

February 18, 1982

MEMORANDUM FOR: Richard Parrish, Attorney
Office of General Counsel

FROM: Arthur Schnebelen, Acting AD/Investigations
Office of Inspector and Auditor

SUBJECT: APPEAL OF INITIAL FOIA DECISION, FOIA 81-488

In response to the subject request, we have again reviewed our files and hereby reaffirm our response to the original request.

It should be noted that in our response of December 9, 1981, we were silent as to the issue of "draft reports." The silence was intended to convey the message that no draft reports are maintained within OIA office files.

CONTACT: R. M. Smith, OIA
492-4454

Distribution:
FOIA 81-488 ✓
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RSmith

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FOIA 81-488 ✓

OFFICE	OIA	OIA					
NAME	RSmith	ASchnebelen					
DATE	2/18/82						

DEC 9 1981

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

FROM: Arthur Schnebelen, Acting Assistant Director
for Investigations, Office of Inspector and
Auditor

SUBJECT: FOIA-81-488

Attached for release are the following documents:

1. Ltr, Cummings to Tracey (AUSA), August 17, 1981.
2. Memo, Cummings to Palladino, August 6, 1981.
3. Memo, Cummings to Stello, February 10, 1981, w/o attach.
4. Memo, Fortuna to Keppler, January 29, 1981.
5. Memo, Cummings to Ahearne, January 5, 1981.
6. Memo, Sinclair to File, February 5, 1981.

The following documents are maintained in our files, but were generated by other offices:

1. Last two documents listed in Felton response to FOIA-81-376, dated November 20, 1981, generated by IE.
2. Memo, Palladino to Dircks, November 16, 1981.
3. Memo, Palladino to Cummings, October 2, 1981.
4. Memo, Palladino to Dircks, September 4, 1981.
5. Memo, Keppler to Stello, March 17, 1981.
6. Memo Stello to Phillips, January 16, 1981.
7. Memo, Phillips to Region III Files, December 15, 1980.
8. Memo, Keppler to Stello, January 12, 1981.

Distribution:
FOIA-81-488 ✓
Reading
RSmith

Attachments:

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OFFICE	As Stated			OIA: [initials]	OIA: [initials]		
NAME	CONTACT: Ronald H. Smith, OIA			Rsmith:jw	ASchnebelen		
DATE	492-7170			12/9/81	12/11/81		

August 17, 1981

Ms. Ann Marie Tracey
Assistant U.S. Attorney
United States Attorney
Southern District of Ohio
Cincinnati, Ohio 45202

Dear Ms. Tracey:

Enclosed is a copy of the Office of Inspector and Auditor's (OIA) report of investigation pertaining to an HRC investigation conducted in April 1980 by the Office of Inspection and Enforcement (IE) at the William H. Zimmer Nuclear Construction Project. We are providing this report in order that your office remains fully informed of the results of investigations conducted by the HRC at Zimmer.

As discussed during our April 22, 1981 meeting, OIA was tasked to investigate the adequacy of previous efforts at the Zimmer site to resolve allegations of alleged faulty construction which may have violated quality assurance criteria set forth in HRC regulations and adversely effected HRC's ability to ensure matters effecting public health and safety.

Our report specifically focuses on the merits of IE investigation 50-358/80-09 and "extends neither to the evaluation of other Region III actions relating to Zimmer nor to the question of allegedly faulty construction at Zimmer." However, OIA has initiated an investigation into the recent discoveries, by Region III, relating to both alleged altering or falsifying documentation and failures to conduct quality control inspections pursuant to Appendix B, Part 50, Title 10, Code of Federal Regulations. These allegations as they pertain to regulatory violations have been the subject of a recently completed IE investigation. This draft IE report of investigation will be forwarded to your office under separate cover.

If there are any questions regarding this matter or assistance needed, feel free to contact Arthur Schnebelen, Acting Assistant Director for Investigation or John Sinclair of the investigative staff (301-492-7170).

Sincerely,

Distribution

OIA File 81-18

OIA File I.2.b.

JSinclair

/s/ Arthur Schnebelen

James J. Cummings, Director
Office of Inspector and Auditor

Enclosure:
OIA rpt of investigation

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OFFICE	cc: David Everett, DO1, w/encl.	OIA	OIA	OIA	
NAME	Allen Pausman, DO3, w/encl.	JSinclair/bab	Schnebelen	Cummings	81
		8/17/81	8/17/81	8/ /81	

1518 Cummings

SUBJECT: OIA SPECIAL INQUIRY RE ADEQUACY OF IE INVESTIGATION
50-358/80-09 AT THE WILLIAM H. ZIMMER NUCLEAR POWER
STATION

Page 16 of original GAP Petition.

"For instance, Phillip stated that the NRC became aware of the allegations against Zimmer after Applegate called on February 28. On that date, Applegate called NRC Chairman Ahearne. 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 claims. 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 sat on."

Phillip Interview

"Senator Glenn's office provided him with the name of James Cummings, Director, OIA, NRC. Phillip then explained that Applegate claimed he contacted Cummings by telephone and related the information concerning the problems at the Zimmer site. Applegate also related to Phillip that he (Applegate) became frustrated with Cummings as a result of several telephone conversations with Cummings which culminated with Cummings' requesting that Applegate provide "something in writing" compiling the allegations. Phillip stated that Applegate thought about the request over a weekend and became angry. According to Phillip, Applegate stated that he was upset about the request because he (Applegate) had been incurring personal expenditures to ::

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- 2 -

bring the information to someone's attention and now he was requested to do more. Applegate said he then called Chairman Ahearne's office who apparently referred the matter to IE."

In view of the above, I think it appropriate for me to provide, for the record, my best recollection of the situation.

On February 19, 1981, Mr. Applegate called my office, spoke to my secretary, and asked that I return his call. After several telephone attempts by both Mr. Applegate and myself, we finally spoke two or three days later. My best recollection of the highlights of this conversation is as follows:

- Because of his investigation of the Zimmer Plant, he feared for his life and wanted me to provide for his transportation from Cincinnati, Ohio, to Washington, D.C., and to also provide for his protective custody.
- Applegate had been to both the Cincinnati FBI and the Cincinnati U.S. Attorney's office and had not received a satisfactory solution from these offices of his problem.
- He had currently locked himself in his home and was afraid to go outside because of the investigative reports he had written. He reasoned that if he could give these reports to someone in the Federal Government, then the pressure would be off him, i.e., they would be out of his control and that being the case he could go about his business with less fear.
- Applegate did not trust NRC and would definitely not deal with the NRC Regional Office.

I told Applegate that I could not provide either the transportation or protective custody that he sought, but that I would be happy to receive his written investigative reports regarding the Zimmer Plant. Applegate told me that my having a copy of his reports might solve his problems, but that he would have to think about it over the weekend and let me know of his decision.

After talking to Applegate I called the Cincinnati FBI office and verified that Applegate had been to their office seeking protective custody. The agent to whom I spoke characterized Mr. Applegate as apparently totally sane.

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TIME						

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- 3 -

Several days later, exact date not recalled, probably about February 25 or 26, Applegate again called my office, but I was not in the office to receive his call. He called again that same day and again I was not in to receive his call. During the course of his conversation with my secretary, during the second call, he asked for the name of my supervisor. My secretary provided this information to Applegate and then called former Chairman Ahearne's secretary alerting her that I would be away from the office all day and she might expect a call from Applegate. The next morning I was contacted by one of former Chairman Ahearne's staff and told that he had spoken to Applegate and had referred him to the Office of Inspection and Enforcement (IE). That same day I was subsequently contacted by Bill Ward, IE, who told me that he had spoken to Applegate and that Applegate had agreed to meet with Headquarters IE staff in Cincinnati in the next few days. In view of this arrangement I did not recontact Applegate.

Distribution:

OIA

OIA Reading

JCumings

OFFICE

OIA:

NAME

JCumings:jw

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FEB 10 1981

MEMORANDUM FOR: Victor J. Stello, Director
Office of Inspection and Enforcement

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

SUBJECT: TRANSFER OF DOCUMENTATION PROVIDED BY GOVERNMENT
ACCOUNTABILITY PROJECT (2/9/81)

Ref: (A) Memo Fortuna to Keppler, dtd 1/29/81, Subject: Confidentiality
and Restriction of Info Forwarded by Office of Inspector and
Auditor (OIA)

Pursuant to the Chairman's December 15, 1980 memorandum requesting OIA
to investigate the adequacy of an investigation (50-358/80-90) conducted
by the Office of Inspection and Enforcement into allegations raised by
Thomas W. Applegate, this Office is furnishing the attached documentation
in order for you to address possible safety issues.

OIA recently obtained the documents from representatives of the Government
Accountability Project (GAP). Representatives of GAP have agreed to
furnish all information which they have received as a result of interviews
and inquiries into the Applegate allegations and are aware that OIA
would provide the described information to IE if there were potential
safety questions. The only condition for providing the statements and
the identities of individuals related to the confidentiality and possible
disclosure of the information. Reference (A) describes the conditions of
the agreement and OIA is furnishing the enclosed material accompanied
with the previously agreed upon restrictions.

Attachments:

1. GAP Memo Dtd 2/4/81
2. Hyde Affidavit Dtd 1/31/81
3. Harris Affidavit Dtd 1/31/81
4. Hofstadter Affidavit w/enc1 Dtd 1/29/81

cc: James Keppler, Region III

Distribution:

OIA 80-18
OIA Reading
RFortuna
JSinclair

B. Ward, IE, w/enclo. 1P
8202040402

80-1

Office	OIA:	OIA:	OIA:				
Name	JSinclair	JSw RFortuna	JCummings				
Date	2/10/81						

January 29, 1981

MEMORANDUM FOR: James G. Keppler, Director, Region III

FROM: Roger A. Fortuna, Assistant Director for Investigation,
Office of Inspector and Auditor

SUBJECT: CONFIDENTIALITY AND RESTRICTION OF INFORMATION
FORWARDED BY THE OFFICE OF INSPECTOR AND AUDITOR (OIA)

During the initial phase of the OIA investigation into the IE investigation of the Thomas Applegate allegations by Region III, additional documentation and names of individuals were obtained from representatives of the Government Accountability Project (GAP). The documents were provided to OIA under the agreement that the individuals identities were to remain confidential and not identified in any report. The agreement which was reached by OIA and GAP representatives was also confirmed by telephone conversations between the Director, OIA, and GAP officials. Under the conditions set forth in the agreement, OIA guaranteed the confidentiality of the individuals by stating that identities would not be disclosed during the investigation or the reporting of the investigation. GAP was advised that the only exceptions to the agreement would be: 1) request by Congress, 2) administrative or judicial proceedings, and 3) request from official law enforcement agencies. We, therefore, are furnishing the described documents to you under the same conditions which are binding upon you during the IE investigation into this matter.

Roger A. Fortuna
Assistant Director
for Investigation

*ORIGINAL SIGNED BY
A. SCHNEIDER / J. SINKLAIR
FOR R.A. FORTUNA 01-29-81*

8202040380 1p.

OFFICE	OIA						
NAME	Fortuna/jr						
DATE	1/29/81						

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. (*see separate folder for attachment*)

cc: Commissioner Gilinsky, 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

Distribution

OIA 81-18

OIA rdr
Gamble
Sinclair

CONTACTS: David Gamble
John Sinclair
OIA - 27170

820244385

OFFICE	OIA	OIA RF	OIA				
NAME	DGamble/bab	Fortuna	Cummings				
DATE	1/5/81	1/5/81	1/5/81				



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

February 5, 1981

MEMORANDUM FOR: File

FROM: John R. Sinclair, Investigator
Office of Inspector and Auditor

SUBJECT: INVESTIGATION OF IE EFFORTS PERTAINING TO INVESTIGATIONS
OF ALLEGED CONSTRUCTION DEFICIENCIES AT THE ZIMMER
NUCLEAR FACILITY (APPLEGATE)

On February 3, 1981, the Office of Inspector and Auditor (OIA) was telephonically contacted by Mr. Thomas Devine, Deputy Director, Government Accountability Project (GAP), who was attempting to establish the current status of both the OIA and IE investigations into claims made by Thomas Applegate.

Mr. Devine was advised that it was too early to make any complete assessments of the OIA investigative effort, however, work had been initiated and all of the initial information was being reviewed. In response to the question of the IE investigative effort, Mr. Devine was advised that preliminary work was currently being done, but as yet there had not been a formulation of a new IE investigation team. Mr. Devine indicated that he was not requesting a formal or official status report, but was merely trying to obtain a general picture of how things were proceeding.

Mr. Devine stated the primary purpose of his call was to apprise OIA that his organization had obtained additional affidavits from individuals, some of whom appear to have firsthand knowledge of specific alleged construction deficiencies at Zimmer.

Mr. Devine indicated that there were approximately a dozen (12) new affidavits and statements (some unsigned). He believed that the information would assist NRC in resolving some of the allegations raised by Thomas Applegate and wanted to share the information. Mr. Devine explained that he had been contacting individuals who appeared to have specific information in order to obtain affidavits. During this process many of the individuals expressed concern as to their "anonymity" and requested written guarantees from GAP explaining the restrictions on the confidentiality of their statements. According to Devine, GAP had provided this, but had not yet received an NRC memorandum restating the confidentiality procedures expressed during the first meeting (January 7, 1981) between OIA and GAP representatives. Mr. Devine again requested the document and reiterated that the new information in his possession was available for OIA at our convenience.

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