



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

November 14, 2001

SECRETARY

Mr. Don Moniak
Community Organizer
Blue Ridge Environmental Defense League
P.O. Box 3487
Aiken, South Carolina 29802

IN RESPONSE
REFER TO FOIA 2001-018A
(FOIA 2001-0243)

Dear Mr. Moniak:

I am responding to your letter of July 13, 2001, in which you appealed the agency's response of June 14, 2001, to your FOIA request (FOIA 2001-0243). This response denied, in part, portions of records identified on Appendix A.

Acting on your appeal, the record in this case has been carefully reviewed. In response to your first concern, it has been determined that the appropriate offices have performed adequate searches for the materials you have requested. I am advised that subsequent to November 29, 2000, the meetings referred to in your FOIA request and appeal letter were no longer documented in writing.

Second, although certain meeting notes were previously made public through ADAMS, this does not mean that an agency precedent has been established. The staff has advised that such notes were mistakenly categorized as "publicly available" under ADAMS, and that if future meetings were to be documented again, such meeting notes would not be so categorized. Please note that inadvertent disclosure does not render information publicly available for the purposes of future FOIA requests. Parker v. Bureau of Land Management, 141 F. Supp. 2d 71 (D.D.C. 2001), citing Martin Marietta Corp. v. Dalton, 974 F. Supp. 37, 40 (D.D.C. 1997).

Finally, the agency has again reviewed the documents requested by you, and I have determined that some additional information may be made available to you. Therefore, your appeal is partially granted and partially denied.

Certain portions of the records (identified on Appendix A) previously withheld will continue to be withheld from public disclosure pursuant to Exemption (5) of the FOIA (5 U.S.C. §552(b)(5)) and 10 C.F.R. §9.17(a)(5) of the Commission's regulations. This predecisional information contains the candid, and/or unconfirmed views of agency staff, not the views of the NRC. The release of this information to the public could be confusing as it could cause individuals reviewing the information to attribute to the agency the unadopted views, opinions and recommendations of an agency employee. Release of this information would also tend to inhibit the open and frank expression of ideas essential to the deliberative process.

Copies of the releasable portions of these records are enclosed. The decision to allow these additional disclosures is made as a matter of administrative discretion and is in no way intended to waive any claim of exemption privileges that NRC may invoke in the future to deny access to similar documents or information.

This is a final agency action on these records pursuant to 10 C.F.R. §9.29(c)(3)(2001). As set forth in the FOIA (5 U.S.C. §552(a)(4)(B)), judicial review of this decision is available in a district court of the United States in the district in which you reside or have your principal place of business, or in the District of Columbia.

Sincerely,


Annette L. Vietti-Cook

Enclosures

APPENDIX A

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	08/25/00	Memo from Elizabeth Doroshuk, OIP, to Janice Dune Lee, OIP, subject: Meeting Summary - Weekly FSU Status Meeting, August 17, 2000. (5 pages) EX. 5
2.	08/02/00	Memo from Elizabeth Doroshuk to Janice Dunn Lee, subject: Meeting Summary - Weekly FSU Status Meeting, August 2, 2000. (5 pages) EX. 5
3.	07/10/00	Memo from Elizabeth Doroshuk to Janice Dunn Lee, subject: Meeting Summary - Weekly FSU Status Meeting, July 6, 2000. (4 pages) <u>RELEASED IN ENTIRETY</u>
4.	06/30/00	Memo from Elizabeth Doroshuk to Janice Dunn Lee, subject: Meeting Summary - Weekly FSU Status Meeting, June 27, 2000. (3 pages) EX. 5
5.	06/27/00	Memo from Elizabeth Doroshuk to Janice Dunn Lee, subject: Meeting Summary - Weekly FSU Status Meeting, June 15, 2-000. (3 pages) EX. 5
6.	06/12/00	Memo from Elizabeth Doroshuk to Janice Dunn Lee, subjectg: Meeting Summary - Weekly FSU Status Meeting, June 5, 2000. (5 pages) EX. 5