



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ANDREW M. CUOMO
ATTORNEY GENERAL

FOIA/PA REQUEST
Case No. 2009-008A
Date Rec'd 1-27-09
Specialist Christina
Related Case. 2009-0026

DIVISION OF SOCIAL JUSTICE
ENVIRONMENTAL PROTECTION BUREAU

January 27, 2009

Via Electronic Mail – FOIA.Resource@nrc.gov

Donna L. Sealing
FOIA/PA Specialist
Office of Information Services
U. S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Re: FOIA/PA Appeal of Determination on FOIA/PA 2009-0026

Dear Ms. Sealing:

The Office of the Attorney General of the State of New York (“OAG”) hereby appeals NRC’s January 8, 2009 determination in the above referenced matter. For purposes of this administrative appeal, the OAG incorporates the following: (1) the November 3, 2008 OAG Initial Request for Information and Fee Waiver (Exhibit A), (2) the January 8, 2009 NRC Response to FOIA/PA Request, Appendix D (Exhibit B).

OAG’s Initial Request for Information dated November 3, 2008, asked for

Any communication that took place between July 1, 2008 and October 31, 2008 involving the U.S. Nuclear Regulatory Commission, its staff, or contractors and Entergy, its subsidiaries, or TLG Services Inc. regarding decommissioning of the Indian Point, FitzPatrick, Vermont Yankee, Pilgrim, and/or Palisades facilities.

On January 8, 2009, the NRC responded by providing a number of documents and withholding, as protected by the deliberative process privilege, a number of others. OAG now appeals the NRC’s FOIA response as significantly incomplete.

NRC’s Response to FOIA/PA 2009-0026 is Significantly Incomplete

In response to OAG’s November 3, 2008 Request for Information, NRC produced, in their entirety, 12 documents which were primarily NRC’s invoices to Entergy. These documents in no way respond entirely to OAG’s request. OAG is aware of numerous responsive documents which NRC did not produce, including, but in no way limited to,

1) Communications regarding the Pilgrim, Vermont Yankee, and Indian Point facilities and how to allocate funds for decommissioning and dry cask storage, for example, Letter, J.E. Pollock, Entergy Site Vice President, Indian Point Energy Center, to U.S. N.R.C, RE: Unit 1 &2 Program for Maintenance of Irradiated Fuel and Preliminary Decommissioning Cost Analysis in accordance with 10 CFR 50.54 (bb) and 10 CFR 50.75(f)(3) (Oct. 27, 2008), and

2) TLG decommissioning reports and studies filed with the NRC in 2008, including but not limited to TLG Services, Inc., Document E11-1529-002, Decommissioning Cost Analysis for the Pilgrim Nuclear Power Station (Feb. 2008); TLG Services, Inc., Document E11-5690-003, Decommissioning Cost Analysis for the Pilgrim Nuclear Power Station (July 2008); TLG Services, Inc., Document E11-1582-002, Decommissioning Cost Analysis for the James A. Fitzpatrick Nuclear Power Station (Feb. 2008); TLG Services, Inc., Document E11-1559-002, Rev. 0, Decommissioning Cost Analysis for the Vermont Yankee Nuclear Power Station (Feb. 2008).

In light of the numerous documents OAG is aware of that are responsive to its November 2, 2008 request but which were not produced, OAG hereby appeals the NRC's response to its November 3, 2008 Request for Information as incomplete. OAG does not simply seek release of the above-referenced documents, which it already has in its possession, but requests that the NRC conduct a new, extensive search for responsive documents

Respectfully submitted,

/s/

Teresa Fountain
Legal Assistant Trainee
(518) 474-1978



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ANDREW M. CUOMO
ATTORNEY GENERAL

FOIA/PA REQUEST
Case No. 2009-0026
Date Rec'd 11-3-08
Specialist Nowinski
Related Case _____

DIVISION OF SOCIAL JUSTICE
ENVIRONMENTAL PROTECTION BUREAU

November 3, 2008

Via Electronic Mail

FOIA/PA Officer
U.S. Nuclear Regulatory Commission
FOIA Officer Mail Stop T5-F11
Washington, DC 20555-0001

Dear FOIA/PA Officer:

Pursuant to the Freedom of Information Act (FOIA), I respectfully request that the Nuclear Regulatory Commission (NRC) provide copies of any and all versions of the following documents:

Any communication that took place between July 1, 2008 and October 31, 2008 involving the U.S. Nuclear Regulatory Commission, its staff, or contractors and Entergy, its subsidiaries, or TLG Services Inc. regarding decommissioning of the Indian Point, FitzPatrick, Vermont Yankee, Pilgrim, and/or Palisades facilities.

This request includes any documents or information, including, but not limited to, any memoranda, attachments, enclosures, evaluations, studies, reports, appendices, charts, diagrams, CDs, DVDs, and/or transmittal letters that accompany/accompanied such documents.

This information is requested by the Office of the New York State Attorney General in the course of its official governmental duties on behalf of the People of the State of New York. This request is not based on a commercial interest of the requester.

Request for Waiver of Fees

New York State hereby requests that the NRC waive all fees associated with this request. The public disclosure of the requested information will promote the public interest and public understanding of the NRC's activities. Accordingly, the NRC should waive any fees associated

with this request. Indeed, given that the requested information is in the public interest, as opposed to a commercial interest, Congress has mandated that the NRC waive fees for copies of the above-requested reports and documents. *See* 5 U.S.C. § 552 (a)(4)(A)(iii) (“Documents shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.”). Because this request satisfies the applicable statutory standard, NRC must waive any fees associated with this request.

Plainly, the information sought by this request will contribute to the public’s understanding of the operations of the federal government. *See* 10 C.F.R. § 9.41©. New York’s FOIA request seeks information about the decommissioning of seven northeast reactors currently owned by Entergy. The decommissioning of these seven facilities is at issue in an ongoing proceeding before the New York State Public Service Commission and the Vermont Department of Public Service.¹ Since the State’s request pertains to the decommissioning of seven reactors regulated by the NRC, the request concerns the operations or activities of the federal government. *See* 10 C.F.R. § 9.41(d)(1). The NRC’s Commissioners, its Advisory Committee, and its staff have reviewed, or are in the process of reviewing, various decommissioning issues. Release of the information will allow New York State to understand the operations of the NRC and, possibly, the NRC’s interactions with various private entities. *See* 10 C.F.R. § 9.41(d)(2). Release of the information will increase the ability of New York State residents and Americans across the Nation to better understand the interaction of the NRC’s decommissioning regulations and the NRC’s exercise of its authority with respect to the decommissioning of reactor sites, *see, e.g.*, 10 C.F.R. § 50.75. Finally, as noted above, the Attorney General’s Office submits this request, not as a commercial competitor, but in the exercise of its sovereign governmental functions and on behalf of the people of the State of New York. *See* 10 C.F.R. § 9.41(d)(3). If the NRC wishes, the requested information may be placed on the public portion of the ADAMS document management system.

New York State provides the following additional information that you may also wish to consider. The Office of the Attorney General intends to use the information obtained in the furtherance of its official governmental functions on behalf of the people of the State of New

¹ The instant request seeks documents concerning seven facilities, including the three Indian Point facilities located in Westchester County 24 miles north of the New York City line. The Indian Point Nuclear Power Station has experienced various problems and unplanned shutdowns during the course of its 46 year operating history. By way of example, the Unit 1 reactor, which began operation in 1962, was shutdown in 1974 because it did not comply with various safety regulations promulgated by the Atomic Energy Commission. In February 2000, a degraded steam generator tube in Unit 2 burst releasing radionuclides in the station. This accident caused the shut down of the reactor, which remained off line and did not produce energy for 11 months. *See generally Consolidated Edison Co. v. Pataki*, 292 F.3d 338, 343 (2d Cir.), *cert. denied*, 537 U.S. 1045 (2002); New York State Public Service Commission, *Proceeding on Motion of Commission to Investigate Forced Outage at Consolidated Edison Company’s Indian Point No. 2 Nuclear Generating Facility*, Case 00 E 0612, Order, (March 30, 2000). On April 5, 2007, a transformer exploded, caught fire, and caused the temporary shutdown of Unit 3. A January 2008 hydrogeological report confirmed that the spent fuel pools for Unit 1 and Unit 2 have released tritium, strontium, and other radionuclides into the groundwater under the station and that the plumes have reached the Hudson River.

York. By way of example, such functions include participating in administrative proceedings concerning the PSC's review of Entergy's proposed restructuring, the development and amendment of NRC regulations, Atomic Safety and Licensing Board proceedings, and other NRC activities. The Office of the Attorney General will extract and analyze the information contained in the documents to examine the status of decommissioning funds, commitments, and issues at the seven reactors and evaluate NRC's responses thereto. The Office may use or reference information contained in the requested documents in various New York State administrative proceedings or NRC administrative proceedings (*e.g.*, PSC No. E-08-0077, NRC RIN 3150-AH45) and/or to evaluate NRC staff work product (*e.g.*, Indian Point Supplemental Environmental Impact Statements). One of the issues in the PSC proceeding concerns the decommissioning of the seven referenced facilities. The likely impact of the release of the requested information will be a substantial increase in the public understanding of the implications of decommissioning regulations and obligations when compared to the understanding of such events before the release of such documents. Recent statements by Entergy indicate that there have been communications between Entergy and the NRC regarding decommissioning issues at two or more of the identified facilities, yet the OAG has not been able to locate such communications on ADAMS. At present, the public does not have ready access to the documents, and its understanding of the issue is impeded. The release of the information could increase public understanding of decommissioning issues. For example, and as you may be aware, each day approximately 20 million American citizens live, work, attend school, or travel within 50 miles of the Indian Point facilities. The NRC has acknowledged that the Indian Point facilities have the highest surrounding population density of any power reactor in the Nation. The Office may include the requested information in potential future filings or communications with the NRC and/or other federal or state governmental bodies; as such, the content of such filings would be available to the public through the operative proceeding or by request. Additionally, federal agencies typically post such filings in a publicly available docket (*e.g.*, NRC Rulemaking Docket). Further, as noted, if the NRC wishes, it may post the requested information at one or more location on its web site so that the public may view it. None of these methods would entail a charge to a citizen who wished to review the information. The Attorney General's Office submits this request, not as a commercial competitor, but in the exercise of its sovereign governmental functions and on behalf of the people of the State of New York.

Without seeing the quality and quantity of the information, it is difficult to guarantee the exact title, date, or length of a document that would contain the requested information. Nevertheless, the Office of the Attorney General anticipates that the information gleaned from the request would be incorporated in, for example, the State's (1) public petitions and other submissions to the NRC concerning decommissioning issues as well as other related regulatory matters and generic safety issue and rulemaking processes (*e.g.*, NRC RIN 3150-AH45); (2) public filings with the New York State Public Service Commission (*e.g.*, PSC Case No. E-08-0077).

The Office of the Attorney General disseminates its filings in a variety of ways. To begin with, such documents would be available on various public web sites, including, for example, those maintained by the New York Public Service Commission and the Nuclear Regulatory

Commission (e.g., NRC Agencywide Documents Access and Management System (ADAMS)).

Separate and apart from such postings, such documents would be available directly from the Office of the Attorney General. In addition, the Office of the Attorney General has publicized various filings it has made with respect to the development of NRC regulations and/or the Indian Point facilities, which has increased the public awareness of such filings and their content.² Various media (internet, print, radio, television) have reported on such filings over the past two years.³ And from time to time, NRC officials, such as the Chairman or staff in the Office of Public Affairs, have responded to or commented on the State's filings -- thereby further increasing the public's awareness of the State's filings.⁴ Assuming that the NRC actually possesses information and documents that are responsive to the State's FOIA request, such response would also be available from the Office of the Attorney General and, presumably, also from the NRC's public ADAMS site.

Furthermore, over the past two years, the Office of the Attorney General has organized public forums around the State during which citizens and staff may discuss issues of interest to a particular community. By way of example, forums have been held in White Plains, Westchester County (approximately 17 miles from the Indian Point facilities), in Manhattan (approximately 35 miles from Indian Point), and Middletown, Orange County (approximately 29 miles from Indian Point). Various forums have included discussions about Indian Point and NRC regulatory issues. The Office plans to organize additional public forums in the future. At the same time, representatives of the Office of the Attorney General have attended public meetings convened by the Nuclear Regulatory Commission and have submitted public comments about issues of concern during such meetings. Such comments have been based, in part, on public information from the NRC. The Office plans to attend future meetings scheduled by the NRC.

The various means for dissemination identified by the State easily satisfy the applicable standard for fee waivers. See *Judicial Watch v. Rossotti*, 326 F.3d 1309 (D.C. Cir. 2003). Thus, there is no basis to deny this Office's application that the NRC waive all fees associated with this FOIA request. The Office of the Attorney General notes that Congress intended that § 552(a)(4)(A)(iii) be liberally construed in favor of granting fee waivers. See 132 Cong. Record at S14,298 (Sept. 30, 1986) (Sen. Leahy); *id.* at H9464 (Oct. 8, 1986) (Rep. English). In enacting

² See, e.g., Press Release, King & Cuomo Reveal Unnecessary Lack Of Safeguards On Potentially Deadly Highly Enriched Uranium Push Ban To Keep Dangerous Materials Out Of Terrorists' Hands (August 12, 2008), available at http://www.oag.state.ny.us/media_center/2008/aug/aug12a_08.html; Press Release, Attorney General Cuomo & 5 Other States Demand NRC Consider Terrorism And Earthquakes When Relicensing Nuclear Plants (November 15, 2007) attached to NRC ML073511837; Press Statement From Attorney General Andrew Cuomo (regarding the July 16, 2007 earthquake in Japan's Niigata Province and its impact on Tokyo Electric Power Company's Kashiwazaki Kariwa nuclear power reactors), available at http://www.oag.state.ny.us/media_center/2007/jul/jul16c_07.html.

³ See, e.g., *Nuclear Plants Subject to Terrorism, Earthquakes, States Warn* (November 16, 2007), available at http://www.ens.newswire.com/ens/nov2007/2007_11_16_091.asp; WNBC Broadcast *Earthquake Zone Intersection Threatens Indian Point Nuclear Plant* (August 22, 2008), available at <http://www.wnbc.com/news/17261669/detail.html>.

⁴ See, e.g., December 30, 2007 letter from NRC Chairman Dale E. Klein to New York State Attorney General Andrew M. Cuomo (responding to seismic and security concerns) NRC ML073400603.

the provision, Congress sought to ensure that noncommercial requesters would be granted fee waivers on a routine basis. *See id.* at S16496 (Oct. 15, 1986) (colloquy between Sens. Kerry and Leahy); *id.* at S14,299 (Sept. 30, 1986) (Sen. Leahy). While the applicable statutory framework authorizes an agency to charge fees in cases in which FOIA requests are made for a “commercial” purpose, the State of New York’s underlying request plainly is not for a commercial purpose. New York respectfully submits that the State’s underlying request, which seeks information about the operations or activities of the federal government, will contribute to the public understanding of the government’s operations and activities and will further the public interest. Accordingly, the NRC should waive any fees associated with the request. *Judicial Watch*, 326 F.3d 1309 (“Congress amended FOIA to ensure that it is ‘liberally construed in favor of waivers for noncommercial requesters.’”).

Conclusion

Please produce all responsive documents within 10 days of the receipt of this letter.

If you have any questions concerning this FOIA request, please contact me directly at (518) 474-1978 or Teresa.Fountain@oag.state.ny.us. Thank you for your attention to this matter.

Respectfully submitted,

/s/

Teresa Fountain
Legal Assistant Trainee
(518) 474-1978



RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) / PRIVACY ACT (PA) REQUEST

2009-0026

2

RESPONSE TYPE FINAL PARTIAL

REQUESTER
Teresa Fountain

DATE
JAN - 8 2009

PART I. - INFORMATION RELEASED

- No additional agency records subject to the request have been located.
- Requested records are available through another public distribution program. See Comments section.
- APPENDICES **B** Agency records subject to the request that are identified in the listed appendices are already available for public inspection and copying at the NRC Public Document Room.
- APPENDICES **C** Agency records subject to the request that are identified in the listed appendices are being made available for public inspection and copying at the NRC Public Document Room.
- Enclosed is information on how you may obtain access to and the charges for copying records located at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD 20852-2738.
- APPENDICES **C** Agency records subject to the request are enclosed.
- Records subject to the request that contain information originated by or of interest to another Federal agency have been referred to that agency (see comments section) for a disclosure determination and direct response to you.
- We are continuing to process your request.
- See Comments.

PART I.A - FEES

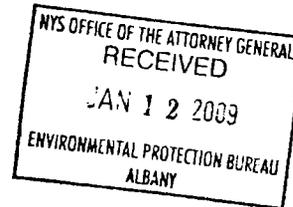
- AMOUNT * You will be billed by NRC for the amount listed. None. Minimum fee threshold not met.
- \$ You will receive a refund for the amount listed. Fees waived.
- * See comments for details

PART I.B - INFORMATION NOT LOCATED OR WITHHELD FROM DISCLOSURE

- No agency records subject to the request have been located.
- Certain information in the requested records is being withheld from disclosure pursuant to the exemptions described in and for the reasons stated in Part II.
- This determination may be appealed within 30 days by writing to the FOIA/PA Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Clearly state on the envelope and in the letter that it is a "FOIA/PA Appeal."

PART I.C COMMENTS (Use attached Comments continuation page if required)

The incoming request is in ADAMS at ML083080298.



SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

Mary Ann Raphael
DONNA SEALING

NRC FORM 464 Part II (2-2008)	U.S. NUCLEAR REGULATORY COMMISSION	FOIA/PA	DATE
RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) / PRIVACY ACT (PA) REQUEST		2009-0026	JAN - 8 2009

PART II.A – APPLICABLE EXEMPTIONS

APPENDICES
D & E

Records subject to the request that are described in the enclosed Appendices are being withheld in their entirety or in part under the Exemption No.(s) of the PA and/or the FOIA as indicated below (5 U.S.C. 552a and/or 5 U.S.C. 552(b)).

- Exemption 1: The withheld information is properly classified pursuant to Executive Order 12958.
- Exemption 2: The withheld information relates solely to the internal personnel rules and procedures of NRC.
 - Low 2 Internal matters of a relatively trivial nature.
 - High 2 Disclosure would risk circumvention of a legal requirement.
- Exemption 3: The withheld information is specifically exempted from public disclosure by statute indicated.
 - Sections 141-145 of the Atomic Energy Act, which prohibits the disclosure of Restricted Data or Formerly Restricted Data (42 U.S.C. 2161-2165).
 - Section 147 of the Atomic Energy Act, which prohibits the disclosure of Unclassified Safeguards Information (42 U.S.C. 2167).
 - 41 U.S.C., Section 253b, subsection (m)(1), prohibits the disclosure of contractor proposals in the possession and control of an executive agency to any person under section 552 of Title 5, U.S.C. (the FOIA), except when incorporated into the contract between the agency and the submitter of the proposal.
- Exemption 4: The withheld information is a trade secret or commercial or financial information that is being withheld for the reason(s) indicated.
 - The information is considered to be confidential business (proprietary) information.
 - The information is considered to be proprietary because it concerns a licensee's or applicant's physical protection or material control and accounting program for special nuclear material pursuant to 10 CFR 2.390(d)(1).
 - The information was submitted by a foreign source and received in confidence pursuant to 10 CFR 2.390(d)(2).
 - Disclosure will harm an identifiable private or governmental interest.
- Exemption 5: The withheld information consists of interagency or intraagency records that are not available through discovery during litigation. Applicable privileges:
 - Deliberative process: Disclosure of predecisional information would tend to inhibit the open and frank exchange of ideas essential to the deliberative process. Where records are withheld in their entirety, the facts are inextricably intertwined with the predecisional information. There also are no reasonably segregable factual portions because the release of the facts would permit an indirect inquiry into the predecisional process of the agency.
 - Attorney work-product privilege. (Documents prepared by an attorney in contemplation of litigation)
 - Attorney-client privilege. (Confidential communications between an attorney and his/her client)
- Exemption 6: The withheld information is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy.
- Exemption 7: The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated.
 - (A) Disclosure could reasonably be expected to interfere with an enforcement proceeding (e.g., it would reveal the scope, direction, and focus of enforcement efforts, and thus could possibly allow recipients to take action to shield potential wrongdoing or a violation of NRC requirements from investigators).
 - (C) Disclosure would constitute an unwarranted invasion of personal privacy.
 - (D) The information consists of names of individuals and other information the disclosure of which could reasonably be expected to reveal identities of confidential sources.
 - (E) Disclosure would reveal techniques and procedures for law enforcement investigations or prosecutions, or guidelines that could reasonably be expected to risk circumvention of the law.
 - (F) Disclosure could reasonably be expected to endanger the life or physical safety of an individual.
- OTHER (Specify)

PART II.B – DENYING OFFICIALS

Pursuant to 10 CFR 9.25(g), 9.25(h), and/or 9.65(b) of the U.S. Nuclear Regulatory Commission regulations, it has been determined that the information withheld is exempt from production or disclosure, and that its production or disclosure is contrary to the public interest. The person responsible for the denial are those officials identified below as denying officials and the FOIA/PA Officer for any denials that may be appealed to the Executive Director for Operations (EDO).

DENYING OFFICIAL	TITLE/OFFICE	RECORDS DENIED	APPELLATE OFFICIAL		
			EDO	SECY	IG
Marvin L. Itzkowitz	Associate General Counsel for Hearings, Enforcement and Administration	Appendix -D		✓	
Eric J. Leeds	Director, Office of Nuclear Reactor Regulation	Appendix -E	✓		

Appeal must be made in writing within 30 days of receipt of this response. Appeals should be mailed to the FOIA/Privacy Act Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, for action by the appropriate appellate official(s). You should clearly state on the envelope and letter that it is a "FOIA/PA Appeal."

**APPENDIX D
RECORDS BEING WITHHELD IN THEIR ENTIRETY**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	No date	Draft Safety Evaluation of the Office of Nuclear Reactor Regulation Application for Indirect Transfer of Facility Operating Licenses Due to Entergy Corporation Restructuring Pilgrim Nuclear Power Station: Docket No. 50.293, Indian Point Nuclear Generating Unit No. 1; Docket No. 50-003, Indian Point Nuclear Generating Unit No. 2; Docket Nos. 50-247 & 72.51, Indian Point Nuclear Generating Unit No. 3; Docket No. 50-286, James A Fitzpatrick Nuclear Power Plant; Docket Nos. 50-333 & 72-12, Vermont Yankee Nuclear Power Station; Docket Nos. 50-271 & 72-59, Palisades Nuclear Plant; Docket Nos. 50-255 & 72-7, Big Rock Point; Docket Nos. 50-155 & 72-43 (21 pages) EX 5: Predecisional [Portions outside of scope]
2.	No date	Draft Safety Evaluation of the Office of Nuclear Reactor Regulation Application for Indirect Transfer of Facility Operating Licenses Due to Entergy Corporation Restructuring Pilgrim Nuclear Power Station: Docket No. 50.293, Indian Point Nuclear Generating Unit No. 1; Docket No. 50-003, Indian Point Nuclear Generating Unit No. 2; Docket Nos. 50-247 & 72.51, Indian Point Nuclear Generating Unit No. 3; Docket No. 50-286, James A Fitzpatrick Nuclear Power Plant; Docket Nos. 50-333 & 72-12, Vermont Yankee Nuclear Power Station; Docket Nos. 50-271 & 72-59, Palisades Nuclear Plant; Docket Nos. 50-255 & 72-7, Big Rock Point; Docket Nos. 50-155 & 72-43 (19 pages) EX 5: Predecisional/Attorney Work Product/Attorney-Client Privilege [Portions outside of scope]
3.	No date	Draft 5.0 Decommissioning Funding Assurance (1 page) EX: 5 Predecisional/Attorney-Client Privilege
4.	No date	Draft Enclosure 2 - Safety Evaluation of the Office of Nuclear Reactor Regulation Application for Indirect Transfer of Facility Operating Licenses Due to Entergy Corporation Restructuring Pilgrim Nuclear Power Station: Docket No. 50.293, Indian Point Nuclear Generating Unit No. 1; Docket No. 50-003, Indian Point Nuclear Generating Unit No. 2; Docket Nos. 50-247 & 72.51, Indian Point Nuclear Generating Unit No. 3; Docket No. 50-286, James A Fitzpatrick Nuclear Power Plant; Docket Nos. 50-333 & 72-12, Vermont Yankee Nuclear Power Station; Docket Nos. 50-271 & 72-59, Palisades Nuclear Plant; Docket Nos. 50-255 & 72-7, Big Rock Point; Docket Nos. 50-155 & 72-43 (20 pages) EX 5: Predecisional [Portions outside of scope]

FOIA Resource

From: Teresa Fountain [Teresa.Fountain@oag.state.ny.us]
Sent: Tuesday, January 27, 2009 8:46 AM
To: FOIA Resource
Subject: FOIA/PA Appeal of Determination on FOIA/PA 2009-0026
Attachments: 2009 01 27 OAG Appeal of NRC Final Response.pdf

Dear Ms. Sealing:

Attached is the State of New York's appeal of NRC's determination on FOIA/PA 2009-0026 received in this office on January 12, 2009. If you have any questions, please contact me. No hard copy to follow.

Thank you,

Teresa Fountain
Legal Assistant Trainee II
Environmental Protection Bureau
Office of the Attorney General
The Capitol
Albany, NY 12224
(518) 474-1978
(518) 473-2534 fax