



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

MAR 11 1980

Mr. Thomas Applegate
2712 James Avenue
Covington, KY 41014

Dear Mr. Applegate:

This refers to the meeting between you, Mr. L. Williamson of the NRC Headquarters Office, and me on March 3, 1980.

On the basis of the information you provided we plan to conduct an investigation at the Wm. H. Zimmer Nuclear Power Plant regarding the following alleged matters:

1. Defective welds in safety-related systems have been accepted, among them were welds CY 606, HR 42 and K 811.
2. Five defective welds were identified in pre-fabricated piping but the pipe was accepted and installed in a safety-related system.
3. The manner in which safety-related installed piping was flushed was inadequate and a scheduled 6-week flush was reduced to 2 weeks.

You will be informed of our findings following completion of our investigation.

Sincerely,

G. A. Phillip
Investigation Specialist

8505290390 841227
PDR FOIA
BAUSER84-415 PDR

Analysis of Time Cheating

The impact of time cheating can be best demonstrated by this example:

December 21, 1979, Jim Huwel (see time cheating report):

<u>Questional Time</u>	<u>Paid</u>
1.5 hrs @ \$16.71	\$25.01
2.5 hrs @ \$25.07	62.68
Total Questional Time Paid	<u>\$87.68</u>

His total day's pay for December 21, 1979 based on the rate he is paid comes to \$226.42 -- \$87.68 or 39% is unearned. Assuming this percentage holds, that is 39% of his monthly paycheck is unearned:

<u>S/T</u>	<u>Q/T</u>	<u>Total</u>
Hours 161	49.5	
Pay \$2,690.31	\$827.15	\$3,517.46
		@ 39%

Total unearned wages \$1,371.81

Note: The subject was on vacation for a week during this month which makes this example invalid as a monthly average.

Using the same formula as above, Walter Hamm's Time Cheating Report on the 20th of December worked out to be \$81.46 or 41.8% in unearned wages.

Report of Misappropriation of Materials
(Sale of Belt Buckles)

SUBJECT: John McClung

CLIENT: Cincinnati Gas & Electric Co.

On January 3, 1980, John McClung, security guard at the Zimmer Site, sold for \$20.00 each two (2) belt buckles to Agent 920. This transaction was recorded by 920 with the body recorder.

The material for this buckle came from the pipefitters. In fact, it is believed that the pipefitters make these buckles in the shop on company time, using company material and equipment.

These buckles will be held by this office as evidence for later disposition as the client wishes.

61 2424 424 **Exhibit 5** TOLL MAP 10 82 LIVE 5 1/3 CS 12R EYE S 4 P20
 AERY V MEANS RA PBA PPT NI CT LNY WEST ONP CANC 001 AMT 0.1
 712 JAMES 7420 102.11
 OVINGTON KY 41214 SUS 054 DCR IT TAP VOL FSL CCH MT DEF 0.1 DALL
 1873 2872 TL HST 3 554/2 544/1 545 FOR 030800000000 TPT 000000000000
 11 1 DECEASED WID JOAN WHITTEN TREATMENT ONLY

CR 11R 0277

S&I	13.18	.26V	.555	LAST BILL
CIS	89.25	1.75	.03	32.1
TAX	7.04	2.05	.19	LAST BL P. 1 ADJ
CUR	105.42			562 B1 C. 0312
TOT	105.42			

ATE NOTATIONS EC REP

21

61 2424 424 **Exhibit 5** TOLL MAP 10 82 LIVE 5 1/3 CS 12R EYE S 4 P20
 AERY V MEANS RA PBA PPT NI CT LNY WEST ONP CANC 001 AMT 0.1
 712 JAMES 7420 102.11
 OVINGTON KY 41214 SUS 054 DCR IT TAP VOL FSL CCH MT DEF 0.1 DALL

SER	TIME	DATE	MIN	CITY	STATE	MEM	TO	FROM	AMT
1607	4277	210	25	WASHINGTON	DC	51.00	100	100	7.00
203	1020	1020	211	WASHINGTON	DC	222	222	0121	2.00
201	1017	1017	211	COLUMBUS	OH	214	224	1113	2.00
201	1036	1036	213	COLUMBUS	OH	214	221	0800	2.00
203	1505	0805	213	WASHINGTON	DC	214	223	0100	27.00
201	1337	1337	211	COLUMBUS	OH	214	221	0800	27.00
201	0908	0908	215	COLUMBUS	OH	214	221	0800	27.00
201	0913	0913	215	WASHINGTON	DC	214	224	0121	27.00
201	0925	0925	215	WASHINGTON	DC	214	224	0121	27.00
203	1318	1251	219	COLUMBUS	OH	214	221	0800	27.00 *
201	1510	1510	210	WASHINGTON	DC	214	224	0121	27.00 *
2044	0445	0445	220	COLUMBUS	OH	214	224	0121	27.00
203	1324	1247	220	COLUMBUS	OH	214	221	0800	27.00
203	0920	0920	220	COLUMBUS	OH	214	221	0800	27.00 *

21

61 2424 424 2 TOLL MAP 14 82 LIVE 2/3 CS 175 278 S 4 824
 ARRY V MEANS RA RBA PPT NT CT DENY REST ONP CANG CDR AMT DUE
 712 JAMES 0429
 OVINGTON KY 41014 SUS CSM DCR TH TAP NO: TEL CCH HT TEL TEL DATE

SIR	TIME	DATE	MIN	CITY	STATE	AREA-NUMBER	T	C	S	M	AMT
1500	3001	124	01	MEMPHIS	TN	901 458-8738	1	0	0		
				\$1.48 LINS	SM	DISCOUNT					
1504	3047	124	21	MEMPHIS	IN	901 458-8873	1	0	0		
				\$1.48 LINS	SM	DISCOUNT					
1550	3331	224	20	MEMPHIS	IN	901 458-8873	1	0	0		
				\$1.63 LINS	SM	DISCOUNT					71
1637	5377	227	20	LOUISVILLE	KY	502 587-1448	1	0	0		
				\$7.74 LINS	SM	DISCOUNT					171
05901711	97	137	01	DAYTON	OH	513 275-1130	1	0	0		
				\$1.31 LINS	SM	DISCOUNT					31
2113	9137	127	05	CLEVELAND	OH	213 741-7413	1	0	0		
				\$2.15 LINS	SM	DISCOUNT					116
2120	9209	127	01	LIVAN	OH	419 227-8721	1	0	0		
				\$1.42 LINS	SM	DISCOUNT					27
207	1421	2217	15	WASHINGTON	DC	202 644-3320	4	0	0		710
0951	9511	228	02	LOUISVILLE	KY	502 587-1448	1	0	0		39
1048	1487	122	04	DAYTON	OH	513 275-1130	1	0	0		114

21

61 2424 424 2 TOLL MAP 13 82 LIVE 2/3 CS 175 278 S 4 824
 ARRY V MEANS RA RBA PPT NT CT DENY REST ONP CANG CDR AMT DUE
 712 JAMES 0429
 OVINGTON KY 41014 SUS CSM DCR TH TAP NO: TEL CCH HT TEL TEL DATE

SIR	TIME	DATE	MIN	CITY	STATE	AREA-NUMBER	T	C	S	M	AMT
000	2132	0327	23	WASHINGTON	OH	614 848-7401	1	0	0		
				35% DISCOUNT ON ALL L MINUTES							350
1418	2157	028	24	LOUISVILLE	KY	502 587-1448	1	0	0		167
110	1941	7413	04	IN LOUISVLE	KY	502 587-1448	1	0	0		131
107	1003	1003	04	COVINGT	OH	514 421-2518	1	0	0		301

TOTAL FOR ITEMIZED CALLS - EXCL TAX 6428

21

1054

REPORT BY THE U.S.

General Accounting Office

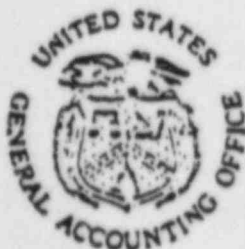
8982

Reporting Unscheduled Events At Commercial Nuclear Facilities: Opportunities To Improve Nuclear Regulatory Commission Oversight

The Nuclear Regulatory Commission requires nuclear facility and materials licensees to report unscheduled events to the Commission so it can inspect, evaluate operating experiences, and inform the public.

The Commission should improve its evaluation methods and extend reporting requirements to types of events not now covered to insure that it identifies all safety-related problems.

Also, the costs of the Commission mandating industry participation in industry's voluntary nuclear powerplant reliability reporting system may exceed the benefits. The Commission intends to further study the issue while raising its financial support for the system. GAO favors deciding the issue using rule-making procedures.



EMD 7J-16

JANUARY 26, 1979

CHAPTER 2

LICENSEE REPORTS SHOULD BE

USED MORE EFFECTIVELY

NRC requires licensees to report incidents and unplanned events associated with the construction and operation of nuclear powerplants and the use of nuclear materials. NRC has identified safety-related problems by assessing these reports. More effective use of these reports, however, is hampered by a lack of clearly defined assessment objectives and methods, responsibilities, and procedural controls. As a result NRC does not know if it is promptly finding and identifying all potential safety-related problems. Furthermore, its report review procedures are fragmented. Finally, it cannot be certain it has received and appropriately reviewed all reports.

NRC also encourages utilities operating nuclear powerplants to participate in a nuclear industry system for voluntarily reporting minor mishaps and component failures at these plants in order to develop a reliable data base for NRC and industry to use in improving powerplant designs and operating practices. The President has asked NRC to mandate full nuclear industry participation in this reliability report system; but NRC has not yet decided if the benefits from a mandatory industry participation program outweigh the additional industry reporting burden--especially in view of the present duplication between the voluntary reliability report system and NRC's licensee event report system. We suggest that NRC consider resolving this question by means of rule-making procedures.

NRC NEEDS TO BETTER MANAGE REPORTS OF EVENTS AT OPERATING NUCLEAR POWERPLANTS

NRC has established an extensive reporting system--called a licensee event report system--to gather information on the operating experience at nuclear powerplants. During 1977 utilities submitted about 3,000 reports to NRC describing incidents and unplanned events at powerplants. Depending on their safety significance, utilities are required to report the events immediately, within 24 hours, or within 30 days of their occurrence.

Immediate or 24-hour reports are required for important events such as excessive releases of radiation, overexposures to individuals, or attempted sabotage. Utilities must report

CHAPTER 3

NRC SHOULD EXTEND CERTAIN REPORTING REQUIREMENTS TO LICENSEES NOT NOW INCLUDED

NRC's event-oriented reporting requirements are not sufficiently broad and should be extended to cover additional licensees and types of events. Specifically, NRC should require

- all utilities operating nuclear powerplants to report the same unscheduled events,
- nuclear materials licensees to report equipment failures which could cause or contribute to safety-related incidents, and
- medical licensees to report misadministrations ^{1/} of radiation or radioactive materials to patients.

NEED FOR UNIFORMITY IN NUCLEAR POWERPLANT REPORTING

NRC's nuclear powerplant reporting requirements are much more comprehensive than for other types of licenses. In 1977 utilities operating 64 powerplants reported about 3,000 events. These included such things as small errors in instrumentation gauges, valve malfunctions, utility failures to make periodic surveillances, and inoperative emergency equipment.

The requirements for nuclear powerplant reporting are established in NRC's licensing process. At that time a utility submits detailed information on the nuclear powerplant, including proposed operating limits for the plant's systems, NRC reviews the proposed operating limits and, if acceptable, approves them for licensing purposes. This part of the license is referred to as the "technical specifications" and becomes the requirements by which the utility must operate the plant. The technical specifications also describe what deviations from these operating limits must be reported to NRC. Utilities

^{1/}Error in administering a radioactive drug or radiation treatment to a patient, including (1) the wrong drug or radiation treatment source, (2) the wrong patient, or (3) a dose or method of administration other than prescribed.

BY THE COMPTROLLER GENERAL

Report To The Congress
OF THE UNITED STATES

The Nuclear Regulatory Commission
Needs To Aggressively Monitor
And Independently Evaluate
Nuclear Powerplant Construction

Although the Nuclear Regulatory Commission is responsible for assuring that nuclear powerplants are constructed safely, it does not currently have the authority to conduct on-site work. The Commission should do this plus:

- Improve its inspection and reporting practices.
- Use the inspectors' time and talents more efficiently, and
- Better document its inspection findings.

The Commission is aware of the need for on-site work and has made some changes, one of which is the assignment of resident inspectors to selected reactors under construction.



END 78-63
SEPTEMBER 7, 1978

CONTROLLER-GENERAL'S
REPORT TO THE CONGRESS

THE NUCLEAR REGULATORY
COMMISSION NEEDS TO AG-
GRESSIVELY MONITOR AND
INDEPENDENTLY EVALUATE
NUCLEAR POWERPLANT CON-
STRUCTION

D I G E S T

Constructing a nuclear powerplant can employ several thousand construction workers 24 hours a day, 7 days a week. They will

--make about 25,000 welds,

--pour about 360,000 tons of concrete, and

--use 726 tons of copper and 34,662 tons of iron.

All this is required for each of the 76 nuclear powerplants now under construction in the United States.

To make sure they are built safely the Nuclear Regulatory Commission has a program for inspecting the construction of these nuclear powerplants. This report is an evaluation of this program and a closely-related program whereby the Commission inspects firms that supply safety-related components for nuclear powerplants.

At seven construction sites, GAO interviewed 486 workers, including 167 construction craftsmen, 63 quality assurance or control personnel, and 46 construction supervisors. All reports, either orally or by questionnaire were confidential. With the aid of a professional engineer, GAO made independent observations of current construction and evaluated work previously performed by Commission inspectors at six of the powerplant sites to determine if their reports were complete, accurate, and based upon a thorough review of all available data.

GAO also visited six nuclear component manufacturing plants around the country

EMD-78-80

and evaluated work previously performed by Commission inspectors at those plants. (See p. 3.)

THE COMMISSION SHOULD

improve its inspection
of construction work.

Commission inspectors should know about the day-to-day activities at a construction site and determine for themselves the quality of construction work, but GAO's review revealed that the Commission inspectors

- do little independent testing of construction work, and rely heavily upon the utility company self-evaluation;
- spend little time observing ongoing construction work; and
- do not communicate routinely with people who do the actual construction work.

Inspectors do little
independent testing
of construction work.

GAO found that each Commission inspector spends about 4 working days per year observing tests of components or systems by the utility or its contractors. Except for some single measuring devices, the Commission does not have the equipment necessary to perform most types of testing.

Much of the Commission inspector's available time is used to review the mass of documentation that is maintained at a construction site as a basis for judging the adequacy of the utility's program for insuring quality construction. (See pp. 5 to 7.)

Inspectors do not routinely
communicate with the people
who perform construction work.

GAO interviewed craftsmen at seven nuclear powerplant construction sites. The men

appeared to be mature, experienced, and interested in the quality of construction and the future safe operation of the nuclear powerplants they were building.

These workers told GAO of many irregularities related to safety questions, four of which were confirmed by the Commission. Commission inspectors are not required to talk with craftsmen and craftsmen are reluctant to initiate conversations with Commission inspectors for fear of reprisals from their employers.

GAO found that more than half of the craftsmen interviewed had never received any training on the importance of good quality assurance. This often leads craftsmen to misunderstand the quality of work that is required of them. (See pp. 7 to 9.)

Conclusion

The Commission's inspection practices need to be changed to provide a more thorough and independent evaluation of the quality of power plant construction work. Without such an evaluation, the Commission has to rely exclusively on the credibility and validity of evaluations made by utility companies and their contractors and cannot independently assure that powerplants are being constructed adequately.

Recommendations

GAO recommends that the Commission improve the independence and scope of its inspection by

- increasing independent measurements and direct observations of construction work;
- initiating formal, private interviews with craftsmen at construction sites, and
- requiring licensees to train construction craftsmen in the principles of quality assurance. (See p. 11.)

IMPROVEMENTS NEEDED
THE NUCLEAR REGULATORY COMMISSION
AND THE USE OF THE INSPECTORS

With the aid of a professional engineer, GAO reviewed inspection reports at all the Commission regional offices and six of the seven nuclear powerplant construction sites visited. In total, GAO reviewed 45 inspection report items, and considered 31 deficient either because of inadequate reporting, inadequate attention to details, acceptance of inadequate licensee action on deficient items, or inadequate investigation. The Commission reexamined the deficient reports but did not identify major safety concerns in any of the 31.

In addition, GAO found that Commission inspectors are not required to maintain any type of documentation or support for their inspection reports. This means that the Commission has little evidence to support the extent and quality of the inspection effort. (See pp. 12 to 17.)

Use of Inspectors
Time and Effort

Commission inspectors spend about 22 percent of their official working time--about 50 days per year--performing work at construction sites.

While inspectors have educational credentials and are experienced, most of their beliefs their technical expertise and training are not being used to the fullest extent. GAO concurs. Many of the inspectors' administrative tasks could be performed by paraprofessionals or clerks, giving the professional inspector more time to do direct inspections. The Commission noted, however, that current budgeting practices, with manpower and dollar ceilings, discourage the increased use of paraprofessionals and clerks. (See pp. 17 to 20.)

The Commission's Investigations
of Safety-Related Construction
Inspection Work

Commission inspectors are spending more of their time investigating allegations of improper construction activities, often at the expense of their normal inspection activities. A new regulation requires utility companies to post notices informing workers that they may report suspected defective work to the Commission. This new publicity will increase the number of allegations received by the Commission. However, the Commission should review organizational elements and seek additional staff to investigate these allegations without disrupting the normal inspection work.

The Commission has not developed a regulation to protect construction workers from reprisals when those workers bring construction problems to the attention of the Commission. Over a year ago, CIO recommended that such a regulation was needed. The Commission agreed, but the regulation has not been developed. In a letter of a clear principle construction time has been filed recently, allegedly for notifying the Commission of defective construction work. (See pp. 20 to 22.)

Conclusion

The Commission can improve the quality of nuclear power plant construction by adjusting its inspection and reporting procedures. The Commission inspectors, in particular, need to be more aggressive in scrutinizing and following up on the items they select for review. Also, the Commission needs to increase the productivity of its inspectors by relieving them of many clerical duties. The Commission should seek additional staff and organizational units to investigate allegations of poor construction work without disrupting the routine inspection program.

Recommendations

GAO recommends that the Commission

- be more aggressive in its inspection activities and pay more attention to inspection and reporting details;
- improve its documentation and reporting practices;
- improve the productivity of its staff by increasing the time inspectors spend performing work at construction sites and by evaluating the potential for using clerks or paraprofessionals to aid the inspectors; and
- review organizational elements and seek additional staff so it can continue to investigate allegations of irregularities at nuclear powerplants without disrupting its routine inspection efforts. (See p. 23.)

Vendor Inspection Program

The Commission began a program in 1974 to review the vendors who supply safety-related components for nuclear powerplants. This was after the Commission realized

- about 63 percent of all nuclear powerplant construction and operation problems were traceable to vendor errors; and
- utility companies were not properly inspecting these vendors to make sure that they were producing quality components.

The Commission's Vendor Inspection Program has had a positive effect on the safety of nuclear powerplants but before its full potential can be realized the program needs to be improved.

Specifically, improvements need to be made in the vendor inspectors'

- reporting practices,
- attention to inspection details,
- documentation of inspection work, and
- investigations.

The Commission has not identified all vendors of safety-related equipment and does not have a systematic method of selecting these vendors for inspection. In fact, it is largely neglecting one group of vendors that manufactures electrical components and other instruments that control critical operations in the plant. The Commission, in particular, needs to assign more inspectors to its vendor inspection activity --currently there are only 11 vendor inspectors who must review over 200 suppliers of safety-related equipment. (See pp. 24 to 29.)

Recommendations

GPO notes that the Commission improve its basis for vendor inspection by

- developing a method to identify and statistically select vendors for inspection;
- increasing the inspections of vendors that manufacture electrical components and instruments that control critical operations in the plant;
- seeking approval to hire more inspectors for the vendor inspection program;
- being more aggressive in its inspection activities and paying more attention to inspection and reporting details; and
- improving its documentation and reporting practices. (See pp. 29 and 30.)

THE COMMISSION'S RESPONSE
TO GAO'S REPORT

In its formal reply to this report, the Commission generally agreed with the thrust of GAO's conclusions and recommendations. The Commission noted that its own evaluation of the inspection program "resulted in attention toward essentially the same areas where new or improved methods should be considered for incorporation."

The Commission did not fully agree with GAO conclusions and recommendations as to:

- use of manpower utilization data,
- use of construction craftsmen interviews as an inspection technique, and
- need to improve inspection documentation and reporting practices.

GAO considered the Commission's views in each of these areas and fully believes the conclusions are sound and worthy of value. Each area is dealt with, as appropriate, in the body of the report. (See pp. 12 to 31.)

spend more time in this activity. The following two examples demonstrate the benefits of observing ongoing construction work.

Example 1

During an investigation of allegations at the North Anna plant of the Virginia Electric and Power Company (VERCO), an NRC inspector alerted noted that reinforcing steel (rebar) was being joined without being properly cleaned. He made that observation while walking by, enroute to another area of the construction site. Although this was not the subject of an allegation, the inspector pursued the issue to determine if proper procedures were being followed. NRC concluded that the improperly welded rebar was unsafe and violated VERCO's commitments because the improper welds could weaken the structural integrity of the building. NRC reported the problem to the contractor and the welds were rejected.

Example 2

During a surveillance trip through the Tennessee Valley Authority's Sevier plant, an NRC inspector observed electrical conduits containing wiring in cable trays. He noted that no identification tag was provided for the conduits, so he could not tell if the cable trays, which already contained some wiring, were the intended location for the wiring. Stating that the insulation on the wiring would be damaged by the weight of the conduits, NRC required corrective action.

NRC DOES NOT DISCLOSE CONSTRUCTION WORK TO THE PUBLIC OR TO THE MEDIA

NRC inspectors generally do not discuss construction work privately with anyone other than the craftsmen who build the nuclear powerplants or with the craftsmen who build the nuclear powerplants or with the craftsmen who build the nuclear powerplants. Also, the craftsmen often have questions which could be answered by NRC inspectors.

We independently selected 347 craftsmen at seven nuclear powerplant construction sites located throughout the country and interviewed them privately to get their view of NRC, obtain their candid opinions relative to the quality of construction at the plants, and to learn more about the craftsmen who build nuclear powerplants.

We selected craftsmen who were at the journeyman or foreman level, who had worked at the site for 6 months or more (with a few exceptions), and who had performed safety-related

construction work. These craftsmen are the ones who build the structures, systems, or components that prevent or mitigate the consequences of postulated accidents that could cause undue risk to the health and safety of the public.

In our view, the craftsmen appeared to be mature, experienced, and genuinely interested in the quality of construction and the future safe operation of the nuclear powerplants they were building. Most of the craftsmen indicated that they had never been interviewed at the site privately by NRC, and many were of the opinion that they could provide NRC inspectors with some insight as to the quality of plant construction and day-to-day problems which otherwise may never be brought to the attention of NRC.

During our interviews with the craftsmen, many of them expressed dissatisfaction and concerns about the quality of the construction work. Most of the dissatisfaction involved management-labor differences and many of the concerns about the quality of the work involved items which were obviously not related to safety. However, 43 craftsmen made 57 allegations of irregularities which appeared to us to involve safety considerations. With the prior knowledge and approval of these craftsmen, we conveyed the allegations to NRC. NRC reacted by contacting the craftsmen and performing review work at the subject construction sites to determine the validity of the allegations.

NRC reported that four of the allegations were substantiated and three utility companies were cited for being in noncompliance with regulatory requirements. For example, at one plant NRC verified allegations relating to poor workmanship and inspection practices in the fabrication of pipe welds and pipe rupture restraints. A notice of violation was issued and corrective action required.

In five other cases, NRC confirmed, or partially confirmed, that irregularities had occurred but that they did not constitute a citable offense. In addition, NRC reported that some indications of irregularities were noted on four of the items but that further review work would be necessary before a final determination could be made.

NRC reported that the remainder of the allegations could not be substantiated, were problems which had already been detected and properly dealt with by the utility company, were substantiated but were not related to safety, or were apparently based upon the craftsman's misunderstanding of the applicable construction practice. NRC officials told us that their investigation of these allegations required about one-half staff year of effort.

CONCLUSIONS

We believe that NRC's inspection process needs to provide a more thorough and independent evaluation of the quality of powerplant construction work. Without such an evaluation, NRC has to rely to an undue extent on the credibility or validity of evaluations made by utility companies. Thus NRC's inspection program cannot independently assure that nuclear powerplants are constructed adequately. The following simple description of the enormity of nuclear powerplant construction activities and the current NRC inspection level underscores our position.

Seventy-eight nuclear powerplants are now in various stages of construction. A typical powerplant construction site may involve several thousand construction workers and supervisory personnel--in many cases, working 24 hours a day, 7 days a week. A single powerplant requires making about 25,000 welds, pouring about 360,000 tons of concrete, and using 725 tons of copper and 34,662 tons of iron. Many complex electrical and computerized systems are also involved.

In answer to our questionnaire to NRC inspectors, the 63 respondents indicated that collectively they each spend only about 22 percent of their official working time, or about 50 days per year, at construction sites. They further indicated that they used only about 34 percent of that time (about 16 days per year) to determine for themselves the quality of construction by performing or observing tests of completed construction work, observing construction work in progress, and talking with construction workers. Therefore, in 1 year, all 76 NRC construction inspectors and supervisors spent about 1,216 staffdays--or about 5-1/2 staffyears effort--in direct inspection work. At each of the 76 powerplants then, NRC's annual direct inspection is about 16 days.

For most of the past 2 years, however, NRC has been re-evaluating its inspection philosophy and approaches. It recognizes many of the shortcomings of the present system, such as the limited amount of direct inspections and verification and the limited time its inspectors spend onsite observing construction work and talking with construction workers. NRC is evaluating the need to perform some type of independent verification of the quality of construction work and is instituting a program to assign resident inspectors to powerplant sites--both under construction and in operation. This, NRC anticipates, will increase an inspector's onsite inspection time from about 22 percent to 75 percent, will permit greater observation and surveillance of construction activities, and will make its inspectors more accessible to construction craftsmen.

matters identified in the order and on June 16, 1978, a three-member NRC hearing board met to define the issues and set a schedule for resolving the problem.

We believe that this incident--even though its nature and cause have not been determined--underscores the need for NRC to have specific authority to protect workers who conscientiously bring details of poor construction practices to the attention of NRC.

In this regard, the Subcommittee on Nuclear Regulation of the Senate Committee on Environment and Public Works has incorporated provisions in NRC's fiscal year 1979 authorization bill that would give such protection to construction workers. We believe this would aid NRC in its overall authority at nuclear powerplants.

CONCLUSION

We believe that NRC can improve its basis for determining the quality of nuclear powerplant construction by adjusting its inspection and reporting practices. Because NRC performs a rather limited audit of utility data and operations, we think it is very important that its inspectors more closely scrutinize and follow up on the reports of issues it detects for review. We found problems with the scope of some examinations, with the attention that the inspectors gave to some of the items they reviewed, with the way they reported the items reviewed, and with the documentation of inspection activities.

Further, in our opinion the time spent by NRC inspectors on nontechnical work is excessive and should be reduced. This would enable the inspectors to perform more in-depth evaluations of construction work. We believe that NRC should take steps to increase its inspection productivity by better using the time and talents of the professional inspectors.

However, it must also be recognized that NRC investigations of allegations divert inspectors from their regular work which could compromise the quality of the programmed inspection work. Furthermore, if the recently implemented regulations cause the volume of allegations to increase significantly, NRC will be unable to investigate all of the allegations while continuing to perform all of the inspection work that we believe is necessary.

For investigations of allegations to be effective, however, NRC must develop a rule or regulation to protect construction workers from reprisals by their employers when they bring construction problems to the attention of NRC.

Reviewed:

R. E. Shewmaker
R. E. Shewmaker, Senior Structural
Engineer, Division of Reactor Construction
Inspection

4/18/80
Date

Approved:

H. D. Thornburg
H. D. Thornburg, Director, Division
Reactor Construction Inspection

4/22/80
Date

Investigation Summary:

Investigation November 10, 1979 through February 7, 1980 (Report No. 50-498/79-19; 50-499/79-19).

Areas Investigated: Special investigation of allegations concerning lack of QC management support, intimidation and harassment of quality control inspectors and the assessment of the effectiveness of the quality assurance/quality control program at the South Texas Project. The investigation involved 1113 inspector-hours by one investigator and five NRC inspectors.

Results: Nine of the initial 12 and 10 of the 19 additional allegations were substantiated. One of the initial 12 allegations was partially substantiated. Eight of the additional allegations require further investigation and are considered unresolved. A total of 3 allegations were unsubstantiated. Twenty-two items of noncompliance were identified:

The quality control inspection function lacked support and organizational freedom, paragraph E.1.d; failure to complete the special process of back-filling in accordance with the qualified procedure, paragraph E.3.a; failure to take prompt corrective action on nonconforming test equipment, paragraph E.3.c; failure to establish procedures for sampling as part of a systematic testing program, paragraph E.3.a; failure to maintain records, paragraph E.3.d; failure to take effective correction action, paragraphs E.7.c, E.2.b; inspection and testing personnel not qualified per procedure, paragraph E.2.c; failure to maintain controlled documents up-to-date, paragraph E.4.a; welding activities not adequately controlled, paragraph E.4.c(2)(c); failure to provide adequate control of special processes, paragraphs E.5.b(2)(a), E.5.b(2)(b), E.5.a(2); radiography not performed to code, paragraph E.4.b; failure to take proper corrective action, paragraph E.1.b (Allegation 10A); failure to take action on repetitive deficiencies, paragraph E.9.b(3); deficient conditions not documented per procedure, paragraph E.9.a(1); knowing use of equipment identified as nonconforming, paragraph E.3.f; inadequate test control, paragraph E.3.f; failure to conduct an effective audit program, paragraphs E.8.c, E.8.d(2), E.8.d(3), E.8.d(1), E.9.a(3), E.8.d(2), E.8.d(3); inadequate inspection, paragraph E.2.b; welding procedures and specification changed without proper review and approval, paragraph E.4.c(3)(d); and interim changes to procedures not controlled per requirements, paragraph E.5.b(1)(a).

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REPORT ATTACHMENTS

- APPENDIX 1 - Summary Previous Investigation Findings
- APPENDIX 2 - Summary of Statements
- APPENDIX 3 - Summary of Results of Interviews
- APPENDIX 4 - First Interim Report: Liner Plate Bulge, Unit 2 RCB, 3/24/80
- APPENDIX 5 - Brochure: Implementation of the B&R QA Program at the STP Jobsite

A. INTRODUCTION

1. Purpose of Investigation

This investigation was initiated by the Nuclear Regulatory Commission's Office of Inspection and Enforcement (NRC, OIE) on November 10, 1979, under the provisions of 10 CFR Part 50.70. Its purpose was to: (1) investigate and determine the validity of recent allegations made by a South Texas Project employee concerning lack of support of quality control inspectors by their management, harassment and intimidation of Quality Control personnel and discrepancies in the construction and quality assurance program for concrete placement work; and (2) assess the effectiveness of the Quality Assurance/Quality Control (QA/QC) program at the Houston Lighting and Power Company's (HL&P) South Texas Nuclear Power Plant (STP).

2. Scope of Investigation/Inspection

The investigation/inspection effort was divided into two parts. The first was the investigation of the specific allegations recently received from a worker at the South Texas Project. The second was the inspection of selected construction activities to assess the effectiveness of the QA/QC program for the South Texas Project.

The need for the second phase was dictated by past allegations that also concerned lack of support by management, threats and harassment of Brown and Root, Inc. quality control inspectors. Some of these past allegations have received considerable media interest which has generated inquiries from several Congressmen and the NRC Commissioners. Appendix 1 lists the inspection reports that document the results of the NRC OIE investigation into these past allegations. These investigations were conducted without the use of signed, sworn statements.

The following site activities were reviewed to determine if an effective QA/QC program is being implemented.

a. Observation of on-going work and review of records relative to the:

- (1) production, placement, testing, and curing of concrete and associated activities such as Cadwelding. A significant portion of the investigation/inspection effort was concentrated in this area because the majority of the allegations, both past and present, concern the construction and QC inspection activities for the placement of concrete.
- (2) Installation and testing of plant engineered backfill.
- (3) Installation and welding of safety-related piping.

threatened or intimidated quality control inspectors. The employee initially conveyed his concerns to the Region IV Resident Inspector and subsequently expressed 12 specific allegations that covered threats to QC inspectors, dominant influence of construction craft personnel over QC management, non-support of QC inspectors by QC management, and questionable construction practices.

C. CONDUCT OF INVESTIGATION

1. Interviews

During the course of this investigation 57 formal interviews were conducted, by the assigned investigator, and approximately 50 informal interviews/discussions were conducted in the field by the NRC investigator and inspectors. Formal interviews were both selective and random. Selected interviewees were identified by co-workers who claimed they had pertinent information. Random interviewees were identified from employee rosters. In addition, the sequence of the interviews between random and selective interviewees was varied in a effort to protect the identity of personnel.

Investigation by the inspectors consisted of routine inspection and investigation techniques including observations, review of documentation, performance of tests and interviews and discussions with site personnel. Those interviewed included HL&P and B&R construction and QA/QC management personnel; B&R QC inspectors and engineers; Pittsburgh Testing Laboratory personnel; and other site personnel such as pipefitters, iron workers, welders, warehouse, training and office personnel. The summaries of the signed, sworn statements are contained in Appendix 2 and the summaries of interviews are contained in Appendix 3.

An allegation was considered to be substantiated if the information developed during the investigation demonstrated that it was reasonable to conclude that the alleged event did occur.

2. Investigation Team

The NRC onsite investigation team was comprised of five OIE inspectors and one investigator. One inspector and the investigator were from Region IV, one inspector each were from Regions I, and II, and two inspectors were from Region III.

3. Management Meetings

A formal entrance meeting was conducted on November 19, 1979, with the top HL&P QA and Project management site personnel. The licensee personnel were informed that in connection with the investigation and inspection efforts the NRC investigator and inspectors would be conducting formal and informal interviews and discussions with HL&P and their contractor personnel; that the interviews would be conducted without HL&P personnel present; that statements would be taken from

Transcription, Conversation between Mr. Tom Applegate and Mr. Ernest Alredge, President of Peabody-Magnuflux.

Mr. Tom Applegate: Hello?

Mr. Ernest Alredge: Hello, Mr. Applegate?

TA: Yes.

EA: Ernest Alredge here.

TA: Mr. Alredge.

EA: How are you, dad? (Laughter)

TA: We're like passing ships in the night. Your'e travelling I take it?

EA: Yes. I'm down in Houston.

TA: That sounds like the legal staff.

EA: Yup.

TA: Have you kept yourself abreast of what's happening here in Cincinnati?

EA: I have, of course, seen the newspaper article in the Chicago Sun-Times; we have been contacted again by the NRC; apparently because of the newspaper article they've re-opened their investigation...Mr. Phillip had been interviewing some of our people down at the CG&E site, and that's been about it really.

TA: The NRC didn't really reopen its' investigation, it never closed. Also, it's not closed yet and there are some more issues surfacing. Again, I feel like your company is still...and what I'd like to know from you is why some things are happening. Now, I talked to some of your employees with the respect due to them. I haven't used any of them, none of them have been quoted in the news media. I still stand by the fact that your company did an honest job down there. But some of your people have really taken a beating over this. You know yourself you were asked to leave the job effective April 1 because a clause in the contract, I'm not real sure what it means and maybe you can qualify that for me, but it's something to do with "we-don't-need-to-give-you-a-reason," at the convenience of the contractor.

EA: Youv'e worded it exactly, "quote end quote" almost.

TA: Yeah. Was n't there any feeling within your people that there was something more to this than just asking you to leave?

EA: Uh, well, yes, there is. Our situtaion has been dictated by Stamford corporate people and there position is that they are on alot of utilities and alot of power plants not only in testing, but in building precipitators, scrubbers, and enviromental controls

in other areas. And we've been told basically that to try to go in and defend this issue might have an adverse on the other utilities taking the position that Peabody is going after a sister utility here and maybe we shouldn't be considering them for any further work.

TA: Your'e a Peabody-Magnaflux, your home offices are in Chicago. Who's Stamford? Is there a company that owns you?

EA: Yes. We're owned by Peabody International, a New York Stock Exchange Company headquartered in Stamford. The company does about \$600 million a year in business, and probably half of that is derived from air pollution or water pollution control equipment, or testing directed towards the utilities. We have a very large job with Colorado Power, a \$60 million pollution control device going into their new power plant. They have a large job in Mississippi.

TA: The thing that concerns me, I can understand Stamford saying "Don't go in, so forth, and push this too hard" because you might lose more contracts, and you know, what we'd call common-sense, business-wise. IT may not exactly be right, but that decision's for each individual to make. The thing that concerns me is the people that you had working down there. for you, and I'm talking here particularly of Steven and Allan Sellars; Steve Benning and Dave Hang, who were individuals in your company who I indicated to you were men who were doing a proper job, who were conscientious about their job. Steve Benning, from what I understand, because Magnaflux was taken off the job quickly, Steve Benning is without a job. Wayne Drafer for one reason or another is taking a vacation in Florida. And Dave Hang, your level three (3) radiograph man, has suddenly been taken away from you and is now working for Kaiser quality assurance. I don't know I talked to Mr. Woods, not from Mr. Woods, but from some other individuals, (that) the NRC, there was a pause in their investigation. It started on Monday, went through to Wednesday, they said "we'll be back," then when this hit the newspaper, CG&E put on a full crew and they tried to change some of that piping, and then when the NRC came back it said, "well, the piping looks alright." But the NRC still hasn't let them off the hook totally. The thing that bothers me is that these are honest men and that they made an honest judgement on that pipe before it went in. It was installed anyway, and talking to Steve Benning this morning, I said, "Well, it just doesn't pay to be an honest man on that job down there. And, he said, "You've got that right." I hear

I hear what your'e telling me about Peabody being responsible to its' stockholders and so forth and the people in Stamford saying don't get embroiled in it because of our other contracts and everything but still it seems like Kaiser, the big giant, is putting you people in your place when all you tried to do was an honest job.

EA: Well, your'e right. (pause) I did not know Steve was off the payroll. I'll have to see why that happened.

TA: Quite frankly, he sounds like a scared man. To me, he said, he's just trying keep his nose clean and his mouth shut. There's

millions of dollars at stake in this project down here, but there's other issues that didn't have anything to do with P-M, even Mr. Woods told me, CG&E and Kaiser have done an about face and they're trying to become buddy-buddy now and all that other kind of stuff. Maybe it's easier for those guys at Kaiser to sit up there and make the decisions and this being their first plant and wanting it to come out immaculately clean, but even a company like yourself, your's not that small, but it just seems like they're trying to push you in one direction, and I feel badly for you, because I feel that you were right. And it seems to me there's people putting the hush on you that shouldn't be doing that. And God knows it certainly has to do with millions of dollars on this contract down here and millions of dollars in building this nuclear power plant, but that's the whole problem here, that we're talking about a nuclear power plant, not an office building. This affects half of the eastern side of Cincinnati. These men were right when they called the pipe wrong, and now...I just can't understand it. It would seem to me that your company would have an excellent lawsuit against Kaiser. I know Kaiser's big, but so was Goliath, you know. I don't mean to be any type of moralist in making that comparison. But you've got a big company here telling a smaller company that this is the way your's gonna do it because it benefits us.

- EA: Well, your's correct, and it's not a very enjoyable position to be in. You don't know me very well, but I'm a career guy and have come up thru the ranks, a 20 year man, and I found that you do what your's told. But these fabricators can really lay it to you.
- TA: Your's talking about the Kellogg of Pennsylvania.
- EA: Yeah. When you work for a closed industry, it's very tight. Of course it's common knowledge now in the industry that we've been thrown off the site and...
- TA: Will this affect your performance in the future in other areas?
- EA: Oh, it'll hurt us, it'll be a temporary blip in our performance record.
- TA: But it shouldn't be. You're the ones who were right.
- EA: Yes, Applegate, but you know...
- TA: But there's idealism and there's reality.
- EA: I'll be off every major RFQ request for bid list at every major fabricator within 30 days. The computer all of a sudden won't have us in the bidding bank. All this work is bid work. Your struggle like hell to get on the Bechtel's and the Braun's and the Parsons and the Kellogg's and the Kaiser's and all the contractors lists, and you bid the work for all the utilities.
- TA: Has Peabody worked on any other nuclear jobs?

EA: Oh, we have some 20 jobs going right now.

TA: Has this ever happened at any of the others?

EA: No, not to my knowledge, not that's been uncovered...We produce the data and the data is taken from us. To my knowledge this is the only job where we have been overruled, apparently, and data taken from us without any follow-up. But I don't know that it hasn't happened in other areas.

TA: Well, Mr. Alredge, you have my sympathies, of course. This has not stopped. There's people in Washington that are gonna want to know about this. But the media never got anything from me about your company.

EA: Yes, I owe you a debt of gratitude for that.

TA: Well, I'm trying to hold off from telling people that you people got the shaft down there...I think if anything comes out about your company...

EA: Well, our people don't have a lid on 'em. They can chat with whoever they want to chat with.

TA: But I've kept your people out of it as much as possible because I believe your'e in the most vulnerable position...But if you got yourself a hold of a damn good corporate lawyer, which probably do have down there in Texas, he could tell you that you could take it against Kaiser, because they're trying to tell you what to do and that's not what they contracted you for. They contracted you for to be down there and tell them the truth. Now, if they don't like the truth, that's tough luck. But we're not building an office building down there, it's a nuclear power plant... You know, one thing I was concerned about was the break-in at your trailer the weekend after I left. Do you have copies of your original radiographs to bear yourself out, should this come out in something like a Washington hearing?

EA: We do not have the radiographs. They took the radiographs when they terminated us.

TA: When you say "they" took the radiographs, who?

EA: The customer. They go on the assumption that they bought it, CG&E bought it, it's their property. The day we were relieved, that same morning they had a man there to take the film and we didn't have any discussion at it.

TA: Almost like "hand it over or get shot," huh?

EA: It was one of those, fastest transferring of data I can recall. We don't have the negatives, we have hopefully some of our inspection reports, but these's holes in that now that we've had some possible pilferage of our material, and frankly, I don't know if we have a particularly documented (indistinct) here.

- TA: Well, it's certainly not beyond the imagination to believe that they could have not only taken your data but replaced it with their own.
- EA: Could be. It's possible.
- TA: I know that the pipes are numbered, and any time you X-Ray, it's supposed to show the number on it. And I've heard that it's not that hard to take an X-Ray look like it's a picture of one pipe and have it actually be a picture of another.
- EA: Oh, it's true. You know, if someone's gonna lie and cheat, it's very hard to go against the grain, especially if the intent to defraud is there originally.
- TA: Well, I hope they're not defrauding us into another Three Mile Island.
- EA: Well, I hope that also, and I think the best thing is that the NRC is involved in it. They're good people.
- TA: Oh, I believe that. I was talking to Gerry Phillip of NRC this morning, and I told him the only thing about them is they move too slow. They're not aggressive.
- EA: It's a bureaucratic organization, they just don't move very fast.
- TA: And it's the lack of aggressiveness that ends up allowing CG&E to do what they've done, to cover up this, that and the other thing.
- Pleasantries and Good byes.

END CONVERSATION

Cincinnati Enquirer
Friday May 9, 1980

FBI Shifts Charges To NRC

The Federal Bureau of Investigation (FBI) Thursday passed the buck and a critic of the Zimmer nuclear power plant to the Nuclear Regulatory Commission (NRC).

The critic—private investigator Thomas Applegate—had charged piping at the plant in Moscow, Ohio, was secretly replaced and records tampered with to keep NRC investigators from discovering faulty construction and inspection practices.

Applegate's evidence for the charges is contained in taped conversations with officials of Peabody Testing Services, the firm contracted to perform X-ray testing on pipes and welds at the William H. Zimmer Nuclear Power Station.

AFTER LISTENING to those tapes, however, the FBI decided the cover-up accusations by Zimmer's builders were the NRC's concern.

FBI Special Agent Robert Buckley said, after hearing the evidence, he saw nothing within the bureau's jurisdiction.

But that doesn't mean that the FBI won't come in to investigate Applegate's allegations later on, Buckley added.

The U.S. Department of Energy, the NRC and the FBI participate in a co-operative relationship to see that the Atomic Energy Act is followed, the agent explained.

"We're going to wait for the NRC to complete their report," he said. If the NRC can come up with evidence to support Applegate's charges, he continued, then the FBI may be called in to investigate and to furnish aid for the prosecution of the

utility, Cincinnati Gas & Electric Co., and the plant's builders, Kaiser Engineering.

MEANWHILE, MEMBERS of the NRC's regional staff in Chicago, who also were present for the playing of the tapes, said they are not sure that what they heard warrants an investigation.

"I want to review the tape again," said NRC investigation specialist G.A. Phillip, because he said he does not quite feel the conversations conclude what Applegate has charged.

Phillip said he felt the information on the tapes was "unspecific," and he added, "The fellows that are talking are not at the site (of the plant)."

However, the NRC investigator said that when he is "armed with a clearer understanding" of what is on the tape, he plans to interview one of the speakers personally.

That speaker, a Peabody executive, indicated on tape that his workers have not come forward with knowledge of shoddy workmanship at Zimmer for fear of being ostracized within the nuclear industry.

Applegate took his evidence to the FBI in Chicago on the advice of NRC senior investigator William Ward in Washington. Ward told Applegate Wednesday that his claims of deception and cover-up seemed to indicate criminal activity.

—RITA GIORDANO

GOVERNMENT ACCOUNTABILITY PROJECT

Institute for Policy Studies

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

(202) 234-9382

June 13, 1980

Memorandum

To: Louis Clark, Director
From: Tom Devine, Associate Director
Re: Verification of Allegations in Thomas
Applegate's June 6, 1980 Affidavit: Rita Giordano

Rita Giordano is the journalist who covered the Zimmer story for the Cincinnati Enquirer in a series of articles. She first had contact with Mr. Applegate in an April 19 telephone conversation. She began to work closely with him in May, after he produced tapes of discussions with employees at the nuclear plant. Ms. Giordano prepared the questions for Mr. Applegate's taped discussion pinning down a top Peabody official on the coverup of faulty welds in the piping at Zimmer. She consented to release of a memorandum on our conversation and is glad to help congressional investigators.

Ms. Giordano was impressed with Mr. Applegate's sincerity and thoroughness. She stated that he was as thorough in his research as he possibly could be under the circumstances. Significantly, she also recounted that Mr. Applegate was the only individual she spoke with on the events at Zimmer who maintained a consistent story. The others, including utility officials and government representatives, all shifted their positions as more evidence was revealed. Ms. Giordano added that Applegate had independent sources to verify his allegations. Finally, Ms. Giordano evaluated Mr. Applegate as fairly conservative politically. She did not feel that he was looking for a scandal. He simply was unwilling to ignore it.

In terms of the reliability of Applegate's allegations, Giordano stated that the disclosures of employee-management misconduct are "completely true." In her opinion, these practices are well-known within the industry, but no one is willing to discuss the problem publicly. She stated that no utility or government official she spoke with made any attempt to deny the pattern of widespread drunkenness on the job. In terms of the faulty welds, Giordano is persuaded that the charges are serious. She added that it is difficult to persuade officials to speak freely about this issue even in private, which explained the technique of asking a Peabody official significant questions and waiting for him to agree or disagree. The official wouldn't have volunteered the information. She also noted that the utility agreed there had been extra work activity before Phillip's final visit. The utility insisted, however, that the activity represented "routine preparations."

*She cautioned, however, that she lacks the expertise for technical conclusions.

GOVERNMENT ACCOUNTABILITY PROJECT

Institute for Policy Studies

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

(202) 234-9382

June 12, 1980

Memorandum

To: Louis Clark, Director
From: Thom Devine, Associate Director
Re: Verification of Allegations in Thomas Applegate's
June 6, 1980 Affidavit: Joan Means

Ms. Means was Mr. Applegate's landlady until he left town last month. She has known him since December 1973. Ms. Means consented to public release of our brief conversation.

Means has an extremely high opinion of Applegate, whom she considers like an "adopted son." She thinks he is deeply sincere and concerned about the potential dangers at Zimmer.

Ms. Means had had no personal involvement at Zimmer due to her own initiative. She confirmed that she had been threatened with sexual torture, however.

10

January 5, 1981

MEMORANDUM FOR: Chairman Ahcarne

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

SUBJECT: THOMAS W. APPEGATE ALLEGATIONS

Original signed by
James J. Cummings

Attached is a letter to you from the Office of the Special Counsel dated December 29, 1980, which was directed to this office.

As you requested in your December 15, 1980, memorandum to me, this office will investigate the adequacy of the Office of Inspection and Enforcement's (IE) handling of Applegate's allegations. We will also refer to appropriate law enforcement agencies any allegations of criminal activity beyond the scope of IE's current investigation of the safety issues raised by Mr. Applegate.

Attachment:
As stated.

cc: Commissioner Gilinaky, w/cy Special Counsel ltr
Commissioner Hendrie, w/cy Special Counsel ltr
Commissioner Bradford, w/cy Special Counsel ltr
Victor Stello, w/attach
L. Rickwit, w/attach

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GOVERNMENT ACCOUNTABILITY PROJECT
Institute for Policy Studies
1901 Que Street, N.W., Washington, D.C. 20009

WASHINGTON, D.C. OFFICE
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1980 DEC 10 PM 1:36 (202) 234-9382
December 10, 1980
OFFICE OF THE SPECIAL COUNSEL

Ms. Mary Eastwood
Acting Special Counsel of the
Merit Systems Protection Board
1717 "H" Street, N.W.
Washington, D.C. 20419

Dear Ms. Eastwood:

The Government Accountability Project is representing Mr. Thomas W. Applegate in his request for an investigation pursuant to 5 U.S.C. §1206 (b) (7). While Mr. Applegate is not a government employee, the Special Counsel's policy is to accept under §1206 (b) (2) disclosures from non-government employees for investigations under §1206 (b) (7).

Mr. Applegate's whistleblowing disclosure alleges that the Nuclear Regulatory Commission (NRC) and Investigator Gerald Phillip of NRC Office of Inspection and Enforcement for Region III, failed to perform a thorough and complete investigation of serious allegations he made to the Commission about the Zimmer Nuclear Power Facility in Moscow, Ohio. More specifically, Mr. Applegate alleges:

I. Violation of law, abuse of authority, mismanagement, perpetuating gross waste and perpetuating substantial and specific danger to public health and safety, by Mr. Phillip through excluding issues within the scope of NRC jurisdiction.

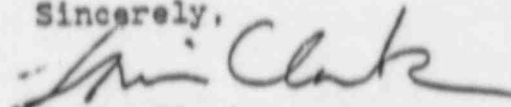
II. Mismanagement, abuse of authority, perpetuation of gross waste, and perpetuation of substantial and specific danger to public health or safety, by Mr. Phillip through faulty investigative techniques.

III. Mismanagement, abuse of authority, and perpetuating a substantial and specific danger to public health or safety, by Mr. Phillip, through inaccurate investigative conclusions.

On November 20, 1980, following a careful investigation by the Government Accountability Project Legal Clinic, the GAP Whistleblower Review Panel unanimously concluded that Mr. Applegate's charges were founded on a "reasonable belief," and it approved submission of this disclosure.

We look forward to your reply within 15 days.

Sincerely,


Louis Clark
Director

GOVERNMENT ACCOUNTABILITY PROJECT

Institute for Policy Studies

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

(202) 234-9382

December 15, 1980

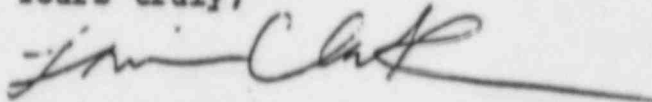
Ms. Mary Eastwood
Acting Special Counsel of the
Merit Systems Protection Board
1717 H St., N.W.
Washington, D.C. 20419

Dear Ms. Eastwood:

The Government Accountability Project, as you know, is representing Mr. Thomas W. Applegate in his request for an investigation pursuant to 5 U.S.C. §1206 (b)(7). He has authorized us to allow you to disclose his name to anyone within government who will consider his allegations and information. Mr. Applegate expressly does not want his affidavit provided to private parties.

Thank you for considering this request.

Yours truly,



Louis Clark,
Director

Attention: Ron Barber
LC/pp

BEFORE THE OFFICE OF THE SPECIAL COUNSEL OF THE
MERIT SYSTEMS PROTECTION BOARD

REQUEST FOR AN INVESTIGATION PURSUANT TO 5 USC §1206(b)(7)

On behalf of Mr. Thomas W. Applegate, the Government Accountability Project of the Institute for Policy Studies ("GAP") submits the following disclosure pursuant to 5 USC §1206(b)(2). Mr. Applegate charges NRC investigator Gerald → Phillip with violations of law; mismanagement as defined in 5 CFR 1250.3(e); abuse of authority as defined in 5 CFR 1250.3(f); perpetuating gross waste as defined in 5 CFR 1250.3(d); and perpetuating a substantial and specific danger to public health and safety. Mr. Applegate requests that the Special Counsel order a response from NRC Chairman Ahearne, as provided by 5 USC §1206(b)(7).

More specifically, Mr. Applegate charges that ~~the NRC failed to conduct a thorough and complete investigation of serious allegations made to the Commission about the Zimmer Nuclear Power Facility in Moscow, Ohio.~~ Mr. Applegate disclosed well-documented instances of theft and black-market smuggling operations at the plant; auctions of "hot weapons"; illegal shadow businesses that operated out of the plant to manufacture belt buckles with nuclear grade steel; widescale drunkenness among employees at the plant; serious safety defects, including faulty welds on 20% of the prefabricated piping in the plant; and coercion and retaliation against the quality control radiographers who uncovered safety defects.

Unfortunately, ~~on July 3, 1980, NRC Report, attached as Exhibit 1~~ 9, on the Zimmer Nuclear Power Station, U.S. Nuclear Regulatory Commission Office of Inspection and Enforcement for Region III, (Final Review, July 3, 1980) ("NRC Report," attached as Exhibit 1) ~~reflects an investigation conducted in a superficial and capricious manner.~~ Mr. Applegate charges that the ~~investigation reflects neither the scope of his allegations nor the scope of NRC jurisdiction.~~ Mr. Phillip restricted his investigation to a superficial review of three specific pipes. As a result, the citizens of Ohio remain as vulnerable to a grossly mismanaged, dangerous plant as they were before the NRC effort.

BACKGROUND

In December 1979 Cincinnati Gas and Electric (CG&E) hired private investigator Thomas Applegate as an undercover agent. His assignment, outlined in a letter from CG&E's director of media services, was to investigate "any possibility of misconduct on the part of anyone involved in the construction of the Zimmer Nuclear Power station." (See December 5, 1979 letter from David Altemuehle to Major Cox, attached as Exhibit 2.) His specific assignment was to obtain evidence of time-cheating by certain employees. In December 1979 and early January 1980, Applegate worked undercover as a "cost accounting engineer" at the site. He was authorized, through his cover, to roam freely throughout the plant and to compare construction sheets against the construction contract held by Kaiser Engineering International ("KEI"). (See June 6, 1980 Affidavit of Thomas Applegate at 7-8, attached as Exhibit 3.) His pretext also enabled him to speak with personnel from all levels of site construction and management. Before long, he had gained the confidence of both union officials and plant employees. (See generally Mr. Applegate's Confidential Reports to the utility, attached as Exhibit 4.)

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In four weeks Applegate documented a scheme of labor-management collusion to permit and coverup illegal, dangerously negligent behavior among plant personnel; as well as dangerously faulty welds in key piping, indicative of a breakdown in quality assurance ("QA") practices. ~~Mr. Murray, who was in charge of the QA program, was aware of the evidence of time cheating, but ignored the discovery of safety defects and collusion by NRC.~~ Instead, Mr. Murray ordered Mr. Applegate to root out any reason to fire Peabody Magnaflux ("PM"), the company performing nuclear x-rays (radiography) for the plant's quality assurance program. (Affidavit, at 4.) Applegate followed instructions but found that the radiographers were among the most conscientious employees on the site. His research only further confirmed serious problems in the plant's safety-related quality control program.

When Mr. Applegate pressed these safety concerns, his position as CG&E undercover agent was terminated abruptly in early January. Soon after, the utility fired the employees who had been the targets of his time-cheating investigation. Curiously, these same employees were vocal critics of lax safety practices at the plant and had provided Mr. Applegate with the early leads for his probe into quality control. CG&E knew of these employees' dissent, because Applegate cited their allegations in his confidential reports. After the mass firings, CG&E blew Mr. Applegate's cover. Contrary to normal procedure, the utility informed the dismissed employees of Applegate's role in their termination. Mr. Applegate's life since has been threatened on numerous occasions. (Affidavit,

at 20-21.) On April 1, 1980, after a mysterious break-in and theft of records from the PM trailer, the utility fired the radiographers, against whom Applegate had been unable to find any evidence of impropriety.

On February 15, 1980 Mr. Applegate telephoned the NRC Washington headquarters to disclose the conditions he found at Zimmer. (See Mr. Applegate's telephone records, attached as Exhibit 5.) Simultaneously, he sent his evidence for analysis to Mr. Upchurch of the Federal Bureau of Investigation ("FBI") in Cincinnati. Mr. Applegate also provided his evidence to Mr. Cissel of the United States Attorney's Office in Cincinnati. Each of these offices and agencies assured Mr. Applegate that his charges would be pursued. Those assurances rang hollow as time wore on and nothing was done. (Affidavit, at 13.)

~~The NRC consented to investigate only after Applegate contacted NRC Chairman John Ahearn's office.~~ On March 3, 1980, investigators led by Mr. Phillip met with Mr. Applegate and reviewed some of his contentions and allegations. The following week they informed him that the NRC would pursue three limited areas of investigation. The three investigative charges included two charges of faulty welds, as well as an improper shortcut in the flushing system that cleans the piping. (See March 11, 1980 letter from Phillip to Applegate, attached as Exhibit 6.) The investigator's letter neither mentioned the quality assurance program, nor Mr. Applegate's charges of mismanagement and criminal activity at the plant.

Correspondingly, his July 1, 1980 report fails to provide an accurate record of the allegations. In fact, Mr. Phillip failed to mention the mismanagement and criminal charges at all. By completely omitting the bulk of Mr. Applegate's disclosure, Mr. Phillip limited the possibility of future review of his exercise of professional discretion. In effect, he also precluded referral of those issues to some other agency for appropriate review.

Even for the narrow issues he considered, Mr. Phillip's effort represents the most shallow level of investigation and documentation. The report offers no outline of investigative strategy; no sampling of the criteria by which Phillip made critical judgments on the scope of the probe; no list of documents reviewed or interrogatories; and no references to sworn statements. Mr. Phillip's report is a disservice to the public and to Mr. Applegate, who literally risked his life to blow the whistle on rampant crime, dangerous safety flaws, illegal retaliation, criminal scams, and wasteful mismanagement at the Zimmer plant.

JURISDICTION AND STANDARD OF PROOF

Pursuant to 5 USC §1206(b)(2), the Office of the Special Counsel "shall promptly submit" to the appropriate agency head any information which the applicant "reasonably believes" evidences a "violation of any law, rule or regulation, mismanagement, gross waste of funds, abuse of authority, or substantial and specific danger to public health or safety...." 5 CFR 1252.3 requires that the agency head transmit to the Special Counsel within 60 days the written response required by 5 USC §1206(b)(7).

While Mr. Applegate is not a government employee, the Special Counsel's policy is to accept under §1206(b)(7) non-government employee disclosures based on a "reasonable belief." Letter from Acting Special Counsel Mary Eastwood to Thomas Devine (June 9, 1980). Under this interpretation, Mr. Applegate's disclosure is eligible for the Special Counsel's whistleblower disclosure conduit.

The regulations do not define "reasonable belief", the standard of proof that a whistleblower must satisfy in a disclosure. We propose that Mr. Applegate's disclosures be tested under the following definitions of "reasonable belief":

"an honest and rationally justified conviction at the time of disclosure, based on inference from personal experience or information derived from others."

This key phrase requires a new definition, because it traditionally means the "probable cause" standard for an arrest. But the legislative history of the Reform Act specifically rules out the criminal standard. The Senate Report on the Act states, "The Special Counsel would not require information amounting to 'probable cause' to conduct an investigation." (S. Rep. No. 95-969, 95th Cong., 2d Sess. 32) (Hereinafter "Senate Report"). This instruction is logical. It would be absurd to expect an employee to muster the same degree of proof to demonstrate "reasonable belief" that the police department investigative machinery must gather to show "probable cause." If the OSC requires a high standard of proof, an employee who acts in the public interest by contacting the Special Counsel early in a budding scandal could be rejected entirely and left vulnerable to reprisals.

Our proposed definition is similar to judicial tests in different contexts. For instance, as a justification for acting in self-defense, "reasonable belief" means "(a) belief begotten by attendant circumstances fairly creating it, and honestly entertained." Howard v. State, 110 Ala. 92, 20 So. 365-66 (1896).

Our proposed definition also is consistent with that of the well-defined term "good faith," which the courts sometimes have treated as equivalent to "reasonable belief." Placer Co. v. Lee, Alaska, 553 P.2d 54, 58 (1976); Hutsell v. Commonwealth, 25 Ky. Law Rep. 262, 75 S.W. 225, 227 (1903). Basically, a "good faith" belief is a "real or actual" belief, Raab v. Cooper, 124 Cal. Repr. 590, 594, 51 C.A.3d 866 (1975), a belief grounded in "honesty of purpose" and freedom from fraudulent intent. Wendling v. Cundall, Wyo., 568 P.2d 888, 890 (1977). In administrative law cases on unemployment compensation, "good faith" is equivalent to "genuine." Unemployment Compensation Bd. of Review v. Pinger, 21 Pa. Comwlth. 61, 342 A.2d 781, 782 (1975). The phrase is flexible, and includes "honest mistakes(s)" within its purview. Edwards-Warren Tire Co. v. Coble, 102 Ga. App. 106, 115 S.E.2d 852, 858 (1960)..

The above analysis is persuasive authority for our proposed definition. But since "reasonable belief" is new to the administrative law context, we examined legal definitions for each term. Our definition incorporates "reasonable" through the phrase "honest and rationally justified." This interpretation is consistent with legal authorities and judicial precedents. Bouvier's Law Dictionary defines "reasonable" as *inter alia*, "just; rational." (Bouvier's Law Dictionary 1022 (1948)). Black's Law Dictionary (4th Ed. 1968) turns to Cass v. State, 124 Tex. Cr. R. 208, 61 S.W.2d 500 (1933) to define the term as "synonymous with rational; honest; equitable; fair...." Black's cites several other decisions to apply the term in specific contexts. As a test of whether administrative rules are unreasonable, the court in Columbus Green Cabs, Inc. v. Board of Review, Bureau of Unemployment Compensation, 184 N.E.2d 257, 262 (1961), explained that "(r)easonable means fair, honest and just." In applying criteria for appealability in a tort, the court in Anderson v. St. Louis-San Francisco Ry. Co., Mo. App., 367 S.W.2d 657, 660 (1963), stated, "'Reasonable' means rational, just, fair-minded, proper, sensible, probable, sane, moderate."

Our proposed definition interprets "belief" as "conviction at the time of disclosure, based on inference from personal experience or information derived from others." Our proposed application of the term derives from numerous authorities. (Ballantine's Law Dictionary 129 (3d Ed. 1969)). Bouvier's defines "belief" as "(c)onviction of the mind, arising not from actual perception or knowledge, but by way of inference, or from evidence received or information derived from others." (Bouvier's Law Dictionary 118 (1948)). Black's Law Dictionary applies "belief" in the context of a test of management motives in a dispute over compliance with an NLRB order: "'Believe'...means to be convinced or to feel that something is true or at least probable." NLRB v. Pape Broadcasting Co., 217 F.2d 197, 203 (5th Cir. 1954). The court in NLRB v. Pape Broadcasting Co. also defined "reasonable grounds to

believe" as "rationally justified belief," Id., again consistent with the standard we have proposed.

It is important that "belief" remain a flexible standard not requiring absolute knowledge or certainty. Similar to the phrase "good faith," there is room for honest mistakes within our proposed definition of "reasonable belief." As the court in Industrial Bank of Houston v. Wylie, Tx. Civ. App., 493 S.W.2d 293, 295 (1973), explained with respect to the verification of affidavits, "The words 'believe' and 'knowledge' do not have the same meaning...." This flexibility is essential for whistleblowers who voice rational and sincere concerns. Without a flexible standard qualifying them for protection, they may well choose not to risk their careers because of the possibility of a mistake.

I. VIOLATION OF LAW, ABUSE OF AUTHORITY, MISMANAGEMENT, PERPETUATING GROSS WASTE AND PERPETUATING A SUBSTANTIAL AND SPECIFIC DANGER TO PUBLIC HEALTH AND SAFETY, BY MR. PHILLIP THROUGH EXCLUDING ISSUES WITHIN THE SCOPE OF NRC JURISDICTION.

Investigator Phillip spent two days with Mr. Applegate reviewing the charges. But Phillip steadfastly refused to inquire into Applegate's charges evidencing criminal activity, breaches of licensing conditions, threats to the integrity of the quality assurance structure, and mismanagement by KEI and CG&E. Phillip's only concern was with several specific welding and flushing problems which resurfaced during Applegate's month as a CG&E spy. He showed no interest in allegations of the sale of stolen guns on the construction site; labor and management diversion of labor and materials for personal use; fabrication and sale of belt buckles made of nuclear grade steel intended for use at the plant; theft, smuggling and sale of two thousand pounds of copper cable; frequent time-card padding; drunkenness on the site; and an unreported fire that illustrated an ineffective alarm system. In short, the charges that Phillip excluded revealed a cesspool of misconduct at the Zimmer plant. (Affidavit at 15, 23.)

The Nuclear Regulatory Commission was preceded by the Atomic Energy Commission, whose jurisdiction is defined by the Atomic Energy Act of 1954, (P.L. No. 83-703 (Aug. 30, 1954)). The Act

Sets out a pattern for licensing and regulation of certain nuclear materials and facilities on the basis of the common defense and security, and radiological health and safety. The regulatory pattern requires, in general, that the construction and operation ofutilization facilities (nuclear reactors used for the production of

power; medical therapy, research and testing) ..., be licensed and regulated by the Commission. 10 CFR 8.4(b).

According to the AEA, the Commission's general "authority and responsibility" extended to include regulation of "the construction and operation of production or utilization facilities," including the construction and operation of nuclear power plants. 10 CFR 8.4(e)(1). An Inspection Division was designated to perform surveillance and inspection of nuclear facilities. The Division's responsibilities included "gathering information to show whether or not the contractors, licensees, and officers and employees of the Commission are complying with ... this chapter ... and the appropriate rules and regulations of the Commission." 42 USC §2035(c). Further, to enforce the Act and to safeguard "facilities, equipment, materials and other property of the Commission," the President may request the services of any government agency, including the FBI and the Department of Justice. 42 USC §2271(a) and (b).

When the Atomic Energy Commission was abolished by the Energy Reorganization Act, p.l. 93-438 (Oct. 11, 1974), AEC's authority was vested in the NRC and the Energy Research and Development Administration ("ERDA"). The Division of Inspection and Enforcement was created to conduct NRC investigations. Any worker or representative can trigger the process by forwarding a reasonable complaint that he or she witnessed some violation of regulations or licensing conditions. An inspection must take place as soon as is practicable. Most important, the investigation need not be limited to those issues raised in the employee's original complaint. 10 CFR 19.16(b).

There is no section of the Code of Federal Regulations which lists all areas of NRC jurisdiction. Instead, individual sections of the regulations flatly proscribe certain activities and create guidelines for others. The NRC and the FBI have joint jurisdiction over criminal activities; the NRC has the responsibility to refer criminal allegations and evidence to the FBI for investigation. NRC and FBI Memorandum of Understanding, 44 Fed. Reg. 75535 (1979). The Memorandum summarizes the NRC's role as follows:

"[When an attempted criminal act occurs] the immediate contingency role of the NRC would be one of gathering and assessing information to determine the situation, appraising and cooperating with the FBI in order to assist FBI response, and arranging for other needed and feasible contingency response assistance that is requested through NRC channels."
Id. at 77536

The scope of the joint efforts includes "but [is] not limited to threats, material thefts and diversions, incursions or infiltrations, extortions, conspiracy, and sabotage relating to all facilities, activities and materials licensed under the Atomic Energy Act of 1954, as amended." Id.

~~Mr. Applegate presented to Mr. Phillip~~
~~fact within established NRC agreements, rules and regulations,~~
~~but Phillip refused to even acknowledge the bulk of the~~
~~evidence. Consequently, his investigation and report does~~
~~not cover the following issues within NRC jurisdiction and~~
~~explicitly raised by Mr. Applegate during the initial interview:~~

1. sale of stolen guns on the site; 42 USC §§2201(k), 2278a(a), (b) & (c), 2271 (a)&(b) (Affidavit at 9; 12-28-79 Confidential Reports at 2)
2. diversion of labor and materials for the personal benefit of a KEI superintendent, at a cost to CG&E of more than \$30,000; Memorandum of Understanding, 44 FR 75535 (December 20, 1979), 42 USC §2271(a) (Affidavit at 4-5; 12-17-79, Confidential Reports at 2, 3; 12-18-79, Confidential Reports at 1)
3. fabrication and sale over seven years of belt buckles constructed from nuclear grade steel worth millions of dollars in labor and materials intended for use in pipes, braces and components at the plant; Memorandum of Understanding, 42 USC §2271(a) (Affidavit at 5; 12-10-79 Confidential Report at 2, 4; 12-17-79 Confidential Reports at 1-2; Confidential Report: "Report of Misappropriation of Materials")
4. theft of two thousand pounds of copper cable smuggled in small lots and resold within a week for \$15,000 on the black market by 30 plant personnel, to finance a Christmans party complete with prostitutes; Memorandum of Understanding, 42 USC §2271(a). (Affidavit at 6; 1-2-80 Confidential Reports at 1)
5. an entrenched system of time card padding, implicitly sanctioned by KEI and CG&E, wasting significant amounts of time and money; Memorandum of Understanding, Zimmer Power Station-1 Final Safety Analysis Reports (ZPS-1 (1975), FSAR") 17.1.2.7 (Affidavit at 3-6; Confidential Reports: "Analysis of Time Cheating," Confidential Reports generally.)
6. drunkenness on the site; ZPS-1 (1975), FSAR 17.1.2.7. (Affidavit at 3, Confidential Reports generally)

7. an unreported fire in the containment building suppression chamber indicative that fire-watch and communication are ineffective in that area of the plant; U.S. General Accounting Office, Reporting Unscheduled Events at Commercial Nuclear Facilities: Opportunities to Improve Nuclear Regulatory Commission Oversight, at EMD 79-16 at 3, 13 (January 26, 1979); (12-14-79 Confidential Report at 1-2). (Exhibit 7)

As a legal measure of the implications of Mr. Phillip's default, his misconduct satisfies the requirements for all of the whistleblowing disclosure categories in 5 USC §1206(b). Initially, the omissions violate mandatory legal duties for an NRC investigator. (See pp. 6-8, supra)

The omissions also constitute "mismanagement," defined 5 CFR §1250.3(e) (1980) as "Wrongful or arbitrary and capricious actions that may have an adverse effect on the efficient accomplishment of the agency mission."

His excuse that the NRC lacks jurisdiction simply was wrong. (See pp. 6-8 supra.) That mistake alone satisfies the first half of the definition. Alternatively, both misapplication of the law and failure to consider relevant facts constitute arbitrary and capricious action. See Citizens to Preserve Overton Park, Inc. v. Volpe, 401 U.S. 402 (1971); Starr v. Federal Aviation Administration, 589 F.2d 307, 311 (7th Cir. 1978); Keco Industries, Inc. v. United States, 203 Ct. Cl. 566, 492 F.2d 1200 (Ct. Cl. 1974); Antilles Indus., Inc. v. Government of Virgin Islands, 388 F. Supp. 315 322 (D. St. Croix V.I. 1975).

The error in judgment interferes with the efficient accomplishment of the NRC mission in two respects. On the most basic level, Mr. Phillip's exclusion of relevant evidence prevented the NRC from pursuing its mission of enforcing its own rules and regulations for safe, efficient construction of nuclear plants. 42 USC §2035(c). (See pp. 6-7, supra.) More specifically, by his action he impeded an intricate interagency enforcement process for referral of criminal allegations to law enforcement authorities. 44 FR 75535. (See p. 7-8 supra.)

Similarly, the exclusion represents "abuse of authority," defined in 5 CFR 1250.3(f) as "arbitrary or capricious exercise of power by a Federal official or employee that adversely affects the rights of any person or that results in personal gain or advantage to himself or to preferred other persons." As seen above, it was arbitrary and capricious to ignore relevant facts by misapplying the law. The action benefited :

the utility and the construction firm, who are now off the hook. The exclusions discriminated against the public, which remains vulnerable to the dangerous abuses at Zimmer.

Mr. Phillip's action perpetuated "gross waste," defined in 5 CFR §1250.3(d) as "unnecessary expenditure of substantial sums of money, or a series of instances of unnecessary expenditures of smaller amounts."

Cost overruns and construction delays already have saddled CG&E with millions of dollars in inflation penalties and interest due on its construction financing. CG&E ordered the Zimmer plant in 1969 for an estimated cost of \$240 million, with completion date set for 1975. Recent estimates have set the cost somewhere over \$1 billion, and the plant will not go on line before late 1982. (August 31, 1980 interview with journalist Mark Hertsgaard) ("Hertsgaard interview").

CG&E customers already pay for this non-operative plant in their monthly utility bills. In addition, CG&E has filed a controversial request for a new rate increase to offset the cost of construction delays.

Mr. Applegate's disclosure goes a long way toward explaining delays and cost overruns. For example, a full examination of his charges would be highly relevant for utility commission decisions on rate hikes. Surely the ratepayers shouldn't subsidize the thriving underworld existing under CG&E's nose (as well as the NRC's) at Zimmer. In short, the public interest demands that the issues raised by Mr. Applegate's disclosure be pursued fully. Mr. Phillip turned a deaf ear to that demand.

Finally, the omission perpetuated a "substantial and specific danger to public health or safety." 5 USC §1206(b). Nuclear power plants rely on an extremely dangerous technology. The slightest mistake - human, structural, mechanical -- could lead to disaster. Obviously, the public safety is compromised when those who build the plant are drunk, or when the fire alarm system is inadequate. It also threatens public safety when security is so loose that black market manufacturing, smuggling and sales operations thrive in the plant. If it is possible to divert nuclear steel and smuggle out copper wiring, it may be possible to do the same with nuclear fuel. Vulnerability to sabotage and blackmail is of the utmost concern to the public. Unfortunately, Mr. Phillip deemed those issues irrelevant.

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II. MISMANAGEMENT, ABUSE OF AUTHORITY, PERPETUATION OF GROSS WASTE, AND PERPETUATION OF SUBSTANTIAL AND SPECIFIC DANGER TO PUBLIC HEALTH OR SAFETY, BY MR. PHILLIP THROUGH FAULTY INVESTIGATIVE TECHNIQUES.

~~Mr. Phillip's investigation failed on parallel levels:~~ not only did he ignore relevant issues within NRC's jurisdiction, but his methodology in researching the remaining issues was incomplete and one-sided. On the significant issues covered, the report is little more than the utility's version of the facts. It pales in comparison with other objective, thorough NRC reports.

There is a well-developed body of legal guidance and authoritative recommendations for the conduct of NRC investigations. Investigators are authorized to administer oaths and subpoena documents, 42 USC § 2201(c), and to consult workers in order to perform effective and thorough investigations. 10 CFR 19.15(a). The General Accounting Office has recommended that NRC investigators contact workers, since craftsmen building nuclear plants can provide valuable information on the quality of construction work. Report to the Congress by the Comptroller General of the United States, U.S. General Accounting Office, the Nuclear Regulatory Commission Needs to Aggressively Monitor and Independently Evaluate Nuclear Power Plant Construction (EMD 78-80 at 7 (September 7) ("EMD-78-80"). (Exhibit 8)

Investigators even are authorized to expand their investigations beyond the matters raised by complaints, in order to fully investigate the issues raised. 10 CFR 19.16(b) (1980). GAO recommends this practice, having found that reports too often are unduly limited in scope and detail. (EMD-78-80, at 22.)

Mr. Phillip ignored these authoritative guidelines. ~~the most basic level his report simply presents the management side of the dispute~~ For example, he failed to talk with many witnesses who would have verified Mr. Applegate's allegations. And for those people he questioned, Mr. Phillip's report makes no reference to his authority to take sworn affidavits and subpoena relevant documents. These steps would have made witnesses accountable for their assertions.

~~Mr. Phillip also neglected his contacts with members of the CG&E staff~~. (NRC Report, at 5.) Several of the CG&E officials he contacted were themselves the targets of Applegate's charges. Others had nothing to contribute. But Phillip ignored employees who could have verified the allegations and expanded on the disclosure.

Two CG&E officials Phillip contacted were intimately familiar with Mr. Applegate's charges; Mr. Schwiers, the Quality Assurance Manager, and Mr. Swain, the Construction

Manager, were suspect of wrongdoing at Zimmer. Plant employees contacted by Mr. Applegate and GAP named Swain as the man most responsible for overruling quality assurance rejections of faulty welds. Further, Schwiers is one of two CG&E officials who denied Applegate permission to pursue his leads on quality assurance deficiencies. Both men had obvious selfish interests in the outcome of this probe. Yet neither was questioned under oath, and the report provides no record of the questions asked.

Only three of the eight KEI officials Mr. Phillip contacted -- Messrs. Marshall, Pallon and Hang -- are significant for Applegate's allegations. Project Superintendent Marshall was not placed under oath, although Applegate charged him with misallocation of funds and mismanagement, including home and automobile repairs at the ratepayers' expense. (Affidavit, at 4-5). Since Mr. Phillip provided no record of questions asked and topics raised, it is impossible to conclude whether those issues were covered by the interview.

Both Messrs. Hang and Pallon played key roles in the dispute about faulty welds, and both have a personal stake in avoiding a full exposure of events at Zimmer. While employed as a PM radiographer, Hang had complained to Applegate that KEI was approving welds that Hang had rejected. When Phillip spoke with Hang, he already had taken a new job with KEI. Pallon was the man at the center of the faulty weld controversy -- he approved the welds PM had rejected. By merely accepting their statements without question, Mr. Phillip may have furthered a suspected coverup of safety defects at Zimmer. (Documentation for these allegations is available upon request, on tapes Mr. Applegate made of conversations with PM personnel.) ("Applegate tapes")

Self-interest also is an issue in Phillip's contacts with NES and PM officers, but again he took no sworn statements. NES was PM's successor at the plant and a competitor. NES assessments in a probe of welding problems uncovered by PM radiographers could be suspect on grounds of conflict-of-interest.

Similarly, when Phillip came to Zimmer PM already had lost its radiography contract. It would be naive not to suspect that PM President Ernest Aldredge's responses might be tempered by legitimate fears of reprisal from within a closed nuclear industry. In fact, Aldredge himself had characterized nuclear construction as a "closed industry" in a taped conversation with Mr. Applegate. (Infra, at 20-21) In the same conversation, Aldredge informed Applegate that PM's parent corporation had ordered the subsidiary to avoid criticism of the Zimmer plant due to fears of industry blackballing. Mr. Phillip was well aware of Aldredge's fears about speaking freely: Applegate played the tape for Phillip. (Affidavit at 21-3.)

Phillip never contacted any craftsmen or others referred by Mr. Applegate, either directly or through his confidential reports. Several of these individuals have made statements to GAP representatives. These statements and affidavits are available with proper assurances of confidentiality and the individuals permission.

The significance of this omission cannot be understated. If Mr. Phillip had bothered to speak with the line employees who construct the plant daily, he would have learned the full scope of the problems at Zimmer. For instance, ~~employees~~ ~~Mr. Applegate would have discussed the following~~ ~~issues that Mr. Phillip cared to listen:~~

1. KEI knowingly installed and ripped out unsuitable main steam relief piping, at an estimated labor cost of \$320,000.
2. 2000 pound fittings were installed in 1979 on residue head valves, although 5000 pound fittings are required.
3. A radioactive waste drain is clogged with concrete which carelessly was poured into the drain.
4. A residue heat valve broke when a pipefitter bumped into it, raising new questions about the quality of metal used for valves.
5. Sensitive parts on welding rods are possibly damaged through storage at improper temperatures, and possibly lost through failure to follow proper paperwork and labelling requirements.
6. Argon gas valves for flushing oxygen from pipes routinely are left open by the day crew, causing the night crew to be overcome by gas, a problem about which CG&E Safety Director Cummings expressed disinterest.
7. Prefabricated piping received in 1977 has defective welds, but construction supervisors told crews not to repair them because the welds were made off-site.
8. At least three sources contacted by Applegate confirmed that an estimated 20% of the plant's prefabricated welds are defective.
9. Engineering "designs" routinely are drawn after the fact to conform with piping that already had been installed.
10. Shock-absorbing electrical tray hangers previously found unsatisfactory are still unsafe due to faulty welds, and electrical cable trays remain dangerously full.

11. Sand and mud choke the feedwater pumps and intake flues carrying makeup water to the cooling tower, because of a flaw in the plant's design. Pumps used to rectify the flaw quickly burn out.

12. A design flaw in the heat exchanger control panel permitted an operator mistakenly to force 1200 pounds of pressure through pipes only meant to handle 300 pounds, ripping the pipe and soaking electricians with a hard spray of water that would have been radioactive had the plant been in operation.

13. There have been periods when there were no security surveillance cameras during nuclear fuel deliveries to the site, and perimeter security consisted for an extended period of only a four foot chickenwire fence.

14. A lax attitude toward employee behavior was evidenced by complete disregard of drinking and drug use on the site, and routine hiring of temporary laborers prone to violence.

15. Employees fired for time cheating had been cheating with the express approval of management, and the only time cheaters fired were vocal and knowledgeable critics of plant QA and safety.

16. CG&E had warned PM management to silence the radio-graphers at Zimmer, who were criticizing CG&E's consistent approval of welds rejected by PM.

17. Union pipefitters and PM employees have been intimidated by fear of utility and industrywide reprisals should they complain about QA practices.

18. A KEI employee has kept a detailed journal of safety hazards and incidents at Zimmer.

19. A common "joke" among pipefitters at Zimmer is that they will be hundreds of miles away when the plant goes on line, due to their predictions of a disastrous accident.

~~Many of these problems were common knowledge among employees. true CG&E and KEI employees and their representatives. 10 CFR 50.55(e)(1)(i) and (iii). Phillip could have learned of these issues with a minimum of investigative effort and a promise of confidentiality. In short, the probe was crippled by his failure to look behind the unsworn statements of management representatives -- nearly all of whom had identifiable conflicts-of-interest -- and to question the workers with first-hand knowledge.~~

Mr. Phillip's documentary research and on-site inspections were equally unimpressive. For example, one of the keys to Applegate's allegations is that the radiographers' inability to perform their jobs free from management constraints has tainted the quality assurance program. Even so, Mr. Phillip failed to look beyond the paperwork by performing independent tests or radiographs on any of the pipes and welds in question. Instead, he relied on the documentation and interpretations of officers at NES, CG&E and KEI, all whom have a clear financial stake in the outcome of the probe. GAO has criticized the NRC for not performing independent verifications, calling the practice a barrier to assurances of adequate plant construction. (EMD-78-80, at 10.)

Mr. Phillip since has claimed that companies have nothing to gain from cheating on Quality Assurance paperwork, since they risk censure by the public and NRC if caught. But there is little risk of exposure when an investigator ignores most of the relevant witnesses and issues, and is satisfied not to obtain independent verification of management assertions. As a result, the evidentiary omissions constitute mismanagement and an abuse of authority. Further, the omissions perpetuate gross waste and a substantial and specific danger to public health or safety. (Supra, at 10)

Mr. Phillip did not even steadily pursue the limited investigation he conducted. He came to Zimmer after hearing charges of safety deficiencies and coverups. Yet after announcing his investigation and conducting a preliminary review, he left the site for three weeks. (NRC Report, Cover Sheet.) The time gap cannot be justified. Three weeks is sufficient time to alter or destroy Quality Assurance records, to establish a "party line" response on key issues and to silence critics within the organization. As a result, the interruption also constitutes mismanagement. (Supra, at 9)

~~Mr. Phillip's investigative methodology was so flawed that both he and the NRC are in an indefensible position.~~ Not all NRC reports are susceptible to that evaluation. For instance, the South Texas Project investigation, released in April 1980, is an example of detailed reporting on nearly identical issues as those raised at Zimmer -- flaws in quality assurance, intimidation of QA staff, and management complicity. U.S. Nuclear Regulatory Commission Office of Inspection and Enforcement for Region IV. Report No. 50-498/79-19 on the South Texas Nuclear Project (Final Review April 22, 1980). That probe included independent field investigation. The investigators researched broad issues as well as narrow underlying examples. The investigators listed all issues disclosed, and elicited confidential sworn statements. Phillip's effort was shoddy by comparison, and a disservice both to the public and the NRC.

III. MISMANAGEMENT, ABUSE OF AUTHORITY, AND PERPETUATING A SUBSTANTIAL AND SPECIFIC DANGER TO PUBLIC HEALTH OR SAFETY, BY MR. PHILLIP, THROUGH INACCURATE INVESTIGATIVE CONCLUSIONS.

The flaws discussed above are only examples of the substandard quality of the NRC effort at Zimmer. A section-by-section analysis reveals that Mr. Phillip's report on Applegate's charges is packed with misquotations, misrepresentations and faulty conclusions. As a result, the report as a whole fits the definition for all whistleblowing disclosure categories except 'violation of law'... (Supra, at 6-10) Mr. Phillip's workproduct will only legitimize dangerous, wasteful nuclear plant construction practices.

A. Introductory Summary

On March 3, 1980 Applegate met with Phillip and NRC investigator Williamson. Applegate and Phillip met again the next day. But the report's summary and "reason for investigation" do not begin to summarize the contact Phillip had with the "allegor." The piping weld problem was only one of more than a dozen problems, and each was merely a symptom of deteriorating safety practices throughout the plant. As described above (supra, at 6-9) the report is totally silent about the charges Phillip ignored for whatever reason. Consequently, his summary of allegations and his disposition is incomplete and misleading.

Additionally, there are direct inaccuracies in the summary. For instance, ~~Phillip stated that the NRC became aware of the allegations against Zimmer after Applegate called on February 23.~~ (NRC Report, at 3.) ~~On that date, Applegate called Mr. [redacted] [redacted]. In fact, however, the process had begun two weeks earlier on February 15, when Applegate called inspection and Audit Director James Cummings to lodge his protest. Mr. Applegate called Cummings several more times before giving up in frustration and contacting the Chairman.~~ (The relevant telephone bill for Mr. Applegate's residence is attached as Exhibit 5.) ~~Mr. Cummings received information which he apparently gave.~~

Similarly, Mr. Phillip describes the allegor as a private investigator brought in by CG&E to probe "time card padding by site personnel." (NRC Report, at 6.) But Applegate was not only hired to document time padding -- his mission was to find "any possibility of misconduct on the part of anyone involved in the construction of the plant." (Supra, at 2) Phillip refused to recognize the broad base of Applegate's work at Zimmer, thereby undercutting the basis for and reliability of his evidence.

In the same vein, the report asserts that Applegate screened and played "parts of the tapes" for Phillip on March 3. That is simply inaccurate. Mr. Applegate provided all of his evidence to the NRC investigators. It was Phillip who excluded sections, without explaining his reasons to Applegate at the time. (Affidavit at 14.) The coarse quality of the tapes might have created difficulties for Mr. Phillip; they were made surreptitiously with the use of a concealed body recorder in some instances. But Phillip could have arranged the necessary audio work to improve the quality. Applegate himself has undertaken this task, with favorable results. In a reasonable probe of alleged coercion and coverup, these taped conversations would have been invaluable. But Mr. Phillip squandered this vital evidence.

B. Findings

Mr. Phillip investigated three narrow issues in the Applegate disclosure:

1. Defective welds in safety-related systems have been accepted, among them were welds CY606, HR42 and K811.
2. Five defective welds were identified in prefabricated piping but the pipes were accepted and installed in a safety-related system.
3. The manner in which safety-related installed piping was flushed was inadequate and a scheduled six-week flush was reduced to two weeks.

(NRC Report, at 3.) We will examine his analysis on each issue.

1. Allegation #1.

Mr. Phillip concluded that Allegation #1 was not substantiated by his investigation. Phillip's characterization, however, is misleading. "Acceptance" is a trade term meaning final approval. Applegate charged that unacceptable welds were installed at Zimmer, despite the radiographers' independent recommendations to reject them. (Affidavit, at 7.)

In fact, Mr. Phillip's detailed analysis supports Mr. Applegate's charge. ~~There were unresolved discrepancies in the records for all three welds. The welds were installed despite these questions, some of which remain unresolved after four years.~~ (NRC Report, at 8.)

Mr. Phillip went beyond inconsistent argumentation and conclusions, however. ~~The investigation was shallow.~~ This superficiality is illustrated by his analysis of the welds in question. He failed to test any of the welds independently, despite charges that the records he examined were misleading and possibly fraudulent. (Affidavit, at 8.) He took NES' evaluations of the records at face value, despite the possibility of conflict-of-interest. (NRC Report at 7-8, supra at 12) On this questionable basis and a spot check of CG&E's own records, Phillip inferred that PM's performance may have been substandard and that the utility may have rejected more welds as unsafe than did the PM radiographers. In fact, PM rejected approximately 39% of the Zimmer welds, or three times the industry average. (Hertsgaard interview.)

In one instance, Mr. Phillip was content simply to abandon an allegation rather than to learn the truth. A defective weld was buried in concrete and possibly dug up for repairs. Instead of resolving the uncertainty, Mr. Phillip dropped the issue. (NRC Report, at 6.)

~~The conclusion that Phillip's investigation was incomplete.~~ For instance, he reported "unresolved discrepancies" in the records for welds HR42 and CY606. (Id., at 8.) Unfortunately, the report stops with this tantalizing hint. Weld K811 had been found defective in 1977 and replaced with weld K916. But the new weld never was radiographed after the repair, and Mr. Phillip chose not to pursue the issue further. (Id.)

On another level, employees charged that records might be unreliable because KEI pressured the radiographers to rush the x-rays and perform the tests under imperfect conditions. This "pressure to produce" was likely to produce low-quality radiography. A KEI official's evaluation of PM confirmed the contractor's attitude: "[W]e had lots of welds that needed x-raying, but Peabody was ... slowing down production." (KEI Vice President for Construction and Field Operations, Don Sahlberg, quoted in Hertsgaard interview.) Phillip never explored the underlying relationship between this production pressure and intimidation of the radiographers. Apparently he was not interested in the NRC requirement that Quality Assurance shall be free from cost and production pressures. 10 CFR 50, Appendix B, Criterion I.

In short, Mr. Phillip disregarded the GAO advice to go beyond the "paperwork" approach to resolving safety disputes at nuclear plants. Even on the paperwork level, he failed to justify his choice of NES' interpretation over PM's initial findings. This arbitrary approach to exoneration is inadequate to protect the public health and safety.

2. Allegation #2.

Mr. Phillip reported that the alleged identified five defective welds in prefabricated piping (NRC Report, at 10.), but Applegate's charge against the plant's prefabricated piping was far more sweeping. He merely had identified five welds as examples of more broad-based allegations. He had passed along the employees' estimate that about 20% of the prefabricated piping contains defective welds. (Affidavit, at 8.) Further, he reported that KEI policy forbids repairing these defects even after radiographic detection. (Hertsgaard interview.)

The factual background highlights the seriousness of the allegation. The incident in question occurred late in the evening of July 3, 1979 -- not in October, as Phillip erroneously reported (NRC Report, at 10.) A shipment of Pullman Kellogg piping was received improperly after business and delivery hours. Contrary to standard procedure, the pipe spools were rolled off the Pullman truck and fell to the ground. PM was instructed to x-ray the pipes to ascertain the damage. The radiographers learned that the drop hadn't damaged the piping. However, the PM x-rays showed that the prefabricated piping was defective on arrival. (Affidavit, at 8.)

KEI disregarded the finding and installed the piping in the Main Steam Relief System, a critical safeguard. In retrospect, KEI offered two reasons for ignoring PM's x-rays: (1) PM's instructions were "to check the pipes but not the welds." (emphasis added) (NRC Report, at 10.) (2) Pullman's inspection sheets showed the pipes were acceptable before shipment. (Id.) In other words, PM was ignored because it took the initiative to expose inaccurate records.

When Mr. Phillip investigated the charge, he merely looked at PM's test results and Pullman's QA records (Id., at 11), an ill-advised strategy given each party's stake in the proceedings. Further, he didn't even disclose both sides of the paperwork. The report includes Pullman's QA stamp of self-approval (NRC Report, Exhibit D.), but it doesn't contain the documents with PM's original findings. Either Mr. Phillip arbitrarily omitted key evidence and abused his authority in the process, or the records are lost and the utility violated the terms of its license. ZPS-1, FSAR 17.0.1.1, 17.1.17 (1978).

As a result of his probe, Phillip found CG&E in noncompliance with 10 CFR 50, Appendix B, Criterion XV, for releasing the pipes and not using "hold tags." But the evidence suggests that more than a minor paperwork violation was involved. Phillip discovered that the pipes were released

after the QA man felt "some pressure ... from construction to get the spool pieces released." (NRC Report, at 13.) Further, an unnamed CG&E official (who now denies involvement with the incident) ordered the QA Document Control Supervisor to alter a nonconformance report and thereby free the piping for installation before it was declared acceptable. (NRC Report, Exhibit 1.)

Surely this finding raised serious questions about the integrity of the QA program at Zimmer. It should have sparked a more intensive investigation, But Mr. Phillip was content to conclude his work by confirming the obvious paperwork violation. He failed to report the nature of the pressure exerted on the warehouseman, or by whom it was exerted. He also failed to apply the handling of this incident to an analysis of intimidation and coercion against PM. (Infra, at 21-3) By failing to pursue this lead, Mr. Phillip effectively avoided investigating the whole QA organization at Zimmer.

PM later reinspected the same set of prefabricated pipes at Phillip's request. This time the radiographers ... reportedly agreed with the NES April 28, 1980 tests. (NRC Report, at 13.) However, Mr. Phillip knew or should have known that the allegation on prefabricated piping was based on an interpretation dispute between PM, who x-rayed the welds and rejected them, and Pullman, who shipped the pipes under their corporation's seal of approval. Mr. Phillip also knew that PM by then had been fired and was under intense pressure to remain silent. Phillip even heard Ernest Aldredge, PM's president, characterize Pullman as another "silencer in the nuclear industry." (Transcript of tape recording of May 6, 1980 conversation between Thomas Applegate and Ernest Aldredge, at 2, attached as Exhibit 10) ("Aldredge transcript") Despite these conditions, Mr. Phillip accepted without qualification PM's shift to the suspiciously conciliatory position that nothing truly had been wrong.

3. Allegation #3.

This allegation protests a shortcut from six weeks to two in the flushing, or cleaning, procedure for piping. Phillip reported that the crew foreman on the flush took credit for shortening the time period. (NRC Report, at 9.) Phillip does not reveal, however, that the foreman who was "able to accomplish a job in less time than was expected" (Id.) in fact had quit his job, after four years at Zimmer, in protest over this shortcut. It seems the foreman removed a pile of muck by hand immediately after the piping had been "flushed." After demonstrating the failure of the shortcut, the foreman quit in disgust. (Documentation is available through Applegate tape recordings and statements taken from GAP interviews with anonymous witnesses, supra at 13.)

By May 1980, when Mr. Phillip conducted his investigation, the flushing procedure had been judged substandard twice since January 1979. (NRC Report, at 9.) Phillip's curious claim in the general summary that "problems in this area have been identified and resolved" (Id., at 3.) was generous, to say the least. When the report was filed in July 1980, CG&E's noncompliance had been excused for 16 months. Phillip apparently decided that the allegation need not be pursued, because retesting tentatively was set for Summer 1980. (Id.) Since CG&E had been unable to pass an inspection for so long, at a minimum Phillip should have recommended that the NRC monitor the summer flushing procedure.

4. Additional Allegations.

These allegations focus on the harassment and retaliation against PM, referred to above on May 6, 1980, subsequent to the NRC visits to Zimmer. Applegate recorded conversations with three individuals from PM management. PM had been "thrown off" a job for the first time in its corporate history. In the taped conversations, PM officials, including Mr. Aldredge, confirmed that the radiographers had been fired for pushing too hard on safety violations. Mr. Aldredge also confirmed a break-in and theft of quality control records at the PM trailer. Most significantly, Aldredge emphasized that he could not criticize the utility publicly, or PM would be blackballed within a month.

In fact, Aldredge was concerned that his company might be driven to bankruptcy if it stood up to the utility. (Aldredge transcript, at 1-5.)

After listening to this taped conversation, Mr. Phillip spoke with Aldredge. Aldredge now found nothing wrong. He reported that his firm had not been forced to accept faulty welds. Of course, contrary to Phillip's characterization, Mr. Applegate did not claim that PM was pressured to accept bad work. (Id., at 2-3) Rather, he charged that PM was being pressured to remain silent about all the overrides of the radiographers' rejections. (Id.)

Aldredge's contradiction with the earlier tape was predictable. In the tape Aldredge explained why he had to deny that KEI and CG&E had applied improper pressure to obtain quality assurance records, for example. But Mr. Phillip accepted the shift in position at face value in the report.

If there were any doubt, a time-line chronicle to PM's final months at Zimmer reveals how Phillip's "see no evil" conclusion overlooked the obvious:

1. December-January 1980: Applegate tapes conversations with pipefitters and radiographers who tell him that PM has been threatened with loss of contract unless they stop complaining about corporate acceptance of faulty welds. (Applegate tapes.)

2. January 1980: There is a mysterious break-in at the PM trailer on the site, and records of controversial welds are pilfered. (Aldredge tape, Exhibit 10, at 4.)

3. March 1, 1980: PM receives notice of contract termination. The company has never lost a contract before. (Affidavit, at 17.)

4. April 1, 1980: PM leaves the Zimmer site, returning all records to KEI during an unceremonious and hurried transfer of data. Aldredge later characterized the documents transfer as "the fastest transferring of data I can recall." (Aldredge tape transcript, Exhibit 10, at 4.)

5. April 7-8, 30, May 1-2, 1980: NRC reviews records at Zimmer and speaks with management. (NRC Report.)

6. May 6, 1980: Applegate records conversations with PM President Aldredge and two other PM managers. The PM executives clearly acknowledge the coercive nature of the industry as the reason for the firm's silence throughout the investigation. (Aldredge tape transcript, Exhibit 10, at 1-.)

7. May 8, 1980: Applegate contacts Phillip with new evidence of coverup and coercion. Applegate plays the tapes made only days before. (Affidavit, at 22.)

8. May 20, 1980: Phillip contacts the individual executives who were recorded on May 6. They deny being pressured to approve bad welds. (NRC Report, at 15.)

If this chronology and Aldredge's admissions were not enough, Applegate also provided tapes by KEI and PM employees documenting the threats. The conversations took place before PM was fired. In fact, the workers predicted the reprisals that occurred. PM workers had been told by the KEI QA supervisor to "do what we were told when we were told to do it" or they would lose their jobs. (Applegate tapes.) Mr. Phillip chose not to acknowledge the evidence in his report.

On Phillip's suggestion, Applegate played the May 6 tapes for Phillip and Mr. Buckley of the Chicago FBI office. Phillip reports that Buckley concluded the tapes "did not appear to him to be evidence of criminality." (NRC Report, at 14.) However, Buckley's memory of the meeting conflicts with Phillip's account. Buckley since has explained that he felt himself an inappropriate arbiter of this dispute. (September 16, 1980: conversation between GAP staff assistant Rachel Bellis and Mr. Buckley.)

Phillip's characterization of Buckley's response also conflicts with the public record of the meeting. On the record, Buckley stated that the FBI might investigate and prosecute if requested by the NRC. (Giordano, "FBI Shifts Charges to NRC," Cincinnati Enquirer, May 9, 1980.) (Exhibit 11) Phillip improperly portrays Buckley's evaluation as the final rejection of the coverup allegation. In fact, Buckley was stating that the NRC would have to do its job before he could do his.

VERIFICATION STUDY

Due to the serious nature of Mr. Applegate's charges, GAP conducted an unusually thorough verification study to determine the reliability and accuracy of his disclosure. Law enforcement officials from the local to the national level have confirmed Applegate's credibility as an investigator. Journalists and reporters who conducted their own verification studies of Mr. Applegate's initial charges have confirmed the accuracy of his facts. GAP has conducted confidential interviews with Zimmer employees who corroborated facts behind the charges. Mr. Applegate's landlady even has confirmed that she and Mr. Applegate have been threatened with physical violence. Finally, Mr. Applegate himself has provided more than enough facts and supporting evidence -- tape recordings, investigative field reports, sworn statements -- to enable a reasonable person to conclude that these serious charges are accurate. (See Exhs. 12 & 13 for nonconfidential statements.)

GAP does not undertake permanent representation of any client before receiving approval from its Whistleblower Review Panel. The Panel is composed of two well-known government whistleblowers, Dr. Fred Greenhut and Dr. Tony Morris; a public interest attorney, Andra Oakes, Esq.; and a former Administrator of GAP, Ms. Marjorie Bernard. On November 20, 1980 the Review Panel unanimously concluded that Mr. Applegate's charges are based on a reasonable belief, and approved GAP's representation and called for a full investigation of his allegations.

CONCLUSION

In our opinion, the citizens of Cincinnati are still waiting for the NRC to do its job. In a month's undercover work, Applegate was able to find widescale theft, drunkenness, black market operations, widescale faulty piping in key safety systems, fire hazards and retaliation against the most quality-conscious employees at the plant. In approximately a month-long verification study, GAP was able to confirm Mr. Applegate's assertion that his disclosure represents only the tip of the iceberg -- there may be over a dozen additional

safety defects at Zimmer that threaten the public. In short, Mr. Applegate's prediction that Zimmer is "another Three Mile Island waiting to occur" (Affidavit, at 24) may be frighteningly accurate.

By contrast, Mr. Phillip's approach to his task served to contain the scandal, rather than uncover the full story. Contrary to GAO guidelines, Phillip "investigated" by asking management for its side of the story and then accepting the denials nearly at face value. Phillip even ignored the bulk of the evidence Applegate provided at the start of the probe.

The results were predictable. With all the resources of the U.S. government, Mr. Phillip was only able to find a single paperwork violation. His investigation and report are a caricature of effective regulation. Unfortunately, the joke is on the citizens of Ohio.

Respectfully submitted,

Rachel Bellis

Rachel Bellis
Staff Assistant

Thomas Devine
Thomas Devine
Associate Director

Louis Clark
Louis Clark
Director

Exhibit #1

U.S. NUCLEAR REGULATORY COMMISSION
OFFICE OF INSPECTION AND ENFORCEMENT

REGION III

Report No. 50-358/80-09

Docket No. 50-358

License No. CPPR-88

Licensee: Cincinnati Gas and Electric Company
139 East 4th Street
Cincinnati, OH 45201

Facility: Wm. H. Zimmer Nuclear Power Station

Investigation At: Moscow, OH
Chicago, IL

Dates of Investigation: April 7-9 and 30, May 1-2 and 20, 1980

Investigators:

G. A. Phillip

7/1/80
Date

K. D. Ward

7/2/80
Date

T. E. Vandel

7-2-80
Date

Reviewed By:

E. Norelius

Assistant to the Director

7-2-80
Date

R. C. Knop, Chief

Construction Projects Section 1

7/3/80
Date

Investigation Summary: Investigation on April 7-9 and 30, May 1-2 and 20, 1980 (Report No. 50-358/80-09)

Areas Investigated: Because of allegations made primarily relating to the adequacy of piping welds, performed a review of records and procedures,

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made independent evaluations and conducted interviews of personnel. The investigation involved 94 investigation hours by three investigators. Results: Of four allegations, one, which related to the installation of pre-fabricated piping having defective welds, was partially substantiated in that the pipes were installed before questions regarding their acceptability were resolved. One item of noncompliance, an infraction, was identified: (1) 10 CFR 50, Appendix B, Criterion XV, release of material from segregation and failure to use hold tags.

REASON FOR INVESTIGATION

On February 28, 1980, an individual who contacted the NRC by telephone made allegations regarding the Wm. H. Zimmer Nuclear Power Station. One of these allegations was that piping having defective welds had been installed in a safety-related system.

SUMMARY OF FACTS

Did it include object { Following the receipt of allegations by telephone on February 28, 1980, arrangements were made to interview the alleged to obtain more detailed information. During an interview on March 3, 1980, the individual made several allegations, three of which involved matters under the jurisdiction of the NRC. By letter dated March 11, 1980, the alleged was advised that an investigation would be conducted regarding those allegations which were as follows:

1. Defective welds in safety-related systems have been accepted, among them were welds CY606, HR42 and K811.
2. Five defective welds were identified in prefabricated piping but the pipes were accepted and installed in a safety-related system.
3. The manner in which safety-related installed piping was flushed was inadequate and a scheduled six-week flush was reduced to two weeks.

Allegation No. 1 was not substantiated.

Allegation No. 2 was partially substantiated in that three of five identified pipes had been installed in the main steam relief system before questions as to their acceptability had been resolved. Two items of noncompliance were identified in this regard. It was also determined that at the time of the investigation a nonconforming report requiring disposition remained open concerning the acceptability of the three pipes. During the investigation additional examinations were made of the pipes and they were determined to be acceptable.

Regarding Allegation No. 3, it was determined through contact with the primary source of the information upon which the allegation was based, that he had left the site in November 1978 and problems in this area had been identified and resolved through NRC inspections conducted between November 1978 and the receipt of the allegations in March 1980.

Following completion of the investigation at the Zimmer site, the alleged contacted Region III and alleged he had evidence of a criminal

conspiracy and that the welds on the three above-mentioned pipes had been cut out and repaired during the course of the investigation and this information was withheld from the NRC. The basis for these allegations, which consisted of recordings of three telephone conversations, was obtained from the alleged during an interview on May 8, 1980. No information or evidence was obtained to confirm these allegations during the interview or during subsequent investigation.

One item of noncompliance, an infraction, was identified during this investigation.

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DETAILS

1. Persons Contacted

Cincinnati Gas and Electric Company (CG&E)

*B. K. Culver, Project Manager
*W. W. Schwiers, QA Manager
*R. L. Wood, QA Engineer
*D. C. Kramer, QA and S Engineer
S. Swain, Construction Manager
*J. F. Weissenberg, QA and S Engineer

Kaiser Engineers, Inc. (KEI)

*R. Marshall, Project Superintendent
*E. V. Knox, QA Manager
K. R. Baumgarten, QA Manager
R. M. Dorr, Construction Engineer
A. Pallon, Welding/NDE QA Engineer
F. Oltz, Analysis and Procedures Supervisor, QA
J. Deerwester, Supplier QA
D. Haag, QA Inspector

Peabody Testing Services (Peabody)

Ernest Aldredge, President
Charles Wood, Manager, Cincinnati Office (via telephone)
Wayne Draffon, Supervisor (via telephone)
Alan Sellars, Field Supervisor
D. Burdsal, Level II Inspector

Nuclear Energy Services, Inc. (NES)

R. Bott, NDE Supervisor
R. A. Zieber, NDE Inspector

2. Introduction

On February 28, 1980, the Office of Inspection and Enforcement NRC Headquarters advised Region III of a telephone conversation with an individual who made allegations concerning activities at the Wm. H. Zimmer Nuclear Power Plant Construction site, and requested that the individual be contacted. Later the same day during a telephone conversation with Region III, and during an interview on March 3, 1980, the individual made several allegations.

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The individual stated that he had been employed by a private detective agency, and the licensee, CG&E, through his employer, had engaged him to work under cover at the Zimmer site to investigate time card padding by site personnel. His investigation effort began on December 10, 1979 and ended on January 4, 1980. In addition to information regarding worker time card padding, he obtained information regarding other activities which was the basis for several allegations, some of which related to matters under the jurisdiction of the NRC.

The individual stated he had earlier brought his information to the FBI. He indicated he was uncertain as to what action, if any, would be taken by that agency.

✱ — The individual stated he had documentation relating to his allegations in the form of weekly reports he had prepared and tapes of several of his conversations with site personnel. During the interview on March 3, 1980, the individual played those parts of the tapes which he said contained pertinent information and made available copies of his reports.

3. Allegations

Based on the information obtained through the interview with the alleged, a review of the taped conversations and his investigative reports, three allegations involving activities under NRC jurisdiction were developed. By letter dated March 11, 1980, the alleged was advised that an investigation of these allegations would be conducted. A copy of this letter with the alleged's identification deleted is attached to this report as Exhibit A. These allegations and information regarding them obtained during the investigation are set forth below.

Allegation 1: Defective welds in safety-related systems have been accepted, among them were welds CY606, HR42 and K811.

The identification of the specific welds in this allegation was obtained from a review of the tape the alleged had made surreptitiously of his conversations with site personnel. According to the information obtained by the alleged, weld CY606 was buried in concrete between the Radwaste Building and the Containment Building. He said it was his understanding that they dug it up to repair it, but he was uncertain whether this was done.

Regarding weld HR42, the alleged said that he had informed CG&E that this weld was defective. He said he had heard that another testing firm had been hired as a consultant, and this firm had confirmed the weld was defective. He also said it was his understanding that this defect was reported to the NRC.

Regarding weld K811, the alleged said he was informed that this weld had "an insert fault" and that KEI had ordered that it be accepted.

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The alleged stated that Peabody Testing Services (Peabody), also referred to as Magnaflux, personnel had informed him that some welds that Peabody, the nondestructive testing contractor, had rejected as faulty were subsequently accepted by KEI, the site construction management contractor. He said that a Peabody employee had records identifying the welds rejected by Peabody which were subsequently accepted by KEI. He indicated that by way of explanation, CG&E had informed him that the interpretation of the film obtained through radiographic examinations of welds is a judgment call. The appearance of an item on a radiographic film may be judged to be a defect by one individual and not by another and KEI could overrule Peabody.

Finding:

On April 7, 1980, the Peabody field supervisor was interviewed. He stated that he had no records showing the welds Peabody had initially rejected which were subsequently declared acceptable by KEI. He indicated that, although he was aware that this had occurred, he did not know how often and he could not provide any specific instances. He also stated that the results of radiographic examinations are recorded on reader sheets. The radiographic film and the original reader sheets are turned over to KEI. He said Peabody only had carbon copies of the reader sheets.

As a means of further evaluating whether KEI was accepting welds identified as defective by Peabody, a safety-related system, the High Pressure Core Spray System, was selected and all reader sheets pertaining to it were reviewed. Of 99 welds in the system which were radiographed, two instances were noted in which Peabody had checked the reject column and KEI had lined that check out and had checked the accept column. The radiographs of these two welds were reviewed by an NRC inspector who is a certified NDE Level III. He concurred that the welds were acceptable. Conversely, it was noted that in several instances, between five and ten, the original accept check mark entered by Peabody had been lined through and a reject check had been entered by KEI.

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Regarding the subject of welds and radiographs of them, an NRC inspection conducted on November 8-9, and December 12-13, 1978 (Report No. 50-358/78-30) identified several discrepancies in radiographic techniques and reports. During a subsequent inspection on September 18-20, and December 11-12, 1979 (Report No. 50-358/79-17) several more discrepancies were identified. CG&E then hired NES to rereview radiographs and reports of all welds which had been accepted for turnover prior to operation. This review began in October 1979 and was completed in early April 1980. The review included 2,390 radiographed welds. Of those, 958 had report discrepancies, 543 had some technique problems and 14 welds were found to be unacceptable because of defects.

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The KEI Project Superintendent advised on May 1, 1980, the 14 welds were being re-examined and resolution regarding them had not been completed. He stated that one of the 14 welds found to be unacceptable was the subject of a nonconformance report and, therefore, had not been accepted for turnover. This weld, he said, should not have been included in the NES review. Another weld had been cut out of the pipe for examination and it was determined that, although it appeared to have a defect on the radiographic film, it was, in fact, an acceptable weld.

Regarding weld No. K811, a review of records showed it was welded on November 9, 1977, but because an Authorized Nuclear Inspector hold point was missed at the fitup, the weld was cut out and replaced by weld No. K916. The missed hold point was documented by Nonconformance Report (NR) No. E-2138R1. This NR indicates that the disposition was to cut out and replace the weld. It was determined that weld No. K916 had not yet received final acceptance.

Regarding weld No. RH42, records indicated this weld was first radiographed on August 9, 1976, and found to have unacceptable porosity and slag in the areas of 36-48. The areas were repaired and a reradiograph performed on August 10, 1976 found it to be acceptable. A review was made of the radiographs for weld quality, techniques, and report accuracy by an NES Level II radiographer on January 25, 1980 as part of the above-mentioned re-review initiated after the 1978-79 NRC inspections. The NES Level II radiographer found some discrepancies which have not been resolved, and the weld has not been given final acceptance.

Regarding weld No. CY606, a review of records showed this weld was first radiographed on July 15, 1976 and found to have incomplete fusion and penetration in the areas of 0-13 and 13-16. The areas were repaired and the weld re-radiographed on June 8, 1977 and found to be acceptable. A review was made of the radiographs for weld quality, techniques and report accuracy by an NES Level III radiographer on October 12, 1979 as a result of the NRC inspection conducted in 1978. The Level III found some discrepancies which have not been resolved and the weld has not received final acceptance.

Allegation 2: The manner in which safety-related installed piping was flushed was inadequate and a scheduled six-week flush was reduced to two weeks.

The allegor provided information that a site employee informed him on December 27, 1979, that another individual who had been employed as a general foreman at the site had objected to the flushing procedures used. He had also objected when a particular flush that should have taken six weeks was cut to two weeks. On one occasion the individual had demonstrated the flushing was inadequate by pounding on a pipe which released sediment and slag during the flush. The identity of the former general foreman was provided by the allegor.

Finding: On April 7, 1980, the former general foreman was contacted and interviewed. This individual said he had worked at the Zimmer site from June 1973 until November 1978. In 1978 he was the general foreman of the flush group.

Regarding the six-week versus two-week flush, the individual indicated it had been anticipated six weeks would be needed to prepare for and flush one of the systems. He, however, was able to accomplish a satisfactory flush in two weeks. He indicated that the shorter time did not mean the flush was not done according to the requirements. Rather, it was a case of he and his men being able to accomplish a job in less time than expected.

This individual stated that in his opinion the welding done on the critical systems, such as the main steam lines and in the reactor building, was good. He said, however, that several problems were encountered in the flushing activities while he was at the site but he was unable to provide information regarding any specific requirements that were not met.

NRC inspections conducted subsequent to the departure of this individual from the site included an examination of flushing activities and some specific problems were identified. On the basis of one of these inspections, conducted January 3-6 and 8, 1979 (Report No. 50-358/79-01), one item of noncompliance and one deviation were identified. The noncompliance related to a failure to close a valve during a flush and an inadequate procedure to assure boundary valves are closed. The deviation was that the procedure did not require tagging of boundary valves. A second inspection conducted February 27-28, March 1-2, 19-23, and April 9-11, 1979 (Report No. 50-358/79-06) resulted in one item of noncompliance regarding flushing activities. This related to a failure to maintain control of flushing waters resulting in the flooding of equipment in a system which had been turned over for preoperational testing.

The individual indicated a matter of concern to him was that a hydrotest of the reactor containment was successfully performed, but after the test some instrument lines were cut out which invalidated the hydrotest. He indicated he was uncertain as to whether CG&E would attempt to use this test as meeting test requirements or whether the NRC was aware the test had been invalidated by the subsequent modifications.

On April 8, 1980, the NRC Resident Inspector advised that he as well as CG&E were aware that the initial hydrotest was not valid because of the subsequent modification of the instrument lines. He stated that another hydrotest was tentatively scheduled to be performed during the summer of 1980.

In view of the above, further investigation at the site in the area of flushing activities was not pursued.

Allegation 3: Five defective welds were identified in prefabricated piping, but the pipe was accepted and installed in a safety-related system.

Through a review of reports written by the alleged and the tapes of conversations with site personnel as well as information supplied through interview on March 3, 1980, the following information was obtained regarding this allegation.

During the NRC hearings in November 1979, a question was raised concerning an accident which involved the dropping of fuel rods. A former site employee had provided information to attorneys who were opposed to the licensing of the plant which was the basis for raising this question. A miscommunication between the former employee and the attorneys occurred, however. The question about an accident should have referred to piping being dropped from a tractor trailer rather than fuel being dropped.

The alleged advised that in about October 1979, a trailer load of pipes fabricated at the Kellogg Company, located in Pennsylvania, arrived at the site in the middle of the night. Since personnel and proper equipment were not available to unload it properly a member of CG&E management issued instructions to push the pipe from the truck onto the ground.

When the pipes were found on the ground the following day, it was decided that the pipes would have to be inspected by x-ray to determine whether they had been damaged. Peabody was instructed to x-ray (radiograph) the pipes and 5 to 8 faulty welds were identified. Since Peabody had been instructed to check the pipes but not the welds, and since the welds had been tested and found to be acceptable before shipment by Kellogg, the pipes were approved by KEI Quality Assurance. These pipes were installed in the Main Steam Relief System, a safety-related system.

Finding: A bill of lading dated June 29, 1979 showed that Pullman Power Products, a division of Pullman, Inc., Williamsport, Pennsylvania, formerly known as M. W. Kellogg Company, released to the Daily Express Company five pieces of pipe assembly I/S, weighing 6,700 pounds, for delivery to the CG&E Zimmer site on Monday, July 2, 1979. A packing slip accompanying the shipment listed the following pieces:

IMS08BB12-6B
IMS09BA12-1AH
IMS08BA12-5BH
IMS11B12-7BH
IMS10BA12-ICH

A KEI receiving stamp shows it was received on July 3, 1979. Copies of the bill of lading and the packing slip were obtained and are attached to the report as Exhibits B and C, respectively.

Each of these pipes (spool pieces) were for the Main Steam Safety Relief Valve discharge and were carbon steel pipe assemblies approximately 15' 7 5/8" long, 12 3/4" in diameter and having a wall thickness of .687".

On hand at the Zimmer site were QA documentation packages for each of these 5 spool pieces received from Pullman. A copy of one package was obtained and is attached to this report as Exhibit D.

On July 5, 1979, Nonconformance Report (NR) No. E-1911 was prepared indicating "Spools were rolled off of truck onto ground and striking other spools" and listing the above identification numbers. The issuance of this NR had the effect of placing these pipe spools in a hold status in the KEI warehouse. On July 10, 1979, the KEI Construction Engineer entered the following disposition on this NR "Rework. (1) Perform liquid penetrant test on all welds; (2) perform visual inspection of weld and preps. Accept on basis of inspection (1) and (2). Should any pipe spool fail due to inspections (1) and (2) a separate Nonconformance will be issued." A KEI QA engineer concurred in this disposition on the same date. A copy of NR E-1911 is attached to this report as Exhibit E.

NR E-1911 was voided and superseded by NR E-1911 Rev. 1 on the same date, July 10, 1979. KEI and CG&E personnel advised that the disposition shown on NR E-1911 was reconsidered because they wished to avoid removing the paint from the welds which would be necessary before a liquid penetrant examination could be performed. NR E-1911 Rev. 1 changed the first item of the disposition to: "Perform RT examination of all welds." A copy of NR E-1911 Rev. 1 is attached to this report as Exhibit F.

A QA Surveillance Report dated July 23, 1979, addressed to a CG&E QA engineer signed by the KEI NDE QA engineer, showed that on three spool pieces, weld X4 had rejectable indications, and requested to be advised concerning the dispositioning of these rejections. The CG&E QA engineer stated that to the best of his recollection, he did nothing in response to this request and could not recall having discussed the matter with anyone. A copy of this Surveillance Report is attached to this report as Exhibit G.

CG&E and KEI personnel stated all five spool pieces were radiographed on an "information only" basis but only the films for those three referred to in the Surveillance Report were retained. The X4 weld is a weld which joins a solid cap to one end of the spool piece. Radiography is not the appropriate technique employed to examine a weld of this kind since the gamma rays must pass through the cap (about 12' of metal) as well as the weld. The KEI Construction Engineer said the radiographs were done with the thought that they might show surface damage, even though it was recognized the quality of the film would not be good and it was recognized that the film would not meet any code standards.

NR E-1911 Rev. 1 was voided and superseded by NR E-1911 Rev. 2 on July 31, 1979. The disposition shown on the latter was to perform RT examinations of all "butt-welds" and to perform visual examinations of all "fillet-welds."

A QA Surveillance Report dated August 8, 1979 showed that all five spool pieces were visually examined and were found acceptable. A copy of this Surveillance Report is attached to this report as Exhibit H.

Since two spool pieces had shown no indication of damage through radiographic examination and visual examination another NR, No. E-1997, dated August 9, 1979, was prepared as a mechanism to remove those two spool pieces from a hold condition but to retain an open NR on the other three. NR E-1911 Rev. 2 was closed by KEI QA on August 9, 1979, with the notation "Exceptions on → See NR E-1997." A copy of the NR E-1911 Rev. 2 is attached as Exhibit I.

NR E-1997 showed that the spool pieces IMS09BA12-1AH and IMS08BA12-5BH were acceptable. On August 13, 1979 the KEI Construction Engineer placed a notation on NR E-1997 "CG&E to disposition." The KEI Construction Engineer stated that this was appropriate since CG&E has responsibility for off-site vendor supplied items. On August 19, 1979 the CG&E Construction Engineer added the disposition "Accept-As-Is" and described the reasons for this disposition. A copy of NR E-1997 is attached to this report as Exhibit J.

Quality Assurance Instruction, QACMI No. G-4, Nonconforming Material Control, requires that NRs dispositioned "Accept-As-Is" be signed by the Material Review Board before they are closed out. NR E-1977 was closed out on October 17, 1979 with a comment added by the Sargent & Lundy (S&L) board member to the effect that "Welds rejected by radiograph are covered by NCR E-2020." A copy of the closed NR E-1997 is attached to this report as Exhibit K.

NR E-2020 showed the same information as NR E-1997, but at the time of the investigation, E-2020 had not been closed out. A copy of NR E-2020 is attached to this report as Exhibit L.

A review of records at the warehouse showed that the three spool pieces, which were the subject of the open NR had been released to construction for installation as follows:

<u>Item</u>	<u>Issue Date</u>
IMS11B12-7BH	9/18/79
IMS10BA12-ICH	9/24/79
IMS08BB12-6B	9/28/79

On April 8, 1980, it was established that these spool pieces had been installed and no "Hold" tag or "Deficiency" tag had been placed on them. This is in noncompliance 10 CFR 50, Appendix B, Criterion XV, and KEI Quality Assurance Procedure No. 15.

It was ascertained that the spool pieces had been released from the warehouse on the basis of a later version of NR E-1911 Rev. 2 on which the above-mentioned notation referencing NR E-1997 had been lined through on September 14, 1979. A copy of this version of NR E-1911 Rev. 2 is attached to this report as Exhibit M.

It was determined that the QA Document Control Supervisor had lined out the notation. He indicated that he had heard that NR E-1997 was being voided so he felt there was no point in it being cross-referenced any longer on NR E-1911 Rev. 2. The supplier QA man in the warehouse indicated to him that some pressure was being felt from construction to get the spool pieces released. The Document Control Supervisor informed the warehouse that NR E-1911 Rev. 2 had been closed out and it was all right to release the spool pieces. He said this was done on the assumption that what was considered to be a paper problem would be cleared up. The Document Control Supervisor as well as other site personnel indicated the acceptability of the spool pieces was regarded as a paper problem rather than a real problem. It was indicated that the probability of actual damage to pipes of that size and wall thickness due to mishandling upon delivery was extremely remote.

The supplier QA man advised that the spool pieces were released from the warehouse on the basis of the version of NR E-1911 Rev. 2 which had the reference to NR E-1977 lined through (Exhibit M). He indicated that the Document Control Supervisor was instructed to line through the notation by a CG&E official. The latter individual, however, denied any recollection of having given that instruction. The improper close out of NR E-1911 Rev. 2, which resulted in the release of spool pieces for installation before their acceptability had been established is in noncompliance with 10 CFR 50, Appendix B, Criterion XV, and KEI Quality Assurance Procedure No. 16.

On April 23, 1980, Deficiency Tags were placed on the spool pieces and during the period April 25-28, 1980, Peabody personnel performed magnetic particle and ultrasonic inspections of the welds in question. The reports of these inspections were reviewed and the Peabody inspectors performing these examinations were interviewed on May 1, 1980. The Peabody personnel stated that they had concluded on the basis of these examinations that the spool pieces were acceptable. It was also ascertained that on April 28, 1980, Pullman personnel visited the Zimmer site and also performed ultrasonic inspections of the welds. On the basis of these examinations, Pullman provided a statement to CG&E that these welds were acceptable. Peabody personnel advised that they had observed the examinations performed by Pullman and they agreed with the results.

4. Additional Allegations

During telephone contacts with the NRC on May 5 and 7, 1980, the alleged stated that he had evidence of criminal actions relating to the spool pieces which were the subject of Allegation No. 3 above. He stated that he had evidence that between the two visits to the Zimmer site by the NRC investigations team on April 7-9 and April 30-May 1-2, the welds had been cut out and/or repaired. This he alleged, was the reason that the welds were judged to be acceptable during the second visit. He also stated he had evidence that pressure was exerted upon Peabody personnel to withhold information from the NRC in connection with the investigation.

On May 8, 1980, the alleged was interviewed jointly by NRC and FBI personnel. During this interview the alleged provided for review a tape recording of three telephone conversations he had had with Peabody personnel. After listening to the three conversations, the FBI representative indicated that they did not appear to him to be evidence of criminality. The tape was furnished to the NRC for further review and follow up.

The first conversation, according to the alleged, took place on May 5, 1980 with a supervisor in the Peabody, Cincinnati office. At one point during this conversation the supervisor said: "They cut some of those welds out." The alleged responded: "You mean since the NRC had begun their investigation?" The supervisor then said: "Oh, yes, they did that the next Monday." Later in the conversation, the supervisor said: "I do know they started repairing some welds."

On May 20, 1980, the supervisor who had made the above statements, was interviewed by telephone. He stated that he had no first-hand knowledge of activities at the Zimmer site and that his comments to the alleged were based upon his conversations with another Peabody employee. This second individual visits the Zimmer site and may have acquired the information himself, or through conversations with another Peabody individual who does work at the site. He stated he did not know whether the information he received concerning the repairs of welds related to the three spool pieces or to some other pipes.

The second Peabody employee was also interviewed by telephone on May 20, 1980. He advised that the welds that were repaired were some which had been identified as bad during the NES audit. He said to his knowledge no repairs had been made on any 12" pipe welds. He added that he had reviewed the results of the ultrasonic examinations performed on the 12" pipes and he had concluded the welds are acceptable.

The third Peabody individual, who is employed at the Zimmer site, was also interviewed by telephone on May 20. This individual stated that the paint had been removed from the welds on the 12" pipes so that the tests could be made of them. He said this was done with wire wheels and there were no repairs or even grinding done on the welds.

The second taped conversation took place on May 5, 1980 between the allegor and a radiographer employed by Peabody. This radiographer had been identified by the allegor as being one of the individuals who had been involved in performing the radiography on the spool pieces in July 1979. During the conversation the allegor asked the radiographer whether the pipes were bad. The radiographer responded: "I can't really say." The allegor then stated he had been informed the welds were cut out and repaired. The radiographer responded: "I don't know." The allegor again raised the question as to whether the welds were defective and the radiographer responded: "I didn't read the film. I was a Level I and not qualified to interpret the film." The radiographer then identified the Peabody employee who had read the film. The latter individual had been interviewed on May 2, 1980. He had stated that all five spool pieces that had been dropped from the truck had been examined and no indications of defects had been found except the three which were documented by an NR.

The third taped conversation took place on May 6, 1980 between the allegor and the president of Peabody. The primary topic of conversation was the action taken by CG&E in early April 1980 in transferring the radiography work from Peabody to another contractor, NES. The President stated that he did not dispute the action taken because it would have a detrimental effect on his firm's position in the industry, and adversely affect their efforts to obtain future contracts.

On May 20, 1980, the President of Peabody was interviewed concerning this conversation. He stated that the action taken by CG&E, and his posture regarding it, had nothing to do with the quality of work at the Zimmer site. He said that, to his knowledge, no Peabody employees had been pressured to accept or approve defective welds. He stated that Peabody's contract provides for their performing the radiography and that the acceptance or rejection of a weld rested with KEI. Peabody had no responsibility in this regard and, therefore, an allegation that they were forced or pressured to approve bad work was meaningless. All film and original records relating to radiography examinations were turned over to KEI according to the terms of the contract. He indicated that it was his understanding the NRC required that these materials be retained at the site and available for inspection.

5. Management Discussion

On May 2, 1980, the results of the investigation were discussed with CG&E and KEI personnel identified by an asterisk (*) in the Persons Contacted section of this report.

Attachments: Exhibits A through M

List of Exhibits

A - Ltr dtd 3/11/80 NRC to Alleger
B - Bill of Lading
C - Packing List
D - QA Documentation Package
E - NR E-1911
F - NR E-1911 Rev. 1
G - Surveillance Report dtd 7/23/79
H - Surveillance Report dtd 8/8/79
I - NR E-1911 Rev. 2
J - NR E-1997
K - NR E-1997 (closed)
L - NR E-2020
M - NR E-1911 Rev. 2 (closed)

THE CINCINNATI GAS & ELECTRIC COMPANY



DAVID G. ALTEMUEHLE
DIRECTOR
MEDIA SERVICES

December 5, 1979

Mr. Major W. Cox
Confidential Service, Inc..
3333 Vine Street
2nd Floor
Cincinnati, Ohio 45220

Dear Mr. Cox:

Following up on our telephone discussion of last Wednesday, our Company is interested in looking further into any possibility of misconduct on the part of anyone involved in the construction of the Zimmer Nuclear Power Station.

As indicated earlier, this has been our position since this potential situation was brought to our attention by Mr. Thomas W. Applegate of your firm during a discussion with me and three of our engineering personnel.

Perhaps by now you have given my call additional thought and have had the opportunity to review certain tapes in your possession, particularly ones which you thought "could contain information tending to indicate a need to tighten the ship" at the Zimmer Project. In either event, we would like to pursue this matter further with you.

We respect your personal and professional integrity, and have no desire to become involved in any domestic situation that may relate to any client of yours. As a matter of fact, it occurs to me that we are a potential client in a different case.

Meanwhile, we are continuing our own investigation of the matters relating to us. Your willingness and ability to assist us could be beneficial. For that reason, we would like to discuss this further with you with a view toward obtaining any information in your possession that may pertain to the Zimmer Project.

Sincerely,

A handwritten signature in dark ink, which appears to read "David G. Altemuehle", is written over the typed name "David G. Altemuehle" at the bottom of the letter.

AFFIDAVIT

My name is Thomas William Applegate, Jr. This affidavit constitutes my disclosure of serious threats to public health and safety at the William H. Zimmer nuclear power station under construction in Moscow, Ohio. The plant is owned by the Cincinnati, Columbus and Dayton Utility Cooperative of Ohio, and managed by Cincinnati Gas and Electric of Cincinnati, Ohio ("CG&E"). My disclosure concerns allegation of white-collar crime, mismanagement at the construction site, thievery, and substandard construction practices. More specifically, I am concerned about defective welds in piping that was installed in the plant's safety system, drunkenness, thefts and black-market activities operating out of the plant, unauthorized absenteeism by labor personnel, coverups and collusion by managerial personnel, and criminal activity relating to coverups by executive operators of major companies involved in management and construction of the plant. I am particularly concerned that when Peabody-Magnaflux, Inc. ("PM"), of Chicago, the quality control radiograph contractors on the site, attempted to pursue the key issues I raised on the pipes, they were removed from the job and their data seized without explanation or followup.

I am 28 years old, from Columbus, Ohio. I graduated from high school in Ohio and attended college for two years. Since 1972, I have worked at a variety of jobs, mostly as a private.

investigator. In January 1978 I was appointed as an investigator for the State of Ohio Department of Commerce, Division of Licensing. My position entailed the responsibilities of licensing and enforcement of private investigators for the western region of the state. ~~I lost the job because I blew the whistle on the agency's practice of turning licensing into a patronage system and of engaging in politically motivated investigations.~~ While privately employed, I have acted cooperatively with the Cincinnati Police Department, the FBI, the U.S. Attorney's Office, and others in the successful prosecution of organized crime figures. In one organized crime investigation my efforts kicked off, thirteen people were indicted. All were prosecuted successfully and were incarcerated. I have also participated in investigations with other federal agencies.

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index

how
In 1979, while employed as a contract agent for Confidential Services, Inc. of Cincinnati, in the handling of a routine domestic case, I became aware of some wrongdoing by employees at the Zimmer nuclear power plant construction site. Initially my information concerned cheating on time cards and selling stolen weapons. After taking this information to David G. Altemuhle, Director of Media Services at the CG&E Co., on December 5, 1979 my firm was retained by CG&E to further investigate the information in my possession. My company was to receive \$2,000 per week. I was to receive \$10 per hour, 20 cents per mile and necessary expenses.

My position was undercover, on the pretext of being a cost accounting engineer under the alias of Tom Jackson. CG&E provided the ID's for the cover. I was to be on the job Monday - Friday from 4:00 or 5:00 P.M. to 4:00 or 5:00 A.M., depending on circumstances. u.w. N2C
initial

In my first week, December 10-16, I was able to verify factually allegations of labor personnel padding their time cards with work hours not spent on the construction site. They were able to succeed only with the cooperative efforts and collusion of security and managerial personnel of the contractor, Kaiser Engineering of Oakland, California. As an example of how the system worked, security guards would insure that employees were properly signed in, even when the employees were not at the plant. Specifically, individuals involved included a pipefitter union steward, laborers, security guards, the assistant superintendent of construction, the personnel manager and others. I can identify these individuals by name and location.

An analysis I did that week of the time-cheating indicated that an average of 40% of the time these employees were to be at an assigned position was spent in local bars engaging in social activity. Frequently the employees had dates with members of the opposite sex, including suspected prostitutes, and conducted criminal activity relating to the illegal sale and distribution of firearms suspected to be stolen. While arrangements were made at the bar, hot guns were raffled in pools of hundreds of employees at the plant site.

At the end of the first week I reported my findings to Bill Murray, my contact and Assistant Director of Construction for CG&E. Although I spoke with him daily on the phone, I met with him at his home shortly after December 17 to turn in my report. He was the number two project engineer on this job for CG&E. Mr. Murray was pleased with my progress. He said he was amazed at the amount and depth of wrongdoing.

My information confirmed his own suspicions. He said I should continue until I learned the full extent of misconduct. He also instructed me specifically to find any misconduct - no matter how trivial - by employees of Peabody-Magnaflux, the company handling radiograph (nuclear x-ray) quality assurance work.

In my second week, December 17-23, I continued to note the pattern of time cheating by employees. I also confirmed the collusion of Kaiser managerial personnel with these employees. I sat with a management executive who was drinking with a plant worker and criticizing the time spent off-site, which frequently was paid as overtime. The discussion concluded with the Kaiser official stating that he knew what was going on, and warning "just don't get caught."

I also was able to obtain information that Kaiser's superintendant of construction stole materials from the site for his own personal use. He had his wife's car overhauled completely at the motor pool mechanic facilities and paint shop. It is significant that when I told Mr. Murray of this

information during my weekly briefing, he responded that the utility had previously caught the same individual in the exact same activity to an even greater degree. Specifically, the construction superintendent had stolen materials from and used labor from the construction site to add a room to his house. The theft had been worth approximately \$30,000. On that particular occasion, rather than dismissal, this individual had only been reprimanded and compelled to reconstitute CG&E for the stolen materials. Murray was incensed that the practice was continuing.

Returning to my investigation during the second week, I discovered evidence of labor personnel misusing their time and misappropriating materials while on the job site to make elaborate belt buckles out of nuclear grade stainless steel that was supposed to be used for fabricating pipes, braces and other components. I further discovered that this was a practice the utility and the contractor has known about for years. The estimated cost to the utility, including labor and materials, was between \$200-300 per belt buckle. Over a period of years, there were literally thousands of buckles constructed, or a minimum of millions of dollars lost. I started to notice the buckles during the second week, because so many employees were wearing them. I eventually personally saw around 100 belt buckles being worn. Employees would give the buckles as gifts, or sell them at \$20-50 apiece. One employee even prepared a catalog of the different designs. On January 3, I bought two

belt buckles at \$20 a piece, turning one in to CG&E and keeping one. I bought the buckles from a security guard.

During the second week, I also discovered laxness in security that violated NRC regulations on searching vehicles that entered and left the plant site. The guards allowed certain employees they knew to drive in and out of the plant site without checking the trucks. There was plutonium on the plant site that could have been diverted to the black market, although I have no direct or indirect knowledge of plutonium leaving the site.

I did learn indirectly from another employee that some copper and other non-lethal construction materials had disappeared. Apparently a series of approximately 30 employees would cut enough copper to fit in their lunch boxes, smuggle it out, and resell the metal to raise money for a Christmas party. Within a week, they raised \$15,000 for the party, which I learned involved suspected prostitutes.

When I told Mr. Murray the rest of what I had found the second week, he again was astounded and amazed. Again, he had known of this type of theft earlier, but 24 workers had been fired in an earlier incident. He was angry that the practice had begun again. He again stressed the importance of looking into the activities of Peabody-Magnaflux employees, which I hadn't had the opportunity yet to pursue. He said CG&E wanted to dismiss Peabody, because the utility suspected

the radiograph company was producing shoddy work. He said I was doing a good job and to keep up the good work.

The following week, December 24-30, I obtained more data on the time cheating. But, following instructions, I began to make contact with employees of Peabody Magnaflux. I found they were doing a good job and could find no irregularities on the site. For example, one evening I accidentally wandered into an area where shooting of x-rays on the welds was in progress. I promptly was asked to comply with the "Restricted Area" signs and leave, because I could be exposed to an overdose of x-rays. This professional conduct and adherence to safety requirements was unique. The PM employees I spoke with were concerned that pipes they had rejected under the quality assurance program were being installed anyway. They were uncomfortable that their rejections were being ignored by construction personnel. At this point I began to wear a body tape recorder to record technical conversations with PM and union construction personnel. The conversations concerned coverups by Kaiser and CG&E of faulty construction materials and improper quality assurance practices.

It should be noted at this point that my pretext was played so well as to make these individuals believe that, as a new employee, assigned as a contract auditing engineer, Kaiser and CG&E might be using me to help in this coverup. My "official duties" were to compare the construction contract

with the inspection sheets. But the personnel I spoke with said the inspection sheets bore little relation to reality. They wanted me to know that the inspection sheets were fraudulent.

For instance, certain union personnel informed me that up to 20% of the prefabricated piping welds were faulty. They provided one example, where a group of pipes were surreptitiously brought in one evening from the Kelloggs Company steel fabricators in Pennsylvania. (Standard construction practice was to deliver the pipes during normal working hours when adequate personnel were available to carefully unload the pipe.) When the truck with the pipes arrived, an employee whose identity is still unknown told the truck driver to just "push them off the truck," a drop of about five feet. Because the pipes were heavy gauge steel, the drop couldn't have damaged the pipes. But as a routine precaution, PM x-rayed the welds to check for damage. PM employees then detected construction faults in the welds, not defects as a result of the accident. The piping was substandard, not damaged due to accident. Again in this incident, PM personnel were overridden by Kaiser and CG&E on the analysis of the pipes as substandard. I later learned that the piping subsequently was installed in the main steam relief piping system, the exact same system that broke down at Three Mile Island. This system is the key safety-related system in a nuclear plant. PM quality assurance radiograph employees were going to arrange for me to examine their documentation on this matter the following week. They

were already being overridden and feeling pressure so they hoped that I could assist through my "job" as contract auditing engineer.

Also during this week I was introduced to an employee who indicated to me that he could provide some handguns that I might be looking for. The employee didn't give me his name but said he worked the day shift with the pipefitters. The employees raffling guns at the construction site introduced him to me. This employee gave me a telephone number and name on a scrap of paper. The employee said he still had eight handguns left out of the same batch from which he had sold thirteen for \$1000 to the other employees who had the raffle.

When I reported my discoveries to Mr. Murray, he immediately became defensive about substandard quality assurance practices at the site. He dismissed them as "absurd, ridiculous, hearsay and gossip." He indicated that in his wildest imagination he couldn't believe such a thing could occur with all the checks and balances that are involved in the inspection process. He also tried to explain this away as the x-rays being "a matter of interpretation" and that Kaiser and CG&E quality assurance people simply had a more "correct interpretation" than did Peabody Magnaflux. He tried to convince me that this was indicative of the "shoddy workmanship" that PM was doing. He felt very uncomfortable with my pursuing any matters relating to quality assurance and insisted that I focus my investigative efforts on the possibility of :

wrongdoing by PM employees. Specifically he asked if I could "find them sleeping on the job, drinking on the job or absent for no reason from the job site," practices that would provide reasons to take Peabody off the job. I accepted his instructions, although I made my skepticism known. I tried to make him realize that my cover was so solid there was no reason for these people to lie to me.

My final week on the job began on December 31st. During the week I was actually able to purchase two of the belt buckles that had been discussed previously. I also continued to develop the allegations of defective construction materials being used at the Zimmer site, as well as strange practices concerning intimidations of PM personnel. PM employees told me they were being overridden repeatedly on their findings of faulty welds and threatened with loss of their jobs in general. It was during this week that I learned the piping PM had rejected in the accident incident was installed in the main steam relief system of the plant.

The matter of my "cover" and personnel security became an issue during this week when copies of my confidential reports to Mr. Murray were left unsecured in his desk at the construction site. I discovered this while looking for a pencil one evening. Although Mr. Murray indicated outrage that I would look in his desk, he informed me that no one else would and the reports were quite safe.

On January 3, in the middle of this week, CG&E terminated the services of our firm, explaining that they felt enough

what was in the

information had been obtained for their purposes and that no further investigation was warranted. I told Mr. Murray that we were just starting to uncover what I felt was valuable investigative data pertinent to quality assurance problems. Mr. Murray felt that perhaps the quality assurance people might want me to continue. He arranged a conference immediately with CG&E's man in charge, Mr. Bill Schwears. During this conference, Mr. Schwears and Mr. Murray both communicated to me that it was "beyond the realms of imagination" to believe that this type of activity in quality assurance was occurring. They stated that they would take matters into consideration and let us know if they wished to pursue the quality assurance matters at all. I indicated to them that a break or an absence of myself from the site would jeopardize my pretext and therefore jeopardize my ability to further investigate these matters. They should give it their most immediate consideration. I received absolutely no contact from CG&E personally ever again. My employer was told that our termination was final, and that any reports, evidence, etc. should be tendered with a final statement immediately.

Because I had my suspicions of wrongdoing by CG&E executives, I began immediately to take steps to secure the evidence which I had gathered. I rented a safety deposit box and left the key with my attorney. After a conference with my employer, it was clear to me that his attitude and any further action on his part in this matter were purely financially motivated.

I resigned effective January 16, 1980. Although one belt buckle was in my employer's possession, I was able to retain the other in my possession, along with the tapes made by use of the body recorder, exact duplicates of my original reports, and the original letter of authorization my company had received from CG&E.

Because of my feeling that PM was being in some way intimidated or hushed up, I made immediate contact with officials of the PM Testing Service local offices in Cincinnati and the corporate home offices in Chicago, Illinois. I found these individuals to be quite receptive and extremely appreciative, as they told me that they had the same feelings of a coverup in progress. For example, the Cincinnati PM representative said CG&E was doing everything possible to get PM off the job. During the period of mid-January to early May, I was in regular contact with these individuals, and we shared information which confirmed my suspicions that CG&E and Kaiser Engineering of Oakland, California were indeed involved in a coverup about events at Zimmer. For example, during our discussions I was told by a supervisor of PM in Cincinnati that their trailer on the construction site had been broken into. Their documents pertinent to faulty welding had been "pilfered," the exact term used by the supervisor. The break-in took place the weekend following my dismissal from the site.

In late January-early February I attempted to contact the Nuclear Regulatory Commission. I reached a Mr. James Cummings in Washington, D.C. For a month he told me he was "looking into" my concerns, without any further explanation.

At the same time, I contacted officials of the FBI Cincinnati office on my findings. The FBI took my evidence for analysis, and I continued my attempts to make progress with the NRC. Within two weeks, the FBI reported back to me that the U.S. Attorney, Mr. James Cissel, and his special prosecutor for white collar crime, Mr. Bernard Gilday, had found no evidence in my material to warrant investigation on the part of any branch of the U.S. Justice Department. They did indicate, however, that they would immediately forward a report of their contact with me to the Justice Department in Washington, D.C. for referral to the NRC.

In late February it became apparent to me that my efforts to contact the NRC were falling on deaf ears. I then made an urgent attempt to contact the chairman of the NRC, Mr. John Ahearne. Within hours, I was contacted by conference call by Mr. Bill Ward, chief of inspection and enforcement for the Commission, and Mr. Dudley Thompson, an NRC administrative officer. In this conversation they informed me that no information on this disclosure had been passed to them either by Mr. Cummings of their department, or anyone from the Justice Department. They advised me that they would dispatch immediately two individuals of the NRC staff to come to Cincinnati and speak.

with me about my information. They also advised that any evidence I had to show these representatives would be greatly appreciated. On March 3, Mr. Gerald A. Phillip and Mr. L. Williamson of the NRC met with me in my home in Covington, Kentucky. Mr. Phillip mentioned that he was the same investigator who was waiting for Karen Silkwood the night she died. He had been one of the first people to arrive at the scene of the fatal accident. I was concerned at Phillip's statement that he had been unable to find a hint of foul play, even in the Silkwood case.

At this meeting, which lasted approximately 9 hours, I told Mr. Williamson and Mr. Phillip everything I knew to that point. I showed them and provided the opportunity to copy all physical evidence in my possession. Mr. Williamson left my home with the stated intention of xeroxing my reports and talking to individuals in the Cincinnati FBI office. Mr. Phillip stayed and listened to all he wanted to hear of the taped material. It should be emphasized that Mr. Phillip, because of his own "time limitation," did not take the opportunity to listen to all of the tapes. For instance, he did not choose to listen to the belt buckle transaction I recorded, nor the tape of a conversation with a security guard that corroborated shoddy workmanship on the pipes and the belt buckle sales.

The next day, March 4, Mr. Phillip called me and indicated that the NRC had reviewed my evidence. Pending any unexpected turn of events, they would return to Cincinnati and conduct an investigation. In a letter to me dated March 11,

Mr. Phillip informed me that on the basis of my information, the NRC planned to conduct an investigation at the Zimmer plant on: 1. defective welds accepted for safety related systems; 2. defective welds in the five prefabricated pipes that had been dropped; and 3. the flushing, or pressure-cleaning process for safety-related piping. (One of my disclosures to Mr. Murray concerned a pipefitting supervisor who had exposed the flushing process as missing literally piles of slag, and sediment or crusty rust that forms on the inside of pipes.) Further, the standard flushing time had been reduced from six weeks to two weeks. The company had been upset at having their inadequate work "ruined," and the supervisor quit in disgust. Mr. Murray had professed ignorance of the problem.

In early April Mr. Phillip called me and indicated the NRC investigation at the plant was about to begin. He would inform me of the preliminary results before they left.

Two days later, Mr. Phillip called again and said the Commission had finished the preliminary investigation. With respect to the allegedly defective welds in safety-related piping they found the problems to have been valid but already corrected by CG&E. With regard to the inadequate flushing, again he agreed with the accuracy of my charges but said the problem had been corrected. Concerning the faulty welds in the prefabricated pipes, Mr. Phillip indicated that there was not only validity to my allegations, but this information was previously unknown to the NRC and the utility would most "definitely" be found "out of compliance." He had already

informed the utility it was "out of compliance." He further indicated that the NRC would have to investigate further to determine how far out of compliance and what, if any, actions the NRC would have to take.

Although I was pleased to see that my efforts were making progress, I was concerned over how long the NRC had known about two of my three allegations. I wondered why the flushing system and safety related pipes were still faulty only two months earlier, and why Mr. Murray had adamantly insisted that my charges were beyond the realms of imagination -- if the NRC had already determined the charges were accurate.

Because I still had my suspicions that the scandal was not being thoroughly investigated and reported, and that some issues like theft, sale of firearms, etc. were being totally ignored, I decided to make contact with the news media in an attempt to add the light of public scrutiny on this entire matter. To that end, on April 15, I contacted the Chicago Sun Times and told them my story. On April 16, the Chicago Sun Times assigned an investigative reporter to my charges. On April 20, a story appeared in the Chicago Sun Times. It touched off a fair amount of news media publicity regarding the Zimmer scandal.

During my contacts following this publicity, I was informed by a PM supervisor that CG&E and Kaiser had, to his knowledge, put on a "full crew" of workmen to somehow alter the prefabricated pipes that were now the subject of a great

deal of controversy. He also informed me for the first time that, effective April 1, PM had been ordered off the site. Their contract for utility x-ray testing at the site had been terminated. I frantically began making calls to my existing contacts to confirm what he had told me. I started to find that these individuals, although previously cooperative, were now mysteriously silent. I am referring to PM technicians and radiographers with whom I had been speaking. Finally, on May 6 I was able to talk with a chief executive of PM with whom I had previously spoken. He confirmed my worst fears. He indicated to me that the break-in and pilfering of data had severely crippled his company's ability to defend itself. He further confirmed that his company was terminated from the site for absolutely no reason other than the "convenience of the contractor." He also indicated that in this dismissal all data relevant or irrelevant was seized from them. I asked if he meant the data was taken forcibly, and he said he would put it this way: "It was the fastest transfer of data I have ever seen." He told me that in his 20 years experience as a company man, he had learned to "do what I am told." He also told me that their policy and stance in this matter had been dictated to them by officials of Peabody International ("PI"), the holding company that owned PM, and that PI's position was "if we went in and defended this matter too strongly, it might appear to the other utilities - them taking the attitude that Peabody Magnaflux is going after a sister utility. Maybe we

shouldn't consider them for any further work." He explained to me that to take any other position would most certainly destroy his company within 30 days. He expounded on the explanation by telling me that the reality of this situation was that PM was part of a "closed industry" and that Kaiser, Kellogg and other companies wielded total control and domination of what would and would not be done by the subcontractors.

During the conversation I asked him a number of questions framed by an investigative reporter, for his confirmation. He agreed with me unequivocally that my charges were accurate, and that there had been a coverup regarding my attempts to expose faulty construction at Zimmer. He also agreed that PM had been fired because it tried to do its job honestly within the system. He indicated that of the 20 or so nuclear jobs that his company was on, it was definitely the first time that PM had been overridden without any type of followup. He also agreed that his company and legal staff had formed this policy of keeping quiet due to intimidation by Kaiser. It should be noted at this point that I recorded this conversation, and that it was witnessed by independent third parties.

It was then I realized that for any resolution of this matter, I must seek help and bring it to the attention of people in Washington, D.C. who might be able to take action. I traveled to Washington, D.C., and spoke with representatives of Ralph Nader's Critical Mass organization and briefly with the Government Accountability Project of the Institute for

Policy Studies. Although the Nader group was extremely supportive concerning overall policy issues, they suggested I work in-depth with GAP to pursue my individual disclosure. I dropped off newspaper summaries to GAP and promised to share my documentation. During this period an aide to Senator Metzenbaum was also supportive of my efforts. Before we could meet to begin work, however, I exhausted my funds and was forced to return to Cincinnati. Quite frankly, I was concerned and feeling guilty that I had left my landlady alone. I had also been aware since the inception of my investigation of serious threats to myself and to my family, of grievous bodily injury or even death. I was aware of these threats due to several incidents that had occurred. At one point, while at the site, I was told by an individual who worked there that if I was not who I said I was I would die from a shotgun blast aimed at my face. That way, not even my family would recognize me.

On another occasion, shortly before the NRC investigation in March, while driving my automobile, I was forced off the road and collided with a steel utility pole. A car had followed me for several miles. The vehicle accelerated and pushed my car off the road with the right rear fender by colliding with my vehicle as it brushed past. It forced me off the road as soon as we reached an area strewn by the steel poles. But for the fact that I was wearing my seat belt, I could have been killed. The individuals that I witnessed

doing this had no license, plate or registration tags whatsoever, temporary or permanent, to identify the car. And after forcing me off the road, they began to back up. At this point I fired two rounds into the ground from my pistol and they immediately fled. There was no incident reported by anyone as to either an accident having occurred, or a gun being discharged in that area that night.

Very shortly after this incident I began receiving harassing and intimidating phone calls at my residence. The phone would ring immediately after my landlady or I entered the house. Then the phone would click, or the caller would laugh ominously. I assumed the purpose of these calls was to inform me that my landlady and I were being followed. It should be noted that I lived with a former Covington police officer and his mother, who also treated me like a son. The former police officer was in temporary residence elsewhere. As a result, my landlady and myself were the only occupants when the calls began. I finally realized these incidents were getting out of hand when one afternoon between May 10-15 this woman, whom I had known for six years and referred to as "Mom", received a phone call in which the caller told her that they were going to "butt-fuck you until you have hemorrhoids and then make you eat them." When she asked why, the response was, "You know why." The caller then hung up.

I knew things had gone far enough. I was unwilling to expose my landlady or my family to any danger. Accordingly, I

packed my bags, sold my car and other possessions, made out a will and left town on May 16. The calls stopped within a week.

I don't know specifically who was behind the threats or violence. However I did know that Mr. Murray and Mr. Earl Borgman, vice president of CG&E, as early as mid-February, had conveyed copies of my confidential reports to those individuals whom I had investigated and were subsequently terminated from their positions. This was a flagrant breach of standard security procedures designed to protect private investigators, as well as a violation of an agreement he had made with me. Mr. Murray was also aware of the death threat against me by shotgun blast if my cover was blown, because I had informed him. I know that as early as January 10, 1980 Mr. Barney Culver, Chief Project Engineer, had called officials in Oakland, California and related to them the details of my confidential reports. In mid-February Mr. Murray told me of these breaches of security in an implied warning to give up my efforts.

When I left town, I spent a weekend with my family and then left Cincinnati for a safe location. I kept in contact with GAP by phone, and knew that it would be necessary to return to D.C. and begin working in depth to pursue my charges. I arrived in early June and began the hard work of preparing my disclosure for release to Congress and the media.

I also knew I would have to go to Washington personally because of the failure of the NRC to follow up thoroughly on their initial findings. To my surprise I read newspaper

articles during late April that indicated the NRC was "finished," for all intensive purposes, with the Zimmer investigation and would not be pursuing it any further. Apparently when Mr. Phillip returned to Zimmer more than a week after his early visit, this time with the NRC's expert radiographer, the welds were no longer faulty and passed NRC inspection. (Of course, I knew and had told Mr. Phillip that crews had worked feverishly to repair the damage during the interim.) Since PM's original records and x-rays had been stolen, and the company took possession of all other data, Kaiser appeared to be succeeding in a well-planned coverup. With PM's fear of speaking out publicly, I was now the only obstacle to prevent the coverup from succeeding.

I told all this to Mr. Phillip but he dismissed my concerns. In a newspaper interview he said it would have been impossible to replace the key pipes in the plant without attracting attention. Of course, I had never made such a silly accusation. What I did tell him, and what he ignored, was that the faulty welds had been repaired.

At that point I contacted Mr. Bill Ward of the NRC in Washington and told him that I felt additional evidence which had come into my possession would bear out my allegations of coverup. As I was in Chicago, he insisted that I should proceed immediately to the local FBI office. Later that day a Cincinnati reporter informed me that not only was I implored to

go to the NRC and FBI in Chicago, but that if I didn't, the NRC would subpoena my evidence. At any rate, I had set up an appointment the next day, May 1. I met with Mr. Phillip, the NRC Region III Director, and Mr. Buckley of the FBI white collar crime section in Chicago. I met with them and played the tape of my conversation with the top PM executive. The response was almost humorous. The FBI agent was impressed that there was a serious question of criminal activity, but insisted that the NRC would have to first decide the Commission had been lied to and then invite the FBI in for help. Mr. Phillip of the NRC, on the other hand, claimed he didn't understand the tape clearly and wasn't sure what he had heard. I gave him a copy of the tape and he said he would check it again. During the entire 2-2 1/2 hour meeting the Regional Director did not say anything beyond introductions and good-byes.

My latest contact with Mr. Phillip was on June 4, when he informed me that the PM officials were unwilling to make any specific accusations against CG&E. Mr. Phillip also was unable to recall the significant sections of the tape with the PM official that dealt with a coverup. I suggested he listen more carefully. Mr. Phillip promised a report would be available soon on the Zimmer investigation. I'm not expecting much. The NRC has shown an absolute unwillingness to pursue the hard question necessary to learn the full scope of the danger at Zimmer. And Mr. Phillip's long time delays gave CG&E a chance to cover its tracks at the plant site.

My motives in making this disclosure have nothing to do with personal gain, as utility officials have charged already. To the contrary, my career as a private investigator may have been ruined by my action. Much worse, I have placed my life in jeopardy. I feel guilty that I have risked danger to my family and friends.

I am taking these risks, because I am afraid for the people of Ohio, and because I am determined that the public be warned of the truth about another potential Three Mile Island disaster. Every worker at the Zimmer plant that I spoke with privately insisted that when the switch is finally pulled and the power turned on, he had no intention of being anywhere within hundreds of miles of the Zimmer plant. In short, no one involved in the construction, outside of management, has any confidence in the safety of the plant.

But the NRC seems determined to minimize the danger as a routine failure of quality control systems. If the situation at Zimmer is routine, we all should be terrified. I could not live with myself if I did not do everything in my power to alert the public to the threat represented by the "closed industry" I was exposed to at Zimmer.

I have read the above twenty four (24) page affidavit. To the best of my knowledge, it is true, accurate and complete.

Washington, D. C.

Subscribed and sworn to before me
Notary Public of Washington, D. C., 1984

NOTARY PUBLIC, D. C.

My Commission Expires July 1, 1984

James W. [Signature]

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Exhibit 4

INVESTIGATIVE REPORT

(SUMMARY)

PERIOD: December 10, through December 16, 1979

CLIENT: Cincinnati Gas & Electric Co.

SUBJECT: Under Cover Investigative Activities at the Zimmer Plant

During this period Agent 920 was successful in establishing his pretext as an employee at the site. Additionally, he feels comfortable enough with his "cover" that in the coming week or so he will be able to socialize with the group of employees who have been tentatively identified as investigative targets.

The general concern of the client that several employees may be working in collusion to "pad" time cards with work hours that were not spent on the site was varified. Agent 920 reported several employees he observed passing through the gate without recording their time in or out. Apparently these employees and guards are friendly enough with each other that they conspire to fabricate time sheets.

The following named employees have been observed by Agent 920 passing through the gate without recording time in or out:

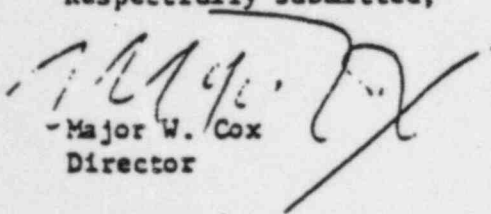
1. James Huwel	12-10-79	7:25 p.m.
2. Walter Hamm	12-12-79	9:25 p.m.
3. Terry Hamm	12-11-79	9:30 p.m.

Agent 920 has observed certain vehicles passing through the gate without being searched. There has been no evidence of employee theft developed at this point. However, 920 feels that he is excluded from certain conversations where these matters may be discussed.

During the coming period the off-site investigator will attempt to identify and record employees who may be off site while not signed out.

In general, it is felt that good progress was made during the period.

Respectfully submitted,


Major W. Cox
Director

MWC:cmv

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INVESTIGATIVE REPORT

DATE: 12-10-79

AGENT: 920

- 4:00 p.m. Met with Mr. Culver and Mr. Murray to discuss investigative objectives.
- 5:30 p.m. This agent had an opportunity to meet and talk with the guard identified by the first name Dempsey in the office. This man is with W & W Security. At this point it appears that we will have difficulty working out of the main office building until approximately 10:00 p.m. in the evening as there are cleaning personnel and also Kaiser employees moving in and out of the main office area. Guard Dempsey related to me that all security personnel have been advised of my position and my flexibility insofar as moving about the plant site. He also related that all guards are aware of my having keyed access to the main office building.
- 6:00 p.m. While drifting in the construction area, most specifically the auxiliary building, this agent had an opportunity to talk to several crafts people from the electrical workers' group and the carpenter workers' group. During this conversation, it was relayed to this agent by a carpenter crafts person identified by the first name Joe, that "the pipefitters got a damn racket going, is what they've got!" In general, discussing attitudes with these workers we find that people's time on the second shift is pretty well their own. This area in the Auxiliary Building seemed very comfortable as the entire group sat around for a period of at least an hour and a half calling it a coffee break.
- 7:00 p.m. Guard Dempsey checked me out of the main gate. He did not make any attempt to search my vehicle nor did I sign any register to get out, however, I did note at a later time on the record where Guard Dempsey entered in a notation that I had been signed out at 7:00 p.m. and my vehicle had been searched and he also signed me back in at 7:35 p.m.
- 7:55 p.m. From my position in the Administration Building, James Huwel was observed leaving the premises. He got in his car and proceeded east on Route 52.
- 8:30 p.m. This agent, while again drifting through the Auxiliary Room area, had occasion to stop and talk to personnel in the Control Room area. It is noted that two of the employees in the Control Room area were drinking soft drinks when this agent entered, contrary to posted notification of no eating or drinking in the Control Room area. In discussion with one Control Room person identified as Bill Moss, this employee

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8:30 p.m. stated that the pipefitters or someone not identified in the pipefitters' group were selling belt buckles made of stainless steel.

9:30 p.m. This agent went to the guard shack located at the main gate and sat to listen to the Monday night football game with guards Dempsey and another guard identified by the first name Dave. During the course of the game, there were calls from all over the Plant - notably the electric and carpenter people and Control Room personnel who wanted to keep posted on the game progress.

At approximately midnight guards Dempsey and Dave were relieved by a guard identified by the first name Brian. At approximately 12:15 Brian checked the brass and stated that James Huwel should still be here, however, this agent has no evidence of James Huwel's having returned to the construction site as of yet. His car is not in evidence at this time, and after a quick examination of the areas that he might be in, he is not found to be on the premises. It is believed that he is still off the premises since originally leaving at 7:55.

12:45 a.m. This agent began a physical search of the plant site for James Huwel. In examining the area around the Containment Building, I found no one to be present other than three inspectors from Peabody. I proceeded to search the areas of the Auxiliary Building and settled into a conversation again with the night shift personnel in the Control Room. Although relatively unsupervised from my observation, this seemed to be a more effective and business-like group of individuals. In the conversation earlier with Control Room personnel, it was discussed that certain pipefitters were selling belt buckles made of stainless steel to the construction personnel and other individuals at the Zimmer site. Upon leaving the Auxiliary Building and the Reactor Building areas of the plant site, I proceeded toward the front gate. At this time, I observed James Huwel coming through the front gate carrying some coffee and Pepsi. I approached Mr. Huwel and mentioned to him that some individuals that I spoke to earlier told me he might be aware of where I might purchase some silver buckles made by pipefitters. Mr. Huwel indicated to me that he was not aware of anyone on the night shift involved in that type of activity, however, he felt that probably on the day shift there were. He also displayed to me a belt buckle that he said he had fashioned from stainless steel while working in the pipefitter's prefab shop. The silver belt buckle in question is a flowered design with a fifty cent piece mounted in the center. At this meeting Mr. Huwel reeked of mouth wash. He also seemed rather incoherent and dazed; appearing to be intoxicated. Mr. Huwel imparted to me in a casual conversation that after tomorrow he will be taking a two week vacation. In discussing general

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12:45 a.m.
(cont.)

responsibilities of each other at the plant, Mr. Huwel insisted that he was scheduled to work until 4:30 in the a.m. I had told him that I was looking for him earlier in the evening. He indicated that he had been invited to listen to the ball game or possibly to watch the ball game in an area called the Rad Waste Area. It was a particular person's name mentioned, I believe, began with a "V". However, Mr. Huwel's incoherency tended to garble what he was saying about events earlier in the evening as to his whereabouts. Mr. Huwel indicated in this conversation that he had been in the Control Room previously in the evening and he had been in the Rad Waste area later in the evening to watch the football game. It should be noted at this point that during my earlier surveillance of the area around the Control Room, Mr. Huwel was not present. I then left Mr. Huwel and indicated to him that when he gets back from vacation that he should look me up there at the Plant site as we both indicated a strong boredom for the hours spent there.

1:45 a.m.

After leaving the Zimmer Plant site, I proceeded to the Riverview Inn west of the Zimmer site on Route 52. There I had an occasion to find two of the security personnel from the plant that were on the previous shift. These security personnel previously identified to me as first name Dempsey and first name John, possibly last name McClung. We sat and discussed in general conversation events of the day and also events at the Zimmer Plant site. The guard identified as Dempsey indicated to me that his permanent employment before becoming involved with W & W Security was as a guard for the Federal Reserve Bank in Cincinnati. This conversation led to general discussion of the security at power plants. We discussed the security problems at the Steward Station Power Plant in the early winter of 1977. Gradually the conversation drifted towards this specific security situation at the Zimmer Station. I indicated on pretext that I had been involved in working at many major construction projects. Upon discussing the specific problems of the Steward Station Plant during its strike, we discussed the death of a security guard. This led the guard identified as Dempsey to discuss the possibility that people have been killed at the Zimmer site. He could not exactly figure out whether it was at the site here or whether the individuals who were allegedly killed were killed as a result of activity conducted at the site. He mentioned that several bodies had been found floating in the Ohio specifically. This line of conversation, I believe, to be highly speculative at this point. Especially given the fact that the guard identified as Dempsey had probably been drinking for a period of at least an hour and a half. I indicated to the pair of guards, John and Dempsey, that I was interested in talking to Jim Huwel this evening because I had understood that the pipefitters or someone in the

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1:45 a.m.

pipefitters might have had some belt buckles for sale. The guard identified as John then explained to me that at one time Walter Hamm had given him a gift of a stainless steel belt buckle. The guard, John, indicated that Hamm gave him this belt buckle and said, "Here, this is a twenty-five dollar Christmas gift for you." The guard identified as Dempsey then indicated that on an occasion recently, Walter Hamm took four individuals, including himself, to a bar by the name of Marion's Room. He indicated that Mr. Hamm paid for all the drinks. He further elaborated that he knew that within an hour there had been a hundred dollars worth of liquor between the men and some women at the bar paid for by Mr. Hamm. I then indicated to the guard named John on pretext that having worked at other major construction projects, "I was aware of many women" acting as sort of hangers-on to construction personnel. John then indicated to me that he would have Walt Hamm stay over a little tomorrow until about 4:30 or 5:00. His purpose for doing so he stated was that Walter Hamm could, "Get me laid". The guard identified as Dempsey then said, "Yeah, but how much will it cost him?" The guard identified as John then took me aside and said, "Don't worry, it won't cost you a thing." The guard identified as John further stated, "Walter Hamm is the man that you really need to know on the Zimmer site."

2:30 a.m.

After exchanging pleasantries, we all went our separate ways from the Riverview Lounge.

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INVESTIGATIVE REPORT

DATE: 12-11-79

AGENT: 920

4:00 p.m. On duty enroute to Zimmer site.

4:35 p.m. Checked in at the Zimmer site.

5:00 p.m. This agent had a briefing with Bill Murray of CC&E as to the previous days' activities.

6:00 p.m. While drifting through the Auxiliary Building area this agent had occasion to find and become involved in conversation with J. Huwel. Mr. Huwel was situated behind some electrical panels in the Control Room and was basically just sitting there available to Control Room operators for pipe-fitter consulting work. During this conversation, Mr. Huwel indicated that he was anxious to go on vacation as the boredom on the job was getting to him. Nothing much else of substance was discussed with Mr. Huwel at this time.

7:30 p.m. While sitting in the guard shack area socializing with the guard identified as John McClung and another guard identified as Dave, last name unknown, the guard identified as John received a telephone call from Jim Huwel in the Control Room. Mr. Huwel evidently asked John to send someone out for his dinner. The guard identified as Dave took an order for Mr. Huwel to get a chicken dinner at Frischs. It should be noted at this time that the guards seemed to respond to Mr. Huwel's directives.

8:00 p.m. Mr. Huwel arrived at the guard shack. Entering a conversation with the guards and Mr. Huwel some suspicions of other workers, in particular the electrical and carpenter craftsmen, were discussed as to my purpose here on the job site. This is to be expected and should not reflect any lack of confidence in this agent's pretext. Nor where it should be noted that there is a general feeling of paranoia amongst the workers on the second shift with regards to supervisory personnel checking on them.

9:30 p.m. Terry Hamm was checked out without any signing in or out, nor did he drop his brass. Addendum to the eight o'clock section of this report -- at approximately 8:00 p.m., Walter Hamm was observed checking out to the guard station. He did drop his brass and was signed out by the guard, John.

This section of this report, this agent accompanied the superintendent or supervisor of the craftsmen working in Containment Building over to the Containment Building and

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9:30 p.m.
(cont.)

In general he relayed some feelings of mistrust as to what my position was here on the site. My pretext was to get somewhat more interested in what he and his men were doing, and the ensuing conversation with him and other crafts people yielded much positive results toward defending my pretext.

10:30 p.m.

While back at the guard station this agent observed Terry Hamm returning to the job site, and again there was no signing in or picking up of his brass. At this time discussions became more open with reference to Walter Hamm. During this conversation the guard named John related an incident that occurred on December 5 where Walter Hamm, in order to promote himself, for the position of Business Agent with the pipefitters union, reserved the Four Acres Motel on route 52 and hired the services of five prostitutes to socialize with crafts people from here at the Zimmer site. The guard identified as John indicated that he was present at this social gathering sponsored by Mr. Hamm. This led a discussion of Walter Hamm's attempts to be elected as Business Agent for the pipefitters' union. During this conversation, Mr. Huwel indicated that he did not feel Mr. Hamm would become elected as he had pulled off a lot of, "shady deals" up here at the Zimmer site that had adversely effected some of the crafts people here. He also indicated that some of these shady dealings were of an extraordinary nature which frightened some of the crafts people and intimidated them. He also related that he felt that these activities conducted by Mr. Hamm were of a self-serving nature for the entire Hamm family. During this conversation, Mr. Huwel related that Mr. Hamm will be most likely appointed to take his place during his vacation for the next two weeks on the second shift.

12:00 a.m.
(midnight)

J. Huwel was checked out by the guard John McClung at the job site. This agent was invited to join J. Huwel and the guard McClutcheon at the Riverview Lounge when I got off work. I indicated to them that I would probably wrap up in about a half an hour to forty-five minutes and that I would meet them there.

12:45 a.m.

I had occasion to find John McClung at the Riverview Lounge.

1:00 a.m.

Sidney Hamm came in with a female introduced to me as Janet. This female is approximately sixteen to eighteen, 5' 4", 105 pounds. caucasian, green eyes, brunette hair, shoulder length. During the conversation, it was related to this agent that James Huwel had met this girl, Janet, while she worked as a dancer at Marion's Room on route 125, Mt. Washington. Nothing much more was discussed about the Zimmer site other than both John and Jim were convinced that they were sure the rumors about me would die down very quickly.

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1:00 a.m.
(cont.)

I feel certain at this point that my pretext is solid and in tact. We broke up and went our separate ways at 2:30 a.m.

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INVESTIGATIVE REPORT

DATE: 12-12-79

AGENT: 920

- 5:30 p.m. On duty at the Zimmer site.
- 9:00 p.m. This agent received a call from the guard identified as Dave. He told me my cigarettes had been left in the guard shack. I then proceeded to the guard shack area and sat with them for a while.
- 9:25 p.m. Walter Hamm and Terry Hamm came back from being off the site. When they came through the gate, they were not signed in and had not been signed out apparently. There was no evidence of them picking up their brass either. While Terry Hamm was talking to me about irrelevant matters, this agent noted a heavy smell of alcohol on his breath.
- 10:20 p.m. This agent left the construction site for a period of approximately thirty minutes and I was not signed in or out upon my leaving or returning.
- 10:45 p.m. Upon returning to the plant site a Moscow police officer by name of Al Jameson was in the guard shack talking to the guards John and Dave. It is felt that the security guards in the guard shack probably have access to computer information through this Moscow police officer Al Jameson. This could consist of NC, IC computer leads, as well as BMV and BCI informational leads.
- 11:30 p.m. This agent checked off the plant site officially.
- 11:45 p.m. This agent had occasion to stop at the Riverview Lounge on State Route 52 where I found guards John MucClutcheon and the guard identified with first name Dempsey to be drinking.
- A little later, approximately thirty minutes or so, Jim Huwel came into the Riverview. What followed in conversation with Jim Huwel and Dempsey was some extreme feelings on their part that I might not be who I say I am. At this time, Jim Huwel threatened me several times saying that, "If I'm not who I say I am, he's going to kill me." The guard Dempsey reiterated this stating that, if I was who he thought I was, I'd better get the hell out of Claremont County. At this point this type of feeling is normal and, we believe that this is due to normal suspicions of the employees with anyone new on the job site.
- 1:00 a.m. A Control Room technician by the name of Yohans stopped in

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1:00 a.m.
(cont.)

the Riverview. In conversation with this employee, he related to me that he understood what these people were talking about and that he had heard some of the rumors as to my position at the plant. However, he assured me that in a short while this attitude of fear with regards to my position on the part of the crafts people and others at the plant would subside. In discussion about work being done at the plant as relating to these employees' personal opinions regarding the safety of the plant, the employee identified as Yohans indicated that he is keeping a journal. He also related that he has severe doubts as to whether or not he will continue to work at the Zimmer plant once it becomes operational. This sentiment was echoed by Jim Huwel as he stated that the crafts people he knew were looking forward to leaving the plant once it becomes operational. It is their personal feeling that knowing the construction of the plant as they do, they don't feel it to be safe or that it will be safe when it becomes operational.

2:30 a.m.

Everybody at the Riverview left and went their separate ways.

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INVESTIGATIVE REPORT

DATE: 12-13-79

AGENT: 920

8:00 p.m.

Have arrived at the job site. During the period from 8:00 to 12:00 midnight this agent sat in the office in an attempt to insure my pretext. It is felt that general suspicion has gotten around most of the plant and while this is not seen to be a problem, it is more the new-kid-on-the-block type syndrome where everybody wants to know who someone is.

During this time the guard identified by the first name Wesley or Wes did come in and sit and talk for a while. This guard seems to be very reserved; doesn't know much of anything about what's going on around the plant and keeps to himself. He seems to be stationed up there in the office and doesn't really know what's going on throughout the rest of the plant.

I did receive a call from John McClung asking me if I wanted to stop down to the Riverview for a drink before I went home. However, I declined. I left the job site at approximately midnight.

12:00 a.m.

Midnight to 2:00 a.m. administrative time was spent developing current reports.

2:00 a.m.

Off duty.

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INVESTIGATIVE REPORT

DATE: 12-14-79

AGENT: 920

5:40 p.m. Arrived at the job site. I was informed by guard John McClung that Mr. Murray had been on the premises and left with a load of firewood, but that he would be returning.

6:00 p.m. The guard identified by the first name Dave joined me in the office up at the main Administrative Building and was watching TV with me. Guard Dempsey Combs called on extension 365 to tell me that he would inform me when Mr. Murray came back through the gate. I did receive a call shortly before meeting Mr. Murray at 6:45 p.m.

6:45 p.m. In the discussion with Mr. Murray we examined areas relating to auditing of personnel time records.

7:40 p.m. While on pretext of obtaining information from inspection sheets in the suppression chamber, this agent came upon a fire in progress. Apparently the boiler makers who were working in the area had left and I had to climb back out to the third floor level of the Containment Building before I came upon two workers who were eating their lunch. These two workers and I climbed back down into the suppression chamber and put out the fire. The fire seems to be of suspicious origin as in conversations later with the foreman of the boiler makers working in that area we find that the area where the fire was and the area where they were working were too far from each other to have had the fire to be caused by sparks. The fire only consisted of rag, an oily rag, draped over a cement mixer. The cloth was approximately 4' by 4' in dimension and was folded over several times, then draped over the cement mixing machine. It should be noted at this point that the ventilation in the suppression chamber is very poor, if not inadequate, as this small fire filled the top two levels and made it very difficult to get out of the smoke once we had put the fire out. Also it should be noted that there is no communication nor means by which an individual might call for help in event of an emergency from the suppression chamber.

8:15 p.m. I left the premises ostensibly for lunch. Again I was not checked out and not searched.

8:45 p.m. I returned to the job site and was informed by guard Dempsey Combs that I was to talk with safety engineer, Dan Parleer and the foreman of the boiler makers, Claude Renfro.

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8:45 p.m.
(cont.)

In discussions with Dan Parleer I found him to be genuinely concerned with regards to the incident in the suppression chamber, especially given the consequences that had I not gone in and found the fire in its early stage it could have become much worse. And also there was concern shown by Mr. Parleer that getting help down to that area was a problem.

Mr. Renfro also came to the main office to discuss the incident and indicated that he did have the proper fire watch personnel posted during the time that the welders and cutter were doing their work. One of these gentlemen in charge of this detail was with him and explained that he did have one man per crew posted down on the floor to watch for sparks that might ignite flammable materials. The only excuse they could give for the fire that occurred was that a spark must have been smoldering before they left for lunch and went unnoticed. This will bear on later information discussed with Mr. Renfro in the suppression chamber. Neither Mr. Parleer nor Mr. Renfro felt that there was any need to make out a report on the incident. Mr. Parleer indicated that he would see to it that the fire extinguisher that was used was replaced. The general attitude of Mr. Renfro, as well as the other crafts people, was that this was getting excited over something that was very minor.

9:00 p.m.

Again the guard identified as Dave came out to watch television with me. During the conversation with this individual we discussed the potential for seriousness of the fire incident and this individual related to me that he was aware that there might have been other fires set during the evening on previous occasions and that he believes some crafts people involved in that type of activity.

10:15 p.m.

I went back to the suppression chamber ostensibly to do the work that I was supposed to have done earlier. On my way into that area I then had an occasion to talk with Mr. Claude Renfro. Mr. Renfro accompanied me to the floor of the suppression chamber so that we might examine the area so that he could show me what probably occurred. While on the floor of the suppression chamber Mr. Renfro pointed out to me where the men had been working previous to lunch - previous to the fire. I sat and watched for a while as these men worked in that area and it is not believed by this agent that sparks from that work area could have reached over to where the fire was located. Although in putting out the fire we may have destroyed any evidence, I have some strong suspicions that this fire was intentionally set.

10:35 p.m.

While wondering through the Control Room area I have occasion to talk to the Control Room personnel and in particular an individual identified as the last name Yohans. Mr. Yohans invited me down to the Rad Waste area to show me where he :

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1:30 a.m.

This agent discontinued investigative activities
for this date.

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EXH. #4 Con't.

INVESTIGATIVE REPORT

(SUMMARY)

PERIOD: 24-31 December, 1979

CLIENT: Cincinnati Gas & Electric Co.

SUBJECT: Undercover Investigative Activities at the Zimmer Plant

During the period Agent 920 continued to expand upon his pretext while penetrating deeper in the confidence of the employees.

The "time cheating" continued to be in evidence by those employees noted in previous reports. It appears that security guards, Dempsey Combs and John McClung, are the "key" to successful time cheating by those employees.

With the help of Jim Huwel, whose confidence 920 has established, 920 was able to make contact with the Magnaflux supervisor who is providing him with information on faulty welds. It must be noted that this information regarding the welds is so technical that 920 is having some difficulty in accurately retaining and reporting. A conference was held with Mr. Murray wherein it was decided that 920 would be equipped with a body recorder in order to capture this technical information about the welds.

920 was also introduced to an individual whom he believes to be selling stolen guns on the site. It was decided that for the time being he should not get involved with the guns. This could cause problems with his "cover", as this is a police matter which can be dealt with at a later date.

During the coming week 920 will continue to try and verify the information about the welds. It is hoped that the body recorder will provide sufficient dialogue for this purpose.

It has been noted that Terry Hamm receives a great number of telephone calls at extension 317. 920 is looking into the possibility of monitoring that telephone for a period.

Jim Huwel's domestic situation continues to concern 920, as Mrs. Huwel would recognize him should she visit the site or one of the bars when 920 is present.

Every consideration is being given to 920's "cover" as he probes further in the relationship of Kaiser, Magnaflux and the Union.

In general, good progress was made during the period. In the coming weeks as 920 continues to gain confidence in both his "cover" and the targeted employees, he should be able to clear the conflicting information about the welds.

Respectfully submitted,

Major W. Cox
Director

MWC:cmv

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INVESTIGATIVE REPORT

DATE: 12-26-79

AGENT: 920

5:30 p.m. This agent arrived at the Zimmer site.

7:15 p.m. This agent called Jim Huwel at extension 301 in the guard shack at the main gate. I asked him about going to dinner and he indicated to me that he was going to New Richmond to see his girlfriend, Janet.

7:45 p.m. Jim Huwel was observed leaving the plant site.

8:00 p.m. This agent had occasion to be in the guard shack at the main gate. In conversation with guard John McClung, Mr. McClung indicated to this agent that over the weekend and Christmas holiday domestic difficulties with Mr. Huwel had accelerated greatly. He indicated that Mrs. Huwel was calling the site more often and that she had threatened to come looking for Mr. Huwel during his work hours.

9:15 p.m. Jim Huwel returned to the construction site and sat in the guard house with John McClung and myself. Mr. Huwel was not observed signing in at this time. Most of the conversation during this period centered around Mr. Huwel's domestic difficulties. He did bring with him a box of candy that he indicated was given to him by his girlfriend, Janet, while he was in New Richmond just previously. During this period there were many calls for Terry Hamm at extension 317 from outside the plant relayed by guard John McClung. Guard McClung indicated that several of these calls were from Terry Hamm's girlfriend Yvonne, and some of the other calls he could not identify who was calling Terry Hamm.

10:50 p.m. Jim Huwel left the guard shack to check out. He stated that he did not believe Magnaflux people were going to be working this evening.

11:30 p.m. This agent was invited to the Riverview Lounge by guard John McClung. Again guard McClung signed me out on the log at 12:00 midnight. I actually left the site at 11:45 p.m.

12:00 a.m.
(midnight) I arrived at the Riverview Lounge. Present were Jim Huwel, John McClung, Dempsey Combs and Donald Combs, Dempsey Combs' son.

1:00 a.m. A guard identified by the first name Brian arrived at the Riverview Lounge. He indicated to Jim Huwel that the Magnaflux people had ~~some~~^{come} in after all. Mr. Huwel stated that he would have to get with Jack Carter tomorrow and turn in a

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1:00 a.m.
(cont.)

late time report for the hours between midnight and 4:00 a.m. that he was supposed to be with the Magnaflux people.

1:30 a.m.

Jim Huwel received a telephone call from his wife. After this the conversation started to center Magnaflux and their activities at the plant site. Jim Huwel indicated that Magnaflux was uncovering faulty welds and in one way or another was being pressured by either Kaiser Quality Assurance people or CG&E Management to pass inspection on faulty welds. John McClung related an incident on faulty welds. ~~John McClung related an incident when~~ Some piping had arrived by truck and due to lack of proper equipment to unload the material it was simply pushed off the truck causing possible damage to the material. Jim Huwel indicated that although there was damage to this piping material, it was used for construction anyway and that the inspection by Magnaflux of this material was approved by Kaiser Quality Assurance although Magnaflux had rejected it.

It should be noted at this time that a great amount of technical information was related to this agent by

~~and individuals mentioned~~ with regards to stress testing and x-ray of piping, welds and this agent is having some difficulty interpreting the technical aspects of the welding inspection process. This agent believes that we should discuss with CG&E Management as to how specifically this process is accomplished in order to verify any discrepancies between what is occurring with the Magnaflux employees and what should be occurring in their work.

2:30 a.m.

This agent discontinued investigative activities for this date.

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INVESTIGATIVE REPORT

DATE: 12-27-79

AGENT: 920

8:15 p.m.

While on my way to the Zimmer construction site, this agent observed Jim Huwel's car parked in the lot of the Riverview Lounge on State Route 52. I decided to stop at the Riverview and in doing so found Jim Huwel to be eating dinner with his girlfriend Janet. I then called John McClung, guard at the Zimmer site and asked him to sign me in on the log at 8:00 p.m.

This agent had some conversation with Jim Huwel and his girlfriend, Janet, but nothing that related directly to activities on the Zimmer site.

9:00 p.m.

This agent got to the Zimmer site and in checking in the guard shack looked at the log and found an entry on the CG&E sheet that said T. Jackson entered in 7:55 p.m.

9:15 p.m.

Terry Hamm came into the guard shack from outside the site. There was no check-in, signing-in or picking-up of his brass. Jim Huwel, who had come in a few minutes after I did, told Terry Hamm that the time would be covered for them on Christmas Eve that they should have spent there due to the fact that Magnaflux employees came in and they were unaware of it. He told Terry Hamm that he had okayed this through a Mr. Cranston and that Cranston would submit a late time report for them.

At this time Jim Huwel also called Walter Hamm at a Lounge somewhere in the vicinity of State Route 132 and X State Route 125 and told him that the pipefitters' time for Christmas Eve would be covered by Mr. Cranston.

9:30 p.m.

This agent proceeded to the main office for pretext work.

12:00 a.m.
(midnight)

This agent called Jim Huwel at extension 301 and asked him about Magnaflux employees that we were supposed to meet with that evening. Jim Huwel explained that they sometimes came in a little late.

1:00 a.m.

Jim Huwel was in the guard shack and approached this agent with the idea that we go to the Riverview Lounge and wait, stating that the guard named Brian would call us when Steve, identified as the supervisor of the Magnaflux crew, came in. Jim Huwel also indicated to this agent that three men of the Magnaflux crew were already there on time.

1:10 a.m.

While at the Riverview this agent had occasion to become involved in conversation with guards John McClung and Dempsey Combs as well as Jim Huwel about a load of pipe that was

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1:10 a.m.
(cont.)

delivered late one evening. Guard John McClung indicated that someone in the Cincinnati Gas & Electric Management had ordered that the truck be allowed in and told them to have the driver dump it somewhere in the storage compound. Jim Huwel then stated that of this load of piping which he indicated was main steam relief piping, five fabricated welds had been x-rayed by Magnaflux personnel and were found to be defective. He indicated that the Quality Assurance personnel had forced Magnaflux into accepting the faulty welds ~~somehow~~. Further in conversation, Jim Huwel indicated that in speaking with safety coordinator, Dan Parlier, ^{he} knew at least 20% of the welds already installed in piping throughout the plant to be faulty. Jim Huwel then began discussing a former employee by the name of Tyner, who was a general foreman for the pipefitters. He indicated that this individual named Tyner was now working at the Ford Plant in Batavia. In conversation he stated that this person had objected to the flushing procedure used to test the piping and had objected severely to the fact a particular flush that should have taken at least six weeks was cut to two weeks.

Jim Huwel deducted from what he knew of the incident at Three Mile Island that this was the problem that caused the problem there and that this was the reason that the general foreman identified was Tyner quit the Zimmer project. He stated that Tyner had repeatedly tried to object to the method used to flush the main steam critical piping and at one time had even proved to the Control Room and Quality Assurance personnel that their flushing procedure was inappropriate by pounding on sections of the main steam relief piping during a flushing procedure, thus releasing sediment and slag which Tyner believed at a later date could be released and cause problems such as stuck valves and misread gauges.

1:25 a.m.

The guard identified as Brian called Jim Huwel from the guard shack at the Zimmer site and indicated to him that Steve, the supervisor for Magnaflux was there. This agent and Jim Huwel continued our conversation regarding the employee, Tyner, and the specific problems relating to the improper flushing procedures done at the Zimmer site. =

2:30 a.m.

James Huwel and this agent returned to the Zimmer plant.

2:45 a.m.

James Huwel and myself entered the suppression pool area looking for Steve, the supervisor of the Magnaflux crew. In conversation with this Magnaflux employee, identified as Steve, he indicated to this agent that of particular concern to him was a supervisor in the Quality Assurance section named Tony (last name begins with a P). He indicated to this agent that this supervisor of Quality Assurance was definitely involved in ordering the passing of faulty welds which Magnaflux reported. This employee indicated to me that he would show me the Magnaflux copies of x-ray reports and that these reports:

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2:45 a.m.
(cont.)

would not coincide with Kaiser Quality Assurance reports. This employee of Magnaflux identified as Steve indicated that it was his feeling that Kaiser ^{CG&E} was trying to get rid of Magnaflux from the job because they knew too much. As an example, he pointed out that weld number K811 which he felt to be an insert fault on the x-ray in the main steam relief piping down in the suppression pool was ordered passed by Quality Assurance personnel.

Steve also indicated that he had some suspicions of the ANI Inspectors on the site.

3:30 a.m.

This agent concluded investigative activities for this date.

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INVESTIGATIVE REPORT

DATE: 12-28-79

AGENT: 920

6:00 p.m. This agent had occasion to meet with Bill Murray of Cincinnati Gas & Electric at his house. A briefing of recent activity was made, as well as some clarification on investigative objectives with Magnaflux employees at the Zimmer site.

7:55 p.m. Enroute to the Zimmer construction site, this agent observed James Huwel's car in the parking lot of the Riverview Lounge on State Route 52.

8:05 p.m. While checking in at the guard shack on the Zimmer site, Dempsey Combs, a guard, indicated that John McClung, the guard, was off duty this evening and had gone to the Latonia Race Track in Kentucky. Dempsey Combs also showed this agent three stainless steel belt buckles that he indicated were for sale by John McClung.

8:15 p.m. This agent proceeded to the main office for pretext work.

11:00 p.m. James Huwel came into the Zimmer site from outside the plant with guard John McClung. John McClung indicated that he had stopped at the Riverview Lounge on State Route 52 and that he and Jim had come up to the site looking for me.

11:30 p.m. James Huwel invited this agent to the Riverview telling the guard identified as Brian to tell Steve, the Magnaflux employee, to come down to the Riverview when he came in. This agent, along with John McClung and Jim Huwel in Jim Huwel's car then proceeded to the Riverview Lounge.

12:10 a.m. The individual named Steve, identified as the supervisor of the Magnaflux crew at the Zimmer site, came into the Riverview Lounge. Steve began talking of our former conversations regarding comparing the Magnaflux reports to the Quality Assurance reports by Kaiser. He indicated to me that the five x-rays of welds on the main steam relief piping that had been dumped from the truck that entered late one night would be of particular interest. He further indicated that although there were serious defects in these welds that Kaiser Quality Assurance personnel had ordered them to be passed for inspection.

12:45 a.m. Steve indicated that he must leave as he had to get on the job and had a lot of work to do up at the Zimmer site. He then left.

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- 1:00 a.m. Terry Hamm came into the Riverview Lounge with his girlfriend, Yvonne. At this time during conversation, Jim Huwel stressed that although there were many instances of Magnaflux being overridden on faulty welds, that I would be able to easily determine from the five welds on the main steam relief piping that had been dumped in the supply yard -- that some sort of cover-up had occurred by Kaiser Quality Assurance personnel.
- 2:00 a.m. Jim Huwel pointed out an individual to this agent that he stated was the individual that sold thirteen hand guns to Walter Hamm for raffling off at the Zimmer site.
- 2:30 a.m. This agent approached the individual previously identified by Jim Huwel about the selling of guns at the Zimmer site. This individual indicated to me that he still had eight guns for sale, and was looking to sell them and would do so to me.
- This individual, although not directly identifying himself by name gave me a telephone number and a name on a scrap of paper which is illegible. This individual also indicated that he was an employee at the Zimmer site working on days with the pipefitters.
- While leaving the Riverview Lounge, I observed this individual to be driving a blue Riviera or Toronado, license number Kentucky CVR160.
- 3:00 a.m. Jim Huwel dropped me off at the plant and signed-in indicating that he was going back to work with the Magnaflux employees. I indicated to him that I would check the Magnaflux reports with Steve, the supervisor for the Magnaflux crew, next week.
- 3:15 a.m. This agent discontinued investigative activities for this date.

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Exh.#4 Con't. -

INVESTIGATIVE REPORT

PERIOD: December 17 through December 23, 1979

CLIENT: Cincinnati Gas and Electric Company

SUBJECT: Under Cover Investigative Activities at the Zimmer Plant

During this period Agent 920 continued to maintain his pretext while expanding his contacts with the employees. 920 continued to note the "time cheating" by the group of employees noted in the previous report.

On Monday and Tuesday of this period, 920 noted some interesting remarks about C. K. Smith. It appears that Mr. Smith may be included in our list of investigative targets, as the relationship between Smith and Huwel may not be in the best interest of the plant.

920 continued to socialize with the employees after hours. We feel that this social activity will provide us with a great deal of information in the week ahead.

We will expand our investigation to include attempts to verify the information given 920 about the X rays. (see December 17 1979 report). It appears that some of the welds may have been questionable.

Agent 920 was off on Wednesday, 19 December 1979 due to illness.

In general, good progress was made during this period.

Respectfully submitted,

Major W. Cox
Director

MWC/npw

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INVESTIGATIVE REPORT

DATE: 12-17-79

AGENT: 920

6:00 p.m.

On duty at the Zimmer Plant site; checked in by guard Dempsey Combs. At this point I proceeded to the office, and guard John McClung indicated that he would stop up in a little while to the main office.

7:15 p.m.

An employee identified with the nickname Skeeter known to this agent as a janitorial person that cleans in the main office building, had occasion to sit down and talk with me in Mr. Murray's office. While we were there we were watching television and I noticed that this individual had one of the belt buckles that appeared to have been made by the pipefitters on his person. I commented about it and told him that I had been seeking to get one of these belt buckles. He indicated to me that he and his father had many of them and that he would bring some of them in for me to look at. He also indicated to me that these belt buckles were definitely made by the pipefitters. I told him that I had attempted to get them through the pipefitters and to this he responded that the pipefitters were somewhat leery of me at this point, and probably would not sell any belt buckles to me until they got to know me better. He reflected the same opinions of the other people who had discussed with me that I would be under some suspicion for a period of time until the employees out there got used to me and felt more comfortable with my pretext.

7:30 p.m.

Guard John McClung stopped into the office to talk briefly. He indicated to me that he was getting off at 8:00 p.m., and that he was going to the Riverview to meet Jim Huwel and watch the football game. I told him that I would love to come along because I hated to think of the idea that I would be watching the football by myself, but that I didn't know whether or not I should be signed out for that long a period of time. He indicated to me that there would be no problem with my coming down there and that since Dempsey Combs was handling the front gate they would not enter my leaving the premises into the log. At this time the guard, John McClung, noticed the sign-in sheets and gate logs that were sitting on Mr. Murray's desk. I handled this by indicating to him that I think Mr. Murray did get copies of the logs, but that he never really looked at them; it was only a matter of protocol to give a copy to the CG&E people in charge of the project. I also indicated to him that I believed the logs were several months old and had been sitting around for some time. He did not examine them carefully and I covered them up with another book immediately. At this point it should be stressed that this type of material should not be left sitting around in the main

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7:30 p.m.
(cont.)

office area as it might create suspicions and security personnel do have an opportunity to examine materials that are left lying around in that area.

8:30 p.m.

This agent left the plant site and in passing through the front gate Dempsey Combs indicated to me that John McClung had already talked to him and there would be no problem as he didn't sign out or sign in CG&E employees when they left for lunch anyway no matter how long they were gone.

8:40 p.m.

I arrived at the Riverview Lounge there to find John McClung and Jim Huwel in the company of C.K. Smith and Jim Sandlin. When I sat down I positioned myself next to C.K. Smith who was having a rather heated discussion with Jim Huwel. In listening and overhearing their conversation, this agent overheard C.K. Smith to say that he was aware of the fact that some of the pipefitters were spending time off the premises while being paid on the clock at the plant site. Jim Huwel responded by asking Mr. Smith what he thought they were supposed to do. He indicated that a man being down there for sixteen hours at a time with very little, if anything, to do was bored to the point of insanity. Smith indicated that he understood what Huwel was saying and advised him, "Just don't get caught." Continuing their conversations they discussed an incident where Mr. Marshall had gone into the pipefitters' work shop and fired a group of pipefitters for making belt buckles while on the job. At this point Mr. Huwel got rather upset and said that Marshall had a lot of nerve doing that over something as petty as those belt buckles, while at the same time his personal car was being worked on in the paint shop apparently having body work and painting done to it. At this point Mr. Smith responded by saying, "That wasn't Marshall's car, that was my car." It should be noted that this conversation between Mr. Huwel and Mr. Smith was so extensive as it made it impossible for this agent to remember everything that they were talking about. However, I do detect a spirit of some collusion here between Mr. Smith and Mr. Huwel as to irregular activities which occur on the job site. Mr. Sandlin, who was present during this conversation, seemed to understand what they were discussing but kept himself rather removed from participating in the conversation. Mr. Smith and Mr. Sandlin left at approximately 10:00 p.m.

In conversation with Jim Huwel, I asked him what the argument had been about. He indicated to me that Smith had come in and accused him of being off the job site without being signed out. He further stated that Mr. Smith was somewhat intoxicated and apparently was only kidding around with him as Mr. Smith is aware that from time to time the pipefitters do spend time away from the job without being checked out, but that Mr. Smith had apparently had forgotten or did not know that at this particular time Jim Huwel was on vacation. From there the conversation, he stated, got a little bit

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8:40 p.m.
(cont.)

more serious and they began discussing the other incidences that I had previously mentioned, such as the belt buckles and the car being repaired. Mr. Huwel seemed upset that Mr. Smith was sort of intimidating him when all along he knows that Mr. Smith is aware of the irregularities on the job site and apparently does not care. Mr. Huwel further indicated that Mr. Smith takes advantage of his position at the plant site for his own personal gain as much as any of the crafts people working on the job.

The conversation then led to discussing why it is exactly that the pipefitter on the second shift has so much free time available to him. Mr. Huwel indicated to me the reasoning why a pipefitter has to be there when magnaflux is doing their x-ray work. He also stated that if someone wanted to know the truth of the situation there were faulty welds and misrepresented x-rays done by magnaflux and that he did not understand how they could be getting away with this unless someone was buying off or bribing the NRC inspectors on the job. At this point John McClung became involved in the conversation and both he and Jim Huwel reiterated their feeling that from what they had seen and heard there was a great deal of poor workmanship being done on the project. It has been expressed many times by these crafts people that I have spoken to that they do not feel the plant will be safe to operate and will be glad when their work is done and they can move out of the area. They also indicated that there were operations personnel that worked in the Control Room who voiced the same fears and reservations about working at the plant once it becomes operational. I then mentioned that Mr. Yohans had discussed with me that very same sentiment. Jim Huwel then indicated that Yohans was no dummy and that he was keeping a record of irregularities that came to his attention. Mr. Huwel told me that Yohans had asked him to come to him and tell him anything he might know about faulty workmanship or unsafe construction that had been done.

12:15 a.m.

This agent returned to the plant site and was admitted through the main gate by the guard identified with the first name Brian. I proceeded to gather my equipment from the main office and then left again through the main gate. This time I was signed out at 12:30 a.m. Therefore the log reflected that I had signed at 6:00 p.m. and signed out at 12:30 a.m. with no indication of the time that I spent down at the Riverview between 8:30 p.m. and 12:15 a.m.

12:45 a.m.

I returned to the Riverview. Non work related conversation took place and I feel that my pretext is becoming more solid as I am being more openly accepted by the individuals at the plant.

2:00 a.m.

This agent discontinued investigative activities for this date.

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INVESTIGATIVE REPORT

DATE: 12-18-79

AGENT: 920

7:00 p.m. This agent arrived at the Zimmer construction site and proceeded immediately to the main office.

8:00 p.m. In conversation with a janitorial person identified by the name, "Jim Shue". We discussed his belt buckle. This is one of the belt buckles fabricated in the pipefitter's shop from stainless steel on the site. He indicated to me that he had purchased this belt buckle from Terry Hamm. This agent indicated to him that I was interested in seeing this catalog that so many of the people at the site had been talking about. He indicated to me that the catalog was in the possession of either Jim Huwel or Terry Hamm and that I would have to get it from them.

9:15 p.m. While in the guard shack at the main gate, this agent had occasion to talk with the guard identified as John McClung. In this conversation, McClung indicated to me that during the argument between Jim Huwel and C.K. Smith at the River-view the previous night, that C.K. Smith had intentionally lied to Jim Huwel in telling him that it was his car that Huwel saw being worked on at the construction site. The guard McClung indicated to me that he knew for a fact that the car belonged to Mr. Marshall. He indicated, in fact, that it was Mr. Marshall's wife's car and that it had much more than just a paint job done to it. He indicated that it had been in the motor pool area and had extensive break work and engine overhauling done to it. He also indicated that he knew that it was Marshall's wife's car because he was on duty when Mrs. Marshall came and picked it up after it was finished.

11:30 p.m. This agent was signed out by guard John McClung and McClung entered it into the log as "midnight" whereas this agent actually left at 11:30 p.m.

11:45 p.m. In further conversation with guard John McClung at the River-view Lounge, he indicated to me that the reasoning behind C.K. Smith's telling Jim Huwel that it was his car that had been worked on was that C.K. Smith was covering for Marshall because Smith will be transferring to North Dakota in February and can afford to take any type of fallout.

1:30 a.m. Although Jim Huwel was supposed to have come to the Riverview, he is evidently not going to make it.

1:45 a.m. This agent discontinued investigative activities this date.

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INVESTIGATIVE REPORT

DATE: 12-20-79

AGENT: 920

6:00 p.m. This agent was on duty at the Zimmer site. I had a brief conversation with the guard identified as John McClung about Jim Huwel. This conversation centered mostly around Jim Huwel's domestic difficulties.

6:30 p.m. Guard Dempsey Combs called this agent at extension 365 and indicated that he was going out for dinner and would I like anything. I asked him to bring me back a dinner along with the others he was getting.

7:00 p.m. This agent was called at extension 365 to advise me that the dinners had arrived. I then proceeded to the guard at the main gate. While there, I overheard the guards answering and transferring several calls for Terry Hamm at extension 317 from his girlfriend Yvonne and his brother Walt.

8:00 p.m. Walter Hamm came into the guard shack from outside the plant site. He indicated that he had been looking for his brother, Terry, and was waiting for him down at the Point Lounge where Terry was supposed to have picked him up at 5:30. There was no evidence that Walter Hamm had either signed in or signed out. Walter Hamm indicated to this agent that a party was going to be thrown by the pipefitters the next day in Mr. Carmel at a place called the Old Saloon. He extended to me an invitation to this party and indicated that it was to begin at 7:30 in the a.m.

8:30 p.m. Walter Hamm left the construction site ostensibly to look for his brother Terry. He indicated to guard John McClung that he was proceeding to the Point Lounge. At this time, superintendent, Jack Temple, came into the guard house at the main gate and was talking very generally about the different crafts working the night shift. He indicated that although he felt confident that the boiler makers under John Renfro were doing their jobs well, he believed the electricians and carpenters to be goofing off, as well as possibly stealing materials from the site.

9:00 p.m. This agent proceeded back to the office for pretext work.

11:00 p.m. This agent entered the guard shack at the main gate to find Jim Huwel present. Mr. Huwel extended an invitation to me to come down to the Point Lounge. Guard John McClung signed me out on the log as 12:00 midnight. This agent left the site at approximately 11:30 p.m.

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- 11:45 p.m. This agent proceeded to the Point Lounge where I found Walter Hamm there playing pool with a female that he introduced to me as Cindy. This person has been previously identified to this agent as Walter Hamm's girlfriend who works in the expediting area for Kaiser.
- There was some general conversation, at this time, between Walter Hamm, James Huwel, John McClung, Dempsey Combs and myself concerning the pipefitters' election to be held the next day.
- 12:45 a.m. Walter Hamm left the Point Lounge with his girlfriend Cindy.
- 1:30 a.m. James Huwel, Dempsey Combs, John McClung and myself departed the Point Lounge together.
- 1:45 a.m. In checking the parking lots around the plant site this agent could not find Walter Hamm's car in evidence anywhere.
- 2:15 a.m. This agent discontinued investigative activities for this date.

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INVESTIGATIVE REPORT

DATE: 12-21-79

AGENT: 920

3:00 p.m. This agent arrived at the Zimmer site and was advised by guard John McClung that Mr. Bill Murray was in his office. Upon arriving at the main office, this agent had a briefing session with Mr. Murray as well as searching for time records from the night before.

7:00 p.m. This agent contacted Jim Huwel at extension 317 and discussed with him about going to dinner at 8:00. Mr. Huwel indicated to me that he would meet me at the gate at 8:00 p.m.

8:00 p.m. This agent left the construction site with Jim Huwel in his car and proceeded to the Riverview Lounge. While at the Riverview, Mr. Huwel and this agent ate dinner. We also observed that Mr. C.K. Smith and Mr. Sandlin were present in the back room playing pool. Jim Huwel indicated, after finishing our meal, that he wanted to leave and go to the Point Lounge as he did not want to get into another argument with C.K. Smith.

8:45 p.m. This agent stopped at the Point Lounge with Jim Huwel. While we were there, Mr. Huwel got a call from his girlfriend Janet. Jim Huwel then indicated to this agent that he would drop me off at the plant as he wanted to go to New Richmond to see his girlfriend Janet.

9:25 p.m. Jim Huwel dropped me off at the construction site and then left proceeding west on State Route 52 towards New Richmond.

10:30 p.m. This agent observed Jim Huwel coming back to the construction site.

11:45 p.m. This agent was called by Jim Huwel at extension 365 and was asked to meet him in the guard shack around midnight to go out.

12:05 a.m. This agent left the construction site with Jim Huwel who did not sign out or drop his brass.

12:20 a.m. This agent was at the Point Lounge with Jim Huwel. During conversation with Mr. Huwel he indicated that he did not believe Walter Hamm would win the pipefitters' election. He also discussed C.K. Smith and indicated that Mr. Smith had knowledge of what was going on at the construction site with regards to people being paid while not being actually on the job.

12:45 a.m. Jim Huwel invited this agent to the Riverview Lounge where

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12:45 a.m. he believed Dempsey Combs and John McClung to be.
(cont.)

12:50 a.m. This agent arrived at the Riverview Lounge along with Jim Huwel. Dempsey Combs was there, and there was no real discussion about the work site. The bar maid at the Riverview, Nancy, told Jim huwel that C.K. Smith had been there until 12:30 a.m. and that he was extremely intoxicated. So much so that someone else had to drive his company truck home. Dempsey Combs confirmed this and stated that he had observed someone but he was not sure who it was driving C.K. Smith home in his company truck.

There was much discussion of C.K. Smith by Dempsey Combs and Jim Huwel, most of it relating to their attitudes that Mr. Smith was hypocritical in his actions and attitudes in his position with Kaiser.

2:30 a.m. Jim Huwel indicated that he was going back to the plant in order to check out.

2:45 a.m. This agent discontinued investigative activities for this date.

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10:30 p.m.
(cont.)

that some computer equipment had been stolen from the area which it was intended to be used. They indicated that it was moved in an attempt to steal it, however, the equipment was discovered before it could be surreptitiously taken from the site. This conversation relating to theft from the site was general in nature and no specifics with regards to people involved or dates, times, etc. were discussed. Both of these individuals indicated no direct contact with either of these thefts, however, this agent feels that both individuals might have some direct knowledge concerning the thefts.

This agent then entered into conversation with Jim Huwel concerning faulty construction at the Zimmer site. A great deal of this conversation was technical in scope and Mr. Huwel indicated that the Magnaflux employees would be able to shed more light on the subject for me. It should be noted at this point that the body recorder was in operation at this time and reference to specific technical information on construction defects should be obtained from the recordings made during this conversation. Mr. Huwel indicated to this agent that I would have an opportunity to meet with Magnaflux employees and discuss specific information with regards to the faulty construction on the site at time. He also indicated to this agent that during the Nuclear Regulatory Commission hearings in November, the specific reference to the media's interpretation of an accident occurring at the Zimmer site was misinterpreted. He indicated to this agent that the information about an accident at the site should have referred to the pipe being dropped off the tractor trailer rather than fuel rods being dropped. Mr. Huwel further indicated that this information with regards to the dropping of this pipe was an action taken by a former employee in the pipefitter's at the Zimmer site. He indicated that this was a pipefitter who had been dismissed for manufacturing belt buckles on the site and was somewhat bitter. He further indicated that the information that this individual tried to relate to the attorneys fighting the licensing at the Nuclear Regulatory Commission hearings was that main steam relief piping had been dropped and damaged. Somewhere in the communication of that, however, this individual failed to give the proper information to these attorneys.

11:30 p.m.

This agent was invited to the Riverview Lounge by Jim Huwel to wait for the Magnaflux employees. Because of previous conversations, this agent was expecting to talk with Steve Sellars, a supervisor of Magnaflux, about specific construction defects at the Zimmer site.

12:30 a.m.

This agent was introduced to an individual who came into the Riverview Lounge by the name of Allen Sellars. Mr. Sellar was represented to be a supervisor of the Magnaflux.

INVESTIGATIVE REPORT

DATE: 1-3-80

CLIENT: 920

7:15 p.m.

While enroute to the Zimmer Construction site, this agent observed Jim Huwel's care in the parking lot of the Riverview Lounge. Upon entering the Riverview Lounge this agent observed C.K. Smith of Kaiser just leaving. Jim Huwel was seated at the bar at the Riverview Lounge. Before entering into any conversation with Mr. Huwel, this agent took the opportunity to call the guard shack at the Zimmer site. This agent contacted guard Dempsey Combs at the Zimmer project and asked guard Combs to enter me on the log, which he stated he would do.

At this time, I then sat down with Jim Huwel and began talking with him. I indicated to Mr. Huwel that I had just seen Mr. Smith leave and asked him if he had spoken with him. Mr. Huwel indicated to me that he had an extensive conversation with Mr. Smith and that Mr. Smith had told Mr. Huwel he had just signed some requisitions for late time on Mr. Huwel's behalf for Christmas Eve. This was the late time that Mr. Huwel put in for and was approved for Christmas Eve and that Magnaflux employees worked and pipefitters were not contacted. He also indicated to me that Mr. Smith thought that Mr. Huwel was off the site and being paid again. Mr. Huwel indicated to me that he had not as yet checked in for the evening at the site and that Mr. Smith was in error. He indicated that Mr. Smith really didn't care as he had just approved the time for Christmas Eve which he knew Mr. Huwel was not deserving of, in that Mr. Huwel was not there. Mr. Huwel indicated that Mr. Smith's attitude was much the same as it had been reported in previous reports by this agent -- that being that Mr. Smith didn't care if they spent time off the job as long as they, "didn't get caught".

Some discussion was made about the fact that Mr. Huwel's wife was attempting to get ahold of him this evening and he felt that his wife might be out looking for him. After some irrelevant discussion, this agent left and proceeded to the Zimmer site.

8:20 p.m.

This agent arrived at the Zimmer site and noted on the sign-in sheet that guard Dempsey Combs had signed this agent in for 7:18 p.m. Guard John McClung indicated to this agent at this time that he had the belt buckles that I was interested in. I then examined two belt buckles

8:20 p.m.
(cont.)

fashioned from stainless steel that guard John McClung had indicated were manufactured by pipefitters from material at the Zimmer site. I offered him twenty dollars per belt buckle, as previously arranged, and he accepted those arrangements. I then gave him forty dollars and received from him the belt buckles. It should be noted that at this time the body recorder was in use by this agent and that the entire belt buckle transaction was recorded. This agent stayed on for congenial conversation between guards Dempsey Combs and John McClung relating to football and other irrelevant topics. Nothing of relevance to the construction site was discussed.

During this time, several calls were placed to the Riverview Lounge by guards John McClung and Dempsey Combs in an attempt to inform Jim Huwel, who was still at the Riverview Lounge, that he had received several phone calls from his wife, as well as his daughter.

9:45 p.m.

This agent proceeded to the main office area for pretext work, while indicating to guard John McClung to have Jim Huwel call when he arrived at the site.

10:30 p.m.

This agent received a call at extension 365 in the main office from Jim Huwel. Mr. Huwel indicated that he was at the guard shack and had just arrived on the site. While in conversation with this agent, Mr. Huwel indicated that his wife had arrived at the site and that this agent should come down to the guard shack and meet her.

10:45 p.m.

A janitorial person, identified as Jim Shue, came into the main office area and indicated to this agent that he was just in the guard shack and had left immediately upon the arrival of Mr. Huwel's wife. He indicated that she was, "bombed out of her mind" and that he had left immediately due to reports and rumors of her being extremely violent.

11:15 p.m.

Jim Huwel entered the main office area through the first aid room and approached this agent in Mr. Murray's office. He invited me to come down to the guard shack and meet his wife. With suitable pretext and extreme deference, this agent declined Mr. Huwel's invitation. It should be noted at this point that Mr. Huwel seemed extremely intoxicated.

12:00 a.m.
(midnight)

Mrs. Huwel, along with Mr. Huwel, were observed leaving the guard shack area by this agent from Barney Culver's office window.

12:15 a.m.

This agent took the opportunity to leave the plant site immediately as it was felt that any contact with Mr. Huwel's wife would endanger my pretext.

12:30 a.m.

Investigative activities for this date discontinued.