exceptions to the acceptance criteria in the preoperations tests are very real. He said it is difficult for an IE inspector to tell whether the licensee's exceptions are based on valid engineering analyses. He said that all inspectors cannot possibly be experts in all areas. Harpster said the inspectors must rely on the licensee's people to review the exceptions. Harpster said that this represents a flaw in the NRC's system because the licensee's reviewers are under the same pressure to approve exceptions. Harpster pointed out that the licensee, because it is a utility company, cannot pass on the amortization costs to the ratepayers until the plant reaches the point of completion, i.e., the stage of commercial operations.