



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D. C. 20555

November 5, 1979

*Duplicate copy
for microfiche*

Docket Nos. 50-461
and 50-462

Mr. Peter Penner
Prairie Alliance, Law Division
P.O. Box 2424
Station A
Champaign, IL 61820

IN RESPONSE REFER
TO FOIA-79-414

Dear Mr. Penner:

This is in further response to your letter dated September 26, 1979, in which you requested, pursuant to the Freedom of Information Act, copies of documents relating to the five items stated in your letter.

By letter dated October 15, 1979, issued by Mr. S. J. Wolfe, Esquire, you were provided with a response to item (2)(b) of your request. As stated in Mr. Wolfe's letter, the Reed Report provided by the General Electric Company to the Atomic Safety and Licensing Board in the Black Fox Proceeding was made available to the Board under a Protective Order, and is not available to the public.

Your contention, as stated in the September 26, 1979 letter, that "the two responses I received from you, dated 6/11/79 and 6/30/79, were responsive only to items numbered 2-4 in that request", is not correct. Our two responses to you were addressed to all documents subject to your FOIA request submitted under "FOIA-79-168", the number we assigned to your request. Our statement in the last paragraph of our letter to you dated June 30, 1979, which read: "This reply completes our response to your request", was intended to convey to you the fact that we had exhausted our search for documents subject to your request, which previously had not been made available to the public either at the NRC Public Document Room (PDR), 1717 H Street, N.W., Washington, DC, or at the NRC Local Public Document Room (LPDR) for the Clinton plant Units 1 and 2 located in the Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois. (Mrs. M. Evans, Librarian, (217) 935-5174).

With respect to item (1) of your request, document 39 of Appendix A is an excerpt from the Draft Environmental Statement related to operation of the Virgil C. Summer Nuclear Station (pages 6-1 through 6-5 of NUREG-0534 of June 1979). Regarding WASH-1400 and Clinton Units 1 and 2, there are no documents containing information to the effect of the NRC partial repudiation of WASH-1400 on Clinton Units 1 and 2 arising from the re-assessment of WASH-1400 reliance as a bases for licensing criteria in light of the Lewis Report.

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With respect to item (2)(a) of your request, documents 1 through 38 of Appendix A relate to matters addressed in the Reed Report which is withheld from public disclosure pursuant to the Protective Order previously mentioned.

With respect to item (3) of your request, we replied to you in item 8, Appendix A of our letter to you dated June 11, 1979 as follows:

- "8. (Date not available) Appendix A, Revision 1 to Task Action Plan for Generic Tasks.
 - A. Note: This document is an appendix to the testimony of M. B. Aycock, Lawrence P. Crocker, and Cecil O. Thomas. The testimony and appendix documents are contained in the files of Docket Nos. 50-556 and 50-557 for the Black Fox Nuclear Power Reactor Units 1 and 2, respectively. These files are available for public inspection and copying at the NRC Public Document Room located at 1717 H Street, N.W., Washington, DC and at the Local Public Document Room for the Black Fox facilities located at the Tulsa City-County Library, 400 Civic Center, Tulsa, Oklahoma.
 - B. A copy may be purchased from the NRC-PDR * for the charges specified in 10 CFR, Part 9.14(a) - i.e., @ \$0.08 per page copied."

With respect to item (4) of your request, document 41 of Appendix A is a Memorandum and Order by the NRC Commissioners in the matter of Offshore Power Systems, dated September 14, 1979 (see particularly pages 9 and 10). At the present time there are no documents pertaining to the effect of the recent NRC staff position that the accident at Three Mile Island was a Class 9 accident on construction permit and operating license granting, suspension, modification, or revocation criteria. Document 40 is a document regarding the referenced staff position relating to the TMI-2 event to a Class 9 accident.

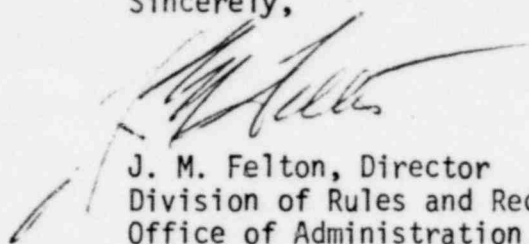
With respect to items (1), (2)(a), and (4), please be advised that a request made pursuant to the Freedom of Information Act applies only to records in the possession of the agency on the date the request was received. Since your request may pertain to records which may be created at some future date, the FOIA is not applicable. You may wish to resubmit your request at some future date after which time we will be pleased to respond further.

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Copies of the documents listed in Appendix A are enclosed, and copies are being placed in the PDR and LPDR.

This completes action on your request.

Sincerely,

A handwritten signature in dark ink, appearing to read "J. M. Felton", is written over a faint, larger version of the typed name below it.

J. M. Felton, Director
Division of Rules and Records
Office of Administration

Enclosures: As stated

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Re: FOIA-79-414
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APPENDIX A

1. April 25, 1974, Memorandum, Atomic Safety and Licensing Appeal Board, re: Commonwealth Edison Company (Zion Station, Units 1 and 2) Docket Nos. 50-295 and 50-304 (9 pages)
2. February 18, 23, 24, and March 2 and 4, 1976, JOINT COMMITTEE ON ATOMIC ENERGY CONGRESS OF THE UNITED STATES (INVESTIGATION OF CHARGES RELATING TO NUCLEAR REACTOR SAFETY) Volume 1, pages 186-196 and 314-315 (14 pages)
3. February 18, 23, and 24 and March 2 and 4, 1976, JOINT COMMITTEE ON ATOMIC ENERGY CONGRESS OF THE UNITED STATES (INVESTIGATION OF CHARGES RELATING TO NUCLEAR REACTOR SAFETY) Volume 2, pages 1495-1497 (5 pages)
4. July 29, 1976, Decision, Atomic Safety and Licensing Appeal Board, re: Illinois Power Company (Clinton Power Station, Unit Nos. 1 and 2) Docket Nos. 50-461 and 50-462 (5 pages)
5. May 5, 1978, TO: Andrew T. Dalton, Jr., Esquire FROM: L. Dow Davis (1 page)
6. June 2, 1978, TO: Ilene P. Younghein, FROM: Milton J. Crossman
 - a. June 2, 1978, TO: Joseph Hendrie, Chairman FROM: Ilene Younghein
Subject: Black Fox STN 50-556 and 50-557 (12 pages)
7. June 20, 1978, NOTE TO: Roger Boyd FROM: L. Dow Davis Re: THE REED REPORT (1 pg.)
8. June 28, 1978, MEMORANDUM FOR: L. Dow Davis FROM: D. D. Vassallo, Subject: REED REPORT (1 page)
9. July 10, 1978, TO: Dr. Glenn Sherwood FROM: Roger Mattson, Director (2 pages)
10. October 18, 1978 TO: T. Rognald Dankmeyer FROM: John R. Woodard Docket Nos. STN 50-556 and 50-557 (1 page)
11. October 18, 1978 TO: General Electric Company FROM: Sheldon J. Wolfe (Black Fox Station Units 1 and 2) Docket No. STN 50-556 and 50-557 (3 pages)
12. October 30, 1978, General Electric Motion to Quash Intervenor's Subpoena Dated October 18, 1978 (Black Fox Stations, Units 1 and 2) Docket Nos. STN 50-556 and 50-557 (3 pages)
13. October 30, 1978, MEMORANDUM IN SUPPORT OF GENERAL ELECTRIC MOTION TO QUASH (Black Fox Stations Units 1 and 2) Docket Nos. STN 50-556 and STN 50-557 (47 pgs)
 - a. February 25, 1976, Attachment 4 to Section II.D By: Ben C. Ruche
pages 883-884 (2 pages)
 - b. February 29, 1978, Affidavit of Robert M. Ketchel Docket Nos. STN 50-556 and 50-557 (2 pages)
 - c. March 6, 1978 TO: Dr. Sherwood FROM: Roger J. Mattson, Director (2 pages)
 - d. March 22, 1978, TO: Dr. Roger J. Mattson, Director FROM: Glenn G. Sherwood, Manager SUBJECT: Request for Reed Report Information (5 pages)

- e. May 26, 1978 TO: General Electric Company FROM: Glenn Sherwood SUBJECT: Request for Reed Report Information (5 pages)
- f. July 10, 1978, TO: Dr. Glenn Sherwood FROM: Roger J. Mattson, Director SUBJECT Request for withholding Information from Public Disclosure (2 pgs.)
- g. October 27, 1978 Affidavit of Glenn G. Sherwood (5 pages)
- h. October 30, 1978 Certificate of Service Docket Nos. STN 50-556 and STN 50-557 (2 pages)
- i. October 30, 1978 Notice of Special Appearance, Goerge L. Edgar, Docket Nos. STN 50-556 and STN 50-557 (2 pages)
- j. October 30, 1978 Notice of Special Appearance, Kevin P. Galler, Docket Nos. STN-50-556 and STN 50-557 (2 pages)
- 14. October 30, 1978 Before the Atomic Safety and Licensing Board -- NRC Staff Response to General Electric Motion to Quash Intervenor's Subpoena, Docket Nos. STN 50-556 and STN 50-557 (14 pages)
- 15. May 1978 NUREG-0371 Task Action Plans for Generic Activities Category A (est. 210 pgs)
- 16. November 6, 1978, Before the Atomic Safety and Licensing Board -- Affidavit of Vaughn L. Conrad. Docket Nos. STN 50-556 and STN 50-557 (10 pages)
- 17. November 7, 1978, Before the Atomic Safety and Licensing Board -- Applicants' Brief in Support of General Electric's Motion to Quash Subpoena, Docket Nos. STN 50-556 and STN 50-557 (23 pages)
- 18. Novem. 7, 1978, Before the Atomic Safety and Licensing Board -- Intervenor's Response to General Electric Company's Motion to Quash Docket Nos. STN 50-556 and STN 50-557 (29 pages)
- 19. November 13, 1978 Before the Atomic Safety and Licensing Board -- Intervenor's Motion to Reply to Applicant's Brief in Support of General Electric's Motion to Quash Subpoena, Docket Nos. STN 50-556 and STN 50-557 (5 pages)
- 20. January 2, 1979 letter to Sheldon J. Wolfe, Frederick Shon, and Paul W. Purdom from George L. Edgar re: Application of Public Service Company of Oklahoma, Associated Electric Cooperative, Inc. and Western Farmers Electric Cooperative, with attachment A (Agreement Regarding disclosure of Confidential Commercial Information) Docket Nos. STN 50-556 and STN 50-557 (11 pages)
- 21. January 3, 1979 letter to Sheldon Wolfe, F. Shon, and P. Purdom from George Edgar Docket Nos. STN 50-556 and STN 50-557 (attachment Certificate of Service) (4 pages)
- 22. January 4, 1979 letter to S. J. Wolfe, F. J. Shon, and P. W. Purdom from George L. Edgar Docket No. STN 50-556 and STN 50-557 (attaching Protective Order and Agreement Regarding Disclosure of Confidential Commercial Information) (12 pages)
- 23. January 5, 1979, Protective Order Docket Nos. STN 50-556 and STN 50-557 (7 pages)
- 24. Undated Agreement as to Disclosure of Confidential Commercial Information (5 pgs)
- 25. February 14, 1979, letter to G. Edgar from L. Dow Davis with enclosures: Agreement Regarding Disclosure of Confidential Information by Cecil O. Thomas, Jr., Docket Nos. STN 50-556 and 50-557 (9 pages)

26. March 22, 1979, letter to S. Wolfe, F. Shon, and P. Purdom from L. Dow Davis (without enclosure) (2 pages)
27. March 23, 1979, letter to Brian D. Hunt from Sheldon J. Wolfe (FOIA-79-51) (2 pgs)
28. March 26, 1979, letter to Donna R. Hooper from H. K. Shapar (1 page)
29. March 28, 1979, letter to S. Wolfe, F. Shon, and P. Purdom from George L. Edgar (6 pages)
30. April 2, 1979, Before the Atomic Safety and Licensing Board, ORDER Docket Nos. STN 50-556 and STN 50-557 (1 page)
31. April 12, 1979, Before the Atomic Safety and Licensing Board, ORDER Docket Nos. STN 50-556 and STN 50-557 (2 pages)
32. April 12, 1979, Before the Atomic Safety and Licensing Board, ORDER Docket Nos. STN 50-556 CP and 50-557 CP (5 pages)
33. April 13, 1979, letter to S. Wolfe, F. Shon, and P. Purdom from George Edgar (4 pg)
34. April 18, 1979, letter to S. Wolfe, F. Shon, and P. Purdom from George Edgar (2 pg)
35. April 19, 1979, letter to G. Edgar from S. Wolfe (1 page)
36. April 18, 1979, letter to G. Edgar from L. Dow Davis with enclosures - Agreement Regarding Disclosure of Confidential Information by Lawrence P. Crocket; Michael B. Aycock, Kazimeras M. Campe, William D. Paton; and John A. Kudrick, Mel B. Fields (17 pages)
37. May 30, 1979, Before the Atomic Safety and Licensing Board, Certification to the Commission (8 pages)
38. Significant Event, Black Fox, Units 1 and 2 (1 page)
39. June 1979 NUREG-0534 Virgil C. Summer Nuclear Station Unit No. 1 (6 pages)
40. August 16, 1979, Note to Guy H. Cunningham III from Roger J. Mattson attaching Response to the Salem Spent Fuel Pool Board Question on Class 9 Accidents. (4 pgs)
41. September 14, 1979, Memorandum and Order Docket No. STN 50-437 (10 pages)

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Prairie Alliance
Law Division
P. O. Box 2424--Station A
Champaign, Illinois 61820

September 26, 1979

**FREEDOM OF INFORMATION
ACT REQUEST**

FOIA-79-414
rec'd 10-2-79

Mr. J. M. Felton, Director
Division of Rules and Records
Office of Administration
Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Mr. Felton:

This Freedom of Information Act request is a follow-up to my previous request, FOIA-79-168, dated May 4, 1979. The two responses I received from you, dated 6/11/79 and 6/30/79, were responsive only to items numbered 2-4 in that request. In addition, you forwarded a list of documents generally related to post-Lewis Report use of Wash-1400 by the NRC staff.

In order to fulfill my previous request and gain additional information, I am now writing to request the following:

(1) A copy of information stated in paragraph number (1) of my May 4, 1979 request (FOIA-79-168), i.e., NRC documents specifically related to the effect of the NRC partial repudiation of Wash-1400 on the Clinton Units I and II (Docket #70-461 and 70-462). In other words, I wish to receive a copy of documents containing information with regard to the NRC staff review of the existing plant licenses for Clinton Units I and II arising from the re-assessment of Wash-1400 reliance as a basis for licensing criteria in light of the Lewis Report.

(2)(a) A copy of NRC documents relating to a study done by General Electric--known as the Reid Report--which discusses unresolved safety problems of Boiling Water Reactors manufactured by General Electric, such as the one at the Black Fox facility. As in the previous request, I would especially like copies of NRC documents utilizing and/or discussing the Reid Report information in its application to licensing and other NRC review of Clinton Units I and II.

(2)(b) In this regard, I also request a copy of the Reid Report itself.

(3) A copy of Appendix A, Revision 1 to Task Action Plan for Generic Tasks contained in the files of Docket #50-556 and #50-557. (This is an appendix to the testimony of Mssrs. Aycock, Crocker and Thomas.)

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(4) Any NRC documents pertaining to the effect of the recent NRC staff position--that the accident at Three Mile Island was a class 9 (nine) accident--on construction permit and operating license granting, suspension, modification, or revocation criteria. (I have enclosed a copy of a news article to specify this ruling.) Once again, any documents relating the effects of this new position to the licensing process, including granting, suspension, modification, or revocation, for the Clinton reactors or other BWRs is also requested.

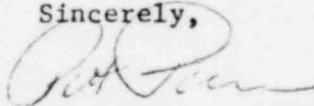
It would greatly facilitate our correspondence if you would specify your response to these requests by utilizing the corresponding paragraph numbers from this letter. In the unlikely event that copies of any of the requested information are denied, please describe the deleted material in detail and specify the statutory basis for the denial as well as your reasons for believing that the alleged statutory justification applies in this instance. This might help to avoid possibly unnecessary litigation at a future date.

I anticipate, however, that all of this information will be made available within the statutorily prescribed period. I also request that any copying fees be waived since disclosure in this case certainly meets the statutory standard for waiver of fees: ". . . furnishing [this] information can be considered as primarily benefiting the general public." 5 U.S.C. § 522 (a) (4) (A). I note in this regard that much of the requested information relates to general licensing criteria and as a member of a broad-based public interest organization, I intend to make this information known to all interested members of the public.

As provided for in the Act, I will expect to receive a reply within 10 (ten) working days.

If you have any questions regarding this request, please telephone me at this number: (217) 384-4103.

Sincerely,



Peter Penner

Enclosure

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Decision on TMI may tighten nuclear licensing

By Harlan Draeger

The decision by federal experts that a Class 9 accident occurred at the Three Mile Island power plant apparently signals a new turn in the national debate over nuclear power.

Critics of nuclear safety procedures say they have gained fresh, powerful ammunition to challenge licenses for existing and future plants.

They contend that the government, in conceding an accident of that magnitude for the first time, must ensure that all plants can withstand them.

Class 1 accidents are those in which the consequences are "trivial." Class 8 accidents are "design basis" events—the worst possibilities that plant safety equipment is designed to control. Class 9 accidents involve a series of successive plant failures "more severe" than those for which plant safeguards are designed.

UNTIL NOW, evidence about the possibility of a Class 9 accident has been excluded from license proceedings for nuclear reactors. Chances of such an event were considered too remote for consideration in license reviews.

But a little-noticed statement two weeks ago by the staff of the Nuclear Regulatory Commission put the Three Mile Island accident near Harrisburg, Pa., in the Class 9 category.

Frank Ingram, NRC spokesman in Washington, said it's "too early to tell" how the designation might affect licensing. Top NRC officials were not available for comment Friday.

Industry representatives were surprised by the decision and fully expect nuclear foes to make the most of it. But they said it will not necessarily lay new ground rules for licenses.

In Chicago, a spokesman for Commonwealth Edison Co. said the Class 9 designation

for Three Mile Island "could do a lot of harm if it isn't undone."

Edison has seven operating reactors, six more under construction and several more on the drawing boards.

Nationwide, there are 70 fully licensed units and more than 120 requiring either construction or operating permits.

For years, the federal government has used a range of numbers to rank possible accidents at nuclear plants.

THE NRC STAFF POSITION on Three Mile Island came up indirectly in connection with proposed expansion of spent fuel storage at a New Jersey nuclear plant. There, the licensing board formally asked the NRC staff whether the Pennsylvania accident fell into the Class 9 category. Its response:

"While the release of radioactive material to the off-site population was very small, the staff nonetheless concludes that the accident at Three Mile Island was a Class 9 accident."

The response was written by Roger J. Mattson, head of an NRC task force looking into the accident.

NRC staff experts said there is no specific definition of a Class 9 accident. But they said the courts and NRC appeal boards generally hold that it must involve simultaneous failures of all or "numerous" safety systems in power plants.

Mattson said the Three Mile Island breakdown involved "a sequence of three successive failures" more severe than those for which plant safeguards were designed.

Mattson emphasized that the radiological "consequences" were within the plant's design standards. He said the accident qualifies as a Class 9 event only from the standpoint of "possible, rather than actual, radiological consequences."

UTILITY WORRIES ABOUT the Class 9 is

sue were expressed in a response by New Jersey's Public Service Electric & Gas Co. It warned of a "sweeping precedent . . . affecting all pending cases [and perhaps those plants for which licenses have already been issued]."

Environmentalists seized on the NRC statement as a "significant" new opening in their challenge to nuclear power.

Greg Minor, one of three former General Electric Co. nuclear engineers who resigned because of safety concerns, said he was surprised by the decision.

"In terms of the licensing process, it really says there are not adequate criteria to protect the health and safety of the public," said Minor, a consultant for intervenors in the New Jersey case. "Exclusion of Class 9 accidents as an 'incredible' event no longer is substantiated by our experience."

Minor foresees an immediate evaluation of existing reactors and "more stringent" licensing standards in the long run.

A. DAVID ROSSIN, a nuclear research engineer for Commonwealth Edison, said he was shocked by the NRC staff's "incomprehensible" position.

"This changes the whole definition of Class 9 accidents," he said. "We've got to have a new class now—Class 10. This development does open up new questions, depending on how the thing is interpreted. If it is allowed to change the design basis [for reactors], then it will change the licensing process. But I don't think it should."

Nuclear critic Catherine Quigg, of Pollution and Environmental Problems in suburban Palatine, said: "We have been told a Class 9 accident can't happen. Now we know it can. Therefore, all reactors will have to be examined for their capability of withstanding a Class 9 accident."

Dean Hansell, who handles nuclear issues for Illinois Atty. Gen. William J. Scott, said the NRC stance would make it impossible for any cost-benefit ratio to favor locating nuclear plants near major urban areas.

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