

U.S. Department of Justice

United States Attorney
Southern District of Ohio

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220 United States Post Office & Courthouse
100 East Fifth Street
Cincinnati, Ohio 45202

FTS 212
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May 28, 1982

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James Cummings
Director, Office of Inspector & Auditor
Nuclear Regulatory Commission
1717 H. Street, N.W.
Washington, D.C. 20555

Dear Mr. Cummings:

Yesterday, I received a telephone call from Fred Christianson, a resident inspector at the NRC. He advised that on May 26, 1982, there had been harassment of CG&E inspectors in the form of throwing buckets of water on them. Mr. Christianson called to obtain information on the penalty under 18 U.S.C. 111, which I provided. We thought you would want to be informed, and follow-up, on this intimidation of inspectors.

I am enclosing an article concerning a state inspection of the "boiler" at Zimmer; apparently it might not be approved.

Sincerely,

CHRISTOPHER K. BARNES
United States Attorney

Ann Marie Tracey
ANN MARIE TRACEY
Assistant U.S. Attorney

AMT:jls

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Engineering Inspector Says No To Zimmer's Radiation Shield

BY BEN L. KAUFMAN
Enquirer Reporter

RICHARD WHITMIRE
and DAVID SHAPIRO
Gannett News Service

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Doubts about a vital radiation shield Thursday provoked Ohio's chief boiler inspector into opposing startup of the Zimmer nuclear power station.

The steel-and-concrete shield, called the containment, envelops the reactor and other key hardware. It is supposed to prevent radiation from escaping into the environment.

"I'll tag the containment if I have to," Donald M. Milan promised. To him, it's a safety issue.

His intervention could stop or delay Cincinnati Gas & Electric Co. plans to turn on the \$1.3 billion facility.

Milan said he has authority over the containment because it is a pressure vessel.

REGIONAL OFFICIALS of the Nuclear Regulatory Commission (NRC) said it's an issue between Ohio and CG&E. But NRC won't let Zimmer operate until CG&E and the state resolve their differences.

CG&E will challenge Milan's authority, quality assurance manager Harlan Bager said, because state law did not apply when containment work began.

On Thursday, Zimmer drew attention in Washington, D.C.

Rep. Morris K. Udall, D-Ariz., said he will convene his House Interior Committee June 16 to probe quality assurance problems. Milan will be asked to testify.

"We're concerned about the kinds of problems revealed by the Zimmer investigation,"

of the hearing is to get the facts on the table."

The utility says the containment liner was built safely; Milan says the lack of inspection leaves an unanswered safety question.

If Milan succeeds, it will be a financial blow to CG&E and its partners in the 800-megawatt facility, Dayton Power & Light Co. and the Columbus & Southern Ohio Electric Co., a subsidiary of American Electrical Power. CG&E is in charge of construction and is to run Zimmer.

The story of Milan's intervention begins after the NRC fined CG&E \$200,000 last November for sloppy record-keeping, intimidation of inspectors, and other problems.

MILAN AND Richard E. Jagger, assistant director of inspections for the National Board of Boiler & Pressure Vessel Inspectors, went to Zimmer on Dec. 8.

The next day, Jagger sent his report to CG&E. It was an inventory of problems, including intimidation of resident inspector Lowell Burton and evidence of a "serious breakdown" in quality assurance programs run by CG&E and Kaiser Engineering.

Burton works for the Hartford Steam Boiler Inspection and Insurance Co. His title is Authorized Nuclear Inspector, and he is responsible for seeing that American Society of Mechanical Engineers (ASME) codes are enforced.

In December, Milan and Jagger found that only one Authorized Nuclear Inspector had been on site for 90% of the construction.

"To assume one Authorized Nuclear Inspector can maintain proper inspection monitoring when the quality assurance program is not functioning properly is ludicrous," Jagger charged. This allows only "cosmetic and token type inspection."

BASED ON what he had seen and on Jagger's report, Milan told CG&E that "ser-

pilance of this plant to State of Ohio rules and standards have arisen." ASME standards are part of the Ohio regulations governing nuclear facilities.

Milan asked the National Board of Boiler and Pressure Vessel Inspectors for a "comprehensive and complete independent investigation" of ASME code compliance. The probe started March 1, and investigators are still at Zimmer.

The investigators' interim report May 12 set Milan off.

When they looked at the containment, built at the worksite by Chicago Bridge & Iron Co., investigators found it "was not inspected and stamped in accordance with ASME code requirements."

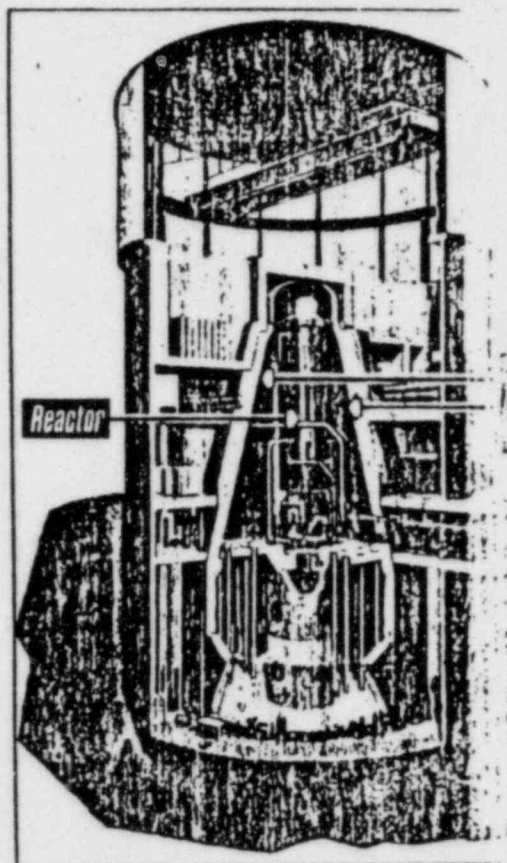
Nor had the containment been granted a variance from ASME codes in advance, called a "state special."

Milan said someone erred and did not have the Authorized Nuclear Inspector check compliance with ASME codes during construction. Milan did not blame the inspector, but he says it was a lost opportunity that cannot be recovered through reviewing documents.

"THE INSPECTOR didn't see certain things that he had to have seen," Milan said. "I will not go along with that building."

NRC officials explained their hands-off approach by saying they and the State of Ohio apply different standards for inspecting the containment liner. Also, Chicago-based NRC officials know Chicago Bridge & Iron Co. as a reliable firm.

Ohio law offers CG&E a way out, Milan said. The utility can ask for a special building board to be convened. The three-judge panel — an architect, a lawyer and a professional engineer — can overrule Milan.



DRAWING SHOWS how concrete-and steel containment surrounds reactor similar to unit at Zimmer. The containment is housed in the reactor building, is an important barrier in an accident. It is meant to prevent radiation from escaping.

ZIMMER

CONTINUED FROM PAGE A-1

"If they go over my head, I'll fight it," Milan said. "It's all I can do."

Dorwin Hunter, a senior NRC regional official assigned to Zimmer, said CG&E might be able to prove compliance with an arduous records check . . . if the records are complete.

Milan took no position on nuclear power. Boilers and other pressure vessels are his lifelong passion. He has operated and inspected them for 25 years and is qualified to deal with both nuclear and conventional facilities.

ZIMMER AND CG&E are still under NRC scrutiny. Federal officials are in the second phase of a probe that began last year and led to the then-record fine against a plant under construction.

First, the NRC pursued leads brought by private investigator Thomas Applegate. Now, NRC

investigators are checking into fresher charges by workers and former employees at Zimmer that came up when inspectors checked out Applegate's charges.

At the same time, CG&E is following a quality confirmation program, ordered by the NRC, that involves checking or re-checking thousands of welds and other work where questions of safety exist.

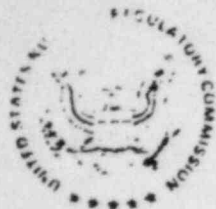
The NRC probe and CG&E's quality confirmation program are to be finished before year's end, according to current schedules.

NRC's Atomic Safety and Licensing Board is considering CG&E's application for an operating license for Zimmer. A decision could come any week. If the board rejects intervenors' motions to reopen the hearings, CG&E could still get its license and load fuel in 1982.

That would allow CG&E to produce power commercially from Zimmer in 1983.



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

June 1, 1982

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① Info
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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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June 1, 1982

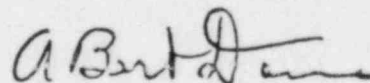
Mr. Barnes stated his concern that a May 14, 1982 letter from Chairman Palladino to Congressman Ottinger states that no IE investigations or special investigations have been performed at the plant since November 24, 1982. NRC representatives stated that the letter did not mean the NRC had not done any 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, OLA
R. F. Warnick, RIII
J. E. Foster, RIII

June 4, 1982

Note to the Commission

The attached letter was received June 4, 1982, and is forwarded for your information.

At the May 20, 1982, meeting USA Barnes noted that he had been furnished a copy of Chairman Palladino's May 14, 1982, letter to Congressman Ottinger. Barnes was unaware of NRC's recent regionalization and contended that the last paragraph of the letter dealing with the Office of Inspection and Enforcement led him to believe that no investigation or inspection activities had taken place at Zimmer since September 1, 1981. Mr. Davis corrected Mr. Barnes' impression on this point and briefly described the inspection and investigative activities which had taken place at Zimmer since September 1, 1981.

James J. Cummings, Director
Office of Inspector and Auditor

Attachments:

1. Ltr dtd 6/2/82 fm Barnes
2. Ltr dtd 5/14/82 fm Palladino to Ottinger

cc: ~~Watts~~

W. Dircks
H. Denton
R. DeYoung
L. Bickwit
J. Keppler
G. Cunningham
J. Fitzgerald

Distribution
OIA File 81-39
OIA rdr

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OFFICE	OIA						
SURNAME	JCummings/bab						
DATE	6/4/82						

81-39 ✓

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

September 23, 1982

Ms. Ann Marie Tracey
Assistant U. S. Attorney
U. S. Department of Justice
722 U. S. Courthouse
Cincinnati, Ohio 45202

Dear Ms. Tracey:

The purpose of this letter is to confirm in writing major issues discussed at a meeting in your office on September 8, 1982, regarding the Zimmer facility. This meeting was attended by Messrs. Cummings, Fitzgerald, Sinclair, Gilbert, Hunter, Lewis, Christianson and Dick of the Nuclear Regulatory Commission; Messrs. Ryan and Danielson of the Federal Bureau of Investigation; yourself; and, Messrs. Behlen and Nyktas of the U.S. Attorney's Office, Cincinnati, Ohio.

At your request, the meeting was held to discuss an overall investigative plan which would deal with the various construction deficiencies which have been uncovered and/or alleged to exist at the Zimmer facility.

I believe the major topics covered during this meeting were as follows:

- NRC's overall investigative effort at Zimmer is the responsibility of the newly formed Office of Investigations (OI). Three investigators are currently assigned to this matter on a full time basis and supervision of the case is being handled directly by OI Headquarters, Washington, D.C. By mid-October 1982, OI anticipates that two additional investigators will be assigned to the case.
- NRC's overall inspection effort at Zimmer is the responsibility of the Region III office. Five inspection personnel are currently assigned to this matter on a full time basis.
- The overall aim of NRC's investigative and inspection effort at Zimmer is to insure the full resolution of all significant public health and safety issues.
- Mr. Fitzgerald provided you with a listing of the major investigative areas his office plans to look into. The priority areas that will be initially addressed include -

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1. falsification of records,
2. harassment and intimidation of QC inspectors,
3. welder qualifications.

Mr. Fitzgerald advised you that it is his intention to concentrate initially on these priority concerns, issuing interim reports as the investigation proceeds. Information contained in OI reports could form the basis for an NRC civil enforcement action. Furthermore, OI reports will be promptly reviewed by the Office of Inspector and Auditor to determine if they contain information which should be referred to your office.

Mr. Cummings agreed that any referral to your office would contain a brief analysis of the facts as they pertain to applicable Federal criminal statutes.

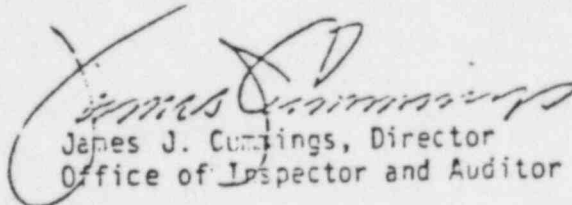
With regard to your concerns about preservation of evidence, Mr. Hunter and Mr. Fitzgerald agreed to look into this matter and inform you of the arrangements and procedures put into place to protect evidence.

Mr. Cummings advised you that your office would be promptly informed in the event that NRC were to take any significant enforcement action in the Zimmer matter.

You expressed some reservation as to whether the overall NRC plan would adequately serve your offices' purposes as opposed to a plan that would call for a joint NRC/FBI investigation. You informed us that you would be discussing this matter with Mr. Barnes and officials of the FBI at a later date.

From NRC's point of view the meeting of September 8, 1982, was very useful. As you can appreciate, NRC has committed substantial investigative and technical inspection resources in order to resolve the numerous issues that are associated with the Zimmer facility. I suggest that we meet again in mid-November to discuss the overall status of this matter.

Sincerely,


James J. Cummings, Director
Office of Inspector and Auditor

cc: FBI Office, Cincinnati, Ohio
J. Greenspun, DOJ



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

(64)

AUG 4 1981

MEMORANDUM FOR: J. F. Streeter, Acting Director, Enforcement and Investigation Staff

R. F. Warnick, Reactor Projects Section 2B

A. B. Davis, Deputy Director

FROM: J. E. Foster, Investigator *JE*

SUBJECT: CONTENT OF ZIMMER INVESTIGATION REPORT

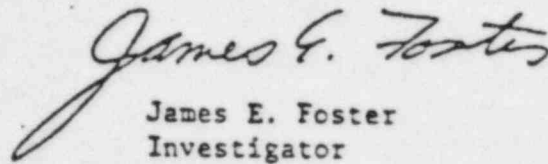
From an editorial standpoint, the Zimmer Investigation report is progressing well, and a good draft effort should be available by Friday, August 7, 1981. However, now that most portions of the report have been edited, and I am getting a feel for the completed report, I have some concerns (from an investigative standpoint) regarding the content of the report. Listed by apparent importance, these concerns are as follow:

1. There is no statement by Kaiser QA Manager Gittings.
2. There is no statement by Schwiers, Marshal, or Swain (there are no statements by Kaiser or CG&E management).
3. There is no information on the study done by Gladstone Labs. This study was (at least partially) the reason that Kaiser personnel felt that their inspectors were over-inspecting and writing unjustified NRs.
4. We need to include a statement on whether we will re-contact Hofstadter, Martin, Griffin, Reynolds, Duche and others and what the basis of the contact will be if they are re-contacted.
5. Almost all personnel in the report are fully named, whereas most investigation reports include a more extensive use of individual identifiers.
6. We never obtained the notes from Mark Hertsgaard of his contacts with site workmen.
7. More information is required on the original noncompliance issued by Isa Yin for improperly voiding nonconformance reports (NRs).

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AUG 4 1981

8. There is no indication that _____ was interviewed in person,
and the _____ statement appears inconsistent with some of the
allegations ascribed to him.


James E. Foster
Investigator



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

89

OCT 6 1981

MEMORANDUM FOR: REGION III Files

FROM: J. F. Streeter, Chief, Reactor Projects Branch 2

SUBJECT: TELEPHONE CALL WITH TOM APPLGATE

On September 3, 1981, Applegate called to inform Region III of his recent address and phone change. His new address and number are:

He said he had moved at the request of his former landlady who had experienced numerous harrassing telephone calls regarding Applegate.

Applegate said it had been well over three weeks since he had been contacted by Jim McCarten and he was wondering about the status of our investigation report. I told him I expected it to be issued within two weeks and I would call him if it wasn't. He asked if Region III would let him know before the report was publicly released. I assured him we would. I called Applegate on September 17, 1981, to tell him the report would not likely be issued before three more weeks and I would let him know if it wasn't released by then.

Applegate expressed an interest in the information we received from C. K. Smith. He described Smith as a former Kaiser Assistant Project Manager. I told him I didn't recall us talking to Smith but that he could be assured we would talk to all those people brought forward by him during the February, 1981, meeting with us in Region III.

Applegate also expressed interest in the OIA report and our interface with DOJ. I told him I couldn't comment on the OIA matter and that Region III was interfacing with DOJ.

J. F. Streeter
J. F. Streeter, Chief
Project Branch 2

cc: J. G. Keppler
A. B. Davis
R. F. Warnick
J. B. McCarten

8207300282 (1p)

94

NOV 16 1981

MEMORANDUM FOR: Bert Davis, Deputy Director, Region III
Office of Inspection and Enforcement

FROM: James J. Cummings, Director
Office of Inspector and Auditor

SUBJECT: ZIMMER INTERVIEWS AND CORPORATE CORRESPONDENCE

*Original dictated by
James J. Cummings*

Attached for your review and any action deemed appropriate are the interviews conducted by Office of Inspector and Auditor (OIA) investigators, regarding potential falsification of records at the William H. Zimmer Nuclear Power Station. Also included is correspondence transmitted between the Henry J. Kaiser (HJK) company and Cincinnati Gas and Electric (CG&E) describing attempts by Kaiser to staff the Quality Control (QC) organization in order to meet the requirements set forth in 10 CFR 50, Appendix B. The requests which were sent to CG&E for authorization were officially disapproved by CG&E. Copies of the stipulated correspondence is furnished as an attachment. OIA has also provided a copy of a CG&E internal memorandum dated November 7, 1980, instructing Kaiser to "eliminate" the HJK requirement for system certification (review of Quality Assurance (QA) documentation) prior to the release of systems from construction to the Electric Production Department for preoperational testing. OIA had briefed personnel at IE Headquarters regarding the described documentation and attached interviews on September 16, 1981, in order to assist in the identification of any unresolved health and safety issues. As a result of the meeting it was concluded that none of the information presented any question concerning health and safety. We are, however, providing this documentation at this time to assure that no issues remain unresolved and that IE is aware of the information obtained by OIA.

If there are any questions pertaining to the material please feel free to contact me or Arthur Schnebelen, Acting Assistant Director for Investigations.

Attachments:
As stated.

Distribution
OIA File 81-39
OIA rdr
JSinclair

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OFFICE	OIA	OIA	OIA				
USERNAME	JSinclair/bab	Schnebelen	Cummings				
DATE	11/18/81	11/ /81	11/ /81				

OFFICIAL RECORD COPY

USGPO 1981-4



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

NOV 18 1981

file
Zimmer

MEMORANDUM FOR: Bert Davis, Deputy Director, Region III
Office of Inspection and Enforcement

FROM: James J. Cummings, Director
Office of Inspector and Auditor

James J. Cummings

SUBJECT: ZIMMER INTERVIEWS AND CORPORATE CORRESPONDENCE

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If there are any questions pertaining to the material please feel free to contact me or Arthur Schnebelen, Acting Assistant Director for Investigations.

Attachments:
As stated.

NOV 20 1981

Done
8302090501

Enclosure 8

PHILLIP GITTINGS
Deputy Quality Assurance Manager
Kaiser Engineering, Incorporated
William H. Zimmer Nuclear Construction Project

Mr. Phillip Gittings, former Quality Assurance Manager, Kaiser Engineering, Incorporated (KEI), assigned to the William H. Zimmer Construction Project was interviewed on July 8, 1981, at the Zimmer Construction Site. Prior to any questions being asked, Messrs. Albert Puglia and John Sinclair identified themselves as Investigators, Office of Inspector and Auditor (OIA), U.S. Nuclear Regulatory Commission (NRC). Also present during the interview was James McCarten, Investigator, Office of Inspection and Enforcement (IE), Region III. Mr. Gittings was also provided the opportunity to review appropriate credentials and advised that the purpose of the OIA investigation was to determine his knowledge of alteration or falsification of Quality Control (QC) documentation (NonConformance Reports, Kaiser Engineering Inspection forms-KEI forms).

Mr. Gittings began the interview by describing his employment with the Kaiser Corporation. Gittings explained that he had worked for Kaiser for approximately 4 1/2 years and had held the position of Kaiser Quality Assurance (QA) Manager at the Zimmer Site for about one year. Gittings stated that he assumed the position in July 1980 and had recently been reassigned as the Deputy QA Manager and was scheduled to be transferred to another Kaiser project in the near future.

Investigator McCarten questioned Gittings as to his knowledge of "voiding" Nonconformance Reports (NR's). Gittings stated that prior to November 1980 most "voiding" of NR's was done by the Supervisor for Document Control, Floyd Oltz. Gittings responded to questions concerning the qualifications of the Supervisor, Document Control, and his authority to "void" NR's by stating that Oltz did not have the technical qualifications to assess the validity of NR's or the authority to disposition the NR's as "void."

Gittings stated that the proper procedures for processing an NR called for a technical evaluation of the information contained on the NR to determine whether or not the deficiency described was valid, and if not, the NR could be dispositioned as "void." Gittings continued by explaining that the only person who had the authority to void an NR would be the QA Manager. Gittings also advised that the problem with NR's and their "voiding" was the topic of discussion with an NRC inspector from Region III, (I. Yin) in the fall of 1980. In response to subsequent questioning concerning NR's written by a QC inspector by the name of Ruiz, which were "voided" by Gittings, he (Gittings) acknowledged that he had "voided" the NR's but could not recall why he had voided them.

Gittings stated that during an inspection of the site, Yin discovered the problems of "voiding" NR's in the Document Control section. Gittings stated that the discovery of the problem had been discussed during an exit meeting between the NRC inspector, representatives of Cincinnati Gas and Electric (CG&E) and Kaiser. Gittings further stated that he attended the meeting and recalled that Yin questioned the voiding procedures and the process whereby the Document Control Supervisor was exercising the authority to void NR's. According to Gittings, Kaiser advised the NRC that there would be no more voiding of NR's by the Document Control Supervisor.

When questioned about QA being intimidated by the Construction Manager (Robert Marshall), Gittings replied that he was not intimidated by Marshall or construction's challenges to the findings of QC inspectors. Gittings stated that Marshall has a strong personality, but he, Gittings, would not change QC findings based solely on Marshall's objections. Gittings added, however, that there were some instances where he, Gittings, agreed with Marshall's position and subsequently overrode the findings of the QC inspector.

Gittings continued by stating that when he arrived at the Zimmer site he found what he believed to be inadequate QA Management. At that point he began to hire additional QC inspectors from other construction sites. This, Gittings stated, also caused some difficulty because some of the inspectors came from projects which were inspecting to other code requirements than the AWS (American Welding Society) that was in effect at Zimmer. Gittings explained that the differences resulted in Kaiser instructing the QC inspectors that the standards and requirements at Zimmer were those incorporated in the AWS code.

Gittings responded to questions regarding the placing of NR's in a separate file titled the Inspection Report File by stating that he was not involved in directing or placing NR's in places other than where they were supposed to be. Gittings stated that he had never instructed anyone to place documents (NR's) in files other than the NR system. Gittings was then advised that between January and February 1980 "Inspection Report" stamps began to be placed in NR log books in order to remove or recategorize the original NR as an inspection report and remove it from the NR system. Gittings explained that the practice at the site was for the QC inspector to call in from the field to get a control number and after the number was issued write up and submit the NR. This, according to Gittings, is compatible with the Quality Assurance Control Manual Instructions (QACMI) procedure which states that QC inspectors can initiate an NR "that is correct." Gittings added that once the NR has been reviewed by a QC supervisor or himself and determined to be valid, then it was entered into the NR file.

Gittings continued by stating that after a second visit by NRC, Kaiser began an audit of NR's to completely review and make determinations concerning "problems" with individual NR's. Gittings repeated that he did not order or direct anyone to place existing NR's in the "Inspection Report" system. Gittings also stated that he did not order or direct that any changes be made to recording NR's in the NR log.

Gittings responded to questioning pertaining to a Kaiser management meeting conducted in early 1980 by stating the following. Gittings explained that he believed that the subject of the meeting had to do with the inspection of pipe support hangers. Gittings added that there were people from Kaiser QA construction and licensee personnel in attendance. According to Gittings, Gene Knox (QA Kaiser Corporate), Rex Baker (Kaiser QC Supervisor), Bob Marshall (Kaiser Construction Supervisor) and Scott Swain (CG&E), along with some others, were present in the meeting. Gittings stated that there was an ongoing problem of writing up and accumulating NR's on pipe hanger deficiencies. Gittings stated there had been a problem with NR's on the hanger area. Gittings stated that a decision was reached as a result of the meeting to stop writing NR's and to "void" existing NR's. This decision was based upon the fact that Sargent and Lundy (S&L), architect engineer for the project, was to do a reevaluation of the design of the hangers and inspections would be conducted according to design modifications. A second consideration was that QC inspections of vendor hangers (Patterson) were not to be conducted. The instructions were that QC inspectors were "not to inspect hangers purchased outside."

Gittings continued by explaining that the previous fall (1979), there was continued "turmoil" concerning hanger inspections. Gittings explained there was pressure to get hangers installed and QA was "getting beat up" concerning inspections. Gittings stated that in one instance where 60 hangers were identified as having deficiencies and were written up on one NR, he had made the decision to separate the deficiencies and place one hanger on one NR. This, according to Gittings, was not intended to overrule the QC inspectors. Gittings also stated that he was not involved and had not instructed anyone to set up any "secret files" regarding QA documentation.

Gittings responded that construction has not ordered him to move QC staff around in order to stop critical inspections. Gittings did state, however, "people have been reassigned to other systems."

At this juncture, Investigator McCarten left the interview and it continued in the presence of Investigators Puglia and Sinclair.

Gittings began a discussion pertaining to the Kaiser QA organization and who has responsibility for the QA program at the site by stating it is Kaiser's responsibility. Gittings continued, however, and explained that Kaiser was "doing the work for a very tough client (CG&E) and that

any requisition for additional manpower or staffing for QA/QC had to go through the client." Gittings added that he had to report everything through Bill Schwiers, QA Manager for CG&E.

Gittings stated in response to questioning that the QA organization for Kaiser is currently staffed at a "substantially higher level" than at his time of arrival or initial assignment at the site. Gittings added that he was continuing to recruit QC personnel for Kaiser employment. Gittings admitted, however, that the staffing of the QA/QC organization in the past has not been "adequate to meet the requirements of 10 CFR (Part 50, Appendix B). Gittings added that the client (CG&E) "did not have an adequate QA/QC staff" and "some (personnel) individuals should not have been in the system."

Gittings continued by denying that he had instructed anyone to "white out" NR entries in the NR log. He (Gittings) stated that, in fact, his instructions were to make no changes in the recordings in the NR log book.

Gittings responded to questions concerning the utilization of "punch lists" to record deficiencies rather than NR's by stating that punch lists were used to rectify problems instead of NR's.

Gittings was questioned as to the circumstances which led to the termination of the contract with the Butler quality control inspectors. Gittings stated that the contract was terminated after discussions with Kaiser corporate management and a meeting which took place in which the decision was made to "eliminate the shoppers" (stop the contract with Butler).

Gittings admitted that although Kaiser had been having difficulty in staffing QA/QC, the decision was made that Kaiser would have its own QC inspectors. As Gittings recalls, offers were made to approximately 21 of Butler inspectors of which 17 accepted. Gittings added that 34 QC inspectors left for other employment. Gittings also stated that the piping area was reduced from 10 QC inspectors to three inspectors partially because the work slowed down. Gittings stated, however, that the corporate decision to drop the "job shoppers" also played a part. Gittings concluded his comments on the contract issue by stating that he believes some of the reasons for eliminating the Butler people were that Kaiser could cut down on paperwork and establish a cadre for Kaiser's own QA organization. Other factors, according to Gittings related to cutting costs, eliminating "over inspecting" and the Butler inspectors had "no loyalty" to Kaiser.

Gittings further stated there were some difficulties or problems in working with Bob Marshall because he was loud and aggressive, but it did not effect his (Gittings) position or his independence as Kaiser QA Manager. Gittings did stated that one problem that did effect his ability to carry out his job was his relationship with the CG&E QA Manager, Bill Schwiers. In fact, Gittings stated "my primary goal was to get along with him" (Schwiers). Gittings added that Kaiser lost the previous QA Manager (Turner) because he was unable to get along with Schwiers. Gittings explained that there were numerous requests in the form of memoranda which were sent by Turner to CG&E asking for additional QC staffing which were turned down or denied by Schwiers. Gittings was requested by OIA to contact Kaiser corporate and advise them that NRC requests copies of the memoranda which indicate that additional QC staffing was necessary to meet the requirements of 10 CFR. Gittings stated he would contact corporate and advise them of the request. Gittings could not furnish any additional information regarding problems with the QA program.

William W. Schwiers
Former Quality Assurance Manager
Cincinnati Gas and Electric
William H. Zimmer Nuclear Construction Project

Mr. William W. Schwiers, former Quality Assurance Manager, Cincinnati Gas and Electric (CG&E) was interviewed on July 9, 1981, by Albert B. Puglia and John R. Sinclair, Investigators, Office of Inspector and Auditor (OIA), U.S. Nuclear Regulatory Commission (NRC). Prior to any questioning, Mr. Schwiers was provided the opportunity of reviewing appropriate credentials and advised that the areas being investigated pertained to intentional alteration of Quality Control (QC) Records and willful omissions regarding QC records.

Mr. Schwiers began the interview by providing a brief description of his duties while assigned to the Zimmer Construction Project. Schwiers stated that he first began working at Zimmer in the 1973 time frame as a representative for Cincinnati Gas and Electric and that continued until approximately 1975. At that time Schwiers stated he became the Senior Field Project Engineer in the Quality Assurance Organization which lasted for the next year. In 1976 Schwiers was reassigned to the functions of Quality Assurance Manager for the project. Schwiers stated that at that time the Quality Assurance Manager for Kaiser was Bill Friedrich. Schwiers further stated that the CG&E Quality Assurance group at the site consisted of four other CG&E employees plus himself. According to Schwiers, it was his responsibility to audit and monitor the Kaiser QA program.

Schwiers continued by explaining that it was his perception that the Kaiser QA program, at the time he (Schwiers) took over QA for CG&E, "did not have sufficient independence from the Construction Group." Schwiers stated that at some point Kaiser QA Manager Friedrich, was replaced by another Kaiser supervisor Bob Turner. The exact date of the change could not be recalled, however, Schwiers did state there was a period in which an individual from Kaiser Headquarters, Gene Knox, was acting in the capacity of Kaiser QA Manager.

Schwiers stated that Knox was commuting to the Zimmer Site from the Oakland, California area and although he was the QA Manager for the site, he (Knox) would not relocate to the Cincinnati, Ohio area. Schwiers explained that he, as well as CG&E found the situation with Knox commuting to the site unacceptable because it did not demonstrate the commitment

required to the Quality Assurance Program. Schwiers further explained that Turner finally was placed in the position as Kaiser QA Manager which lasted until approximately October 1979. Schwiers stated that as he recalled, there was a problem with QA documentation within Kaiser and that Turner was replaced by another QA Manager.

Schwiers stated that part of the problem identified with the Kaiser QA documentation was discovered through a CG&E QA audit. Schwiers added that the Kaiser documentation problem is still being reviewed by a contractor to CG&E, Science Application, Incorporated (SAI).

Schwiers continued by stating that he believed Phil Gittings, the most current Kaiser QA Manager, was hired by Kaiser from a position in "corporate" at Cleveland Electric Illuminating (CEI). Schwiers also stated that he believed that Gittings had formerly worked for a Kaiser Project in Florida pertaining to a transportation project.

In response to questions, Schwiers responded that "on paper" he was in control of the project. Schwiers also stated that initially all of CG&E QA was located at the site. Subsequently, however, the QA organization expanded and some QA functions were located at CG&E corporate in Cincinnati. Schwiers then stated as the QA representative part of the responsibility was to monitor Kaiser's QA/QC activity by conducting independent audits. Schwiers continued by stating that he had "some authority" in relation to denying requests for additional Quality Control inspections submitted by Kaiser QA.

Schwiers was then advised that OIA had interviewed personnel at the Zimmer site, including Kaiser QA personnel and as a result, information was developed which indicated that Kaiser QA supervisors had made repeated requests to CG&E for additional staffing of the QC department in order to meet the requirements of federal regulations, specifically 10 CFR 50, Appendix B.

Schwiers was also advised that the requests had been made in writing by Kaiser and that each of the requests has been denied by him (Schwiers). Schwiers stated that he believed that he had honored all of the requests submitted by Kaiser QA and stated that as far as he could recall, all of the requests submitted by the current Kaiser QA, Phil Gittings, were honored. Schwiers was apprised that his statement concerning requests submitted by Gittings had been confirmed, however, the specific requests and time frame alluded to occurred at the time Bob Turner was the Kaiser QA Manager. Schwiers repeated that he believed that all requests were considered and honored. He (Schwiers) was informed that NRC had requested supporting documentation from Kaiser and believed that it was going to be provided in the near future.

Schwiers continued by stating that if there are such requests as described by NRC and responding correspondence denying the requests, they probably contain his signature. Schwiers was then questioned as to the extent of his authority as site QA Manager for CG&E in either "staffing" or denying requests for additional staff. Schwiers stated that he had "some authority" and repeated that he probably would have been the CG&E official whose name appeared on the paperwork. However, he believed that the decisions specifically addressing the described Kaiser requests were probably made in a CG&E management meeting.

Schwiers responded to questions regarding the "management meeting" by stating that he believed the attendees at the meeting were himself, supervisors from the CG&E Generation and Construction Departments and the Project Manager (Barney Culver). Schwiers added in response to questioning if any other CG&E officials were present by stating that he could not remember. Schwiers stated that he organizationally reported to Earl Borgmann, Vice President, CG&E, however, he could not recall if he was present at the meeting.

Schwiers then responded to questions concerning CG&E's QA organizational structure by stating that as the senior site QA Supervisor he reported directly to Earl Borgmann, Vice President for CG&E. Schwiers added that other departments within CG&E (Generation, Construction, Design) also reported directly to Borgmann. Schwiers stated that although he stated in the beginning of the interview that he believed Kaiser's QA/QC organization lacked independence in performing its function he could not say there was any significant difference in the QA/QC organization within CG&E.

Schwiers was repeatedly asked if he had the authority to deny staffing requests pertaining to Kaiser QA/QC at which time he (Schwiers) would continually state that "his name was probably on the paper" and he could not remember if his supervisor, Earl Borgmann, was in attendance at any meeting. Schwiers was also reluctant to state unambiguously that he had the authority to deny Kaiser QA staffing requests and would only state that the decisions were a result of CG&E management meetings.

Schwiers stated that CG&E had been conducting audits of the Kaiser QA program and that was one of the methods which disclosed QA problems. Schwiers was then questioned as to how his statement coincided with the fact that NRC Region III Inspectors had conducted a thorough inspection of the audit function of CG&E's QA program and found that there had been no audits done for extended periods of time and in some areas no audits at all. Schwiers stated he was aware of the inspection referred to, but did not have an answer regarding the violations cited by NRC pertaining to the QA audit requirements.

Schwiers was queried as to the type of contract with Kaiser. Schwiers replied that he believed it was a "cost-plus-a-fixed-fee". Schwiers added that he was not familiar with the specifics of the contract, however, he was aware that Kaiser had to get "authorizations" for contract changes from CG&E. Schwiers agreed that under the normal cost-plus-a-fixed-fee contract Kaiser would not have to have had CG&E's approval for staffing, however, he was unable to explain the contract restricts which required Kaiser to submit staffing requests to CG&E.

Schwiers explained that during his assignment as QA Manager at Zimmer he was under "tremendous pressure". When asked to elaborate Schwiers declined to comment on what type of pressure he was referring to. Schwiers concluded the interview by advising OIA that he was going to retire from CG&E in the October-November time frame. Schwiers also stated that if there were any additional requests to interview him, he was going to have to limit his responses to "yes" or "no" answers.

6/13/85 Monday

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ST- 9:25 AM

RUTHANNE Miller, Esq.
Same Address
Judge Hoyt.

ALOOT Gen. Coun.

MARTY MALSCH.

James. McCARTER.

MR. Cummings. DIA

ALBERT Pulgia ^{Puglia} (PHIL NORMAN)

MR. Sinclair^{OL}

KAISER

CINCINNATI

File #

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KE-1 Form.

VOIDED

Jim Foster.

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CYA FILE

G+E MR. WARNICK: TERRY
I+E MR. KOPPLER. HARPSTER.
MR SINCLAIR

File # 81-39-OIA

~~SCHWEIRS~~
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MR. STELLO.

ANN TRACEY

PATRICK HANLEY

~~SWEARS~~ GIDDINGS
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~~WRT~~ BERT DAVIS

FOIA

~~MR.~~ STREETER.

MR. & EVERETT.

MR. BARRETT

~~EVERETT~~

JULIAN GREENSPAN.

PHILLIPS

MR. APPLEGATE

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Bill. PARLOR

Forrest William

MR. WARD

MR. PHILLIP KAVIN WARD

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MR FOUCHARD.

MR KEEPER
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JERRY SHAPKER.
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BERT DAVIS

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CHARIC ~~BARRETT~~
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PAUL BARRETT

GAP

(BILL WARD)

"Q" Student

MR Heisman

MR WARD

KAVIN WARD

WARNICK (Bob)

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^{by}
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BOB TURNER

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MR. CASEY

MR. FOSTER

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FRED MORRA

MAURA

MRS.

KEVIN

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TOM DANIALS

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JIM LIEBERMAN

JIM MORESSE RUIZ

81-13.

I BEAMS

MR. GIDDINGS

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VICTOR GRIFFITH

MR. SINCLAIR (JOHN)

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Mr. Geddings

MR. SWEARS. SCHWERS

ANN TRACY

Jim Foster

Geldings - #10.

ASLB - GYMNIX
PAT GWINN.

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Michael O'Neil

PAUSE.

PAT- HANLEY.

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NRC
Judge. HELEN HOYT

INTERVIEW
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James McCARTEN.

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C. Sebastian Alcott
Office of the General Counsel
U.S. Nuclear Regulatory Commission

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JERRY SHAFFNER.

LAST Q. SHAPKER.

CAN YOU IDENTIFY
THOSE FOR US.

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TO IDENTIFY

95 BOB BURTON.

/ UDALL COM.

O'Neil

PHILIP

MR. HEISHMAN.

HARPSTER (TERRY)

Lee / SPECERD
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SWEERS & Co.

Q.A. MANAGERS

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GAMBLE.

DICK HERR.

Gene PAULIC. (III)
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Jim Creswell

DAVIS - Bessie

END MR
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