

SHELDON, HARMON, ROISMAN & WEISS

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KARIN P. SHELDON
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WILLIAM S. JORDAN, III*
ADMITTED IN MICHIGAN ONLY*

April 26, 1979

APPEAL OF INITIAL FOIA DECISION

Mr. Lee Gossick
Executive Director for Operations
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

79-A9E(79-76)
79-A10E(79-86)
REC'D 5-2-79

Re: Appeal from Initial FOIA Decisions
NRC References 79-76 and 79-86

Dear Mr. Gossick:

On March 19, 1979, the referenced Freedom of Information Act Requests were hand-delivered to the office of Mr. Joseph Felton, Director, Division of Rules and Records, Nuclear Regulatory Commission. A copy of each is attached. Under 10 CFR §9.9 the deadline for an initial determination granting or denying the requests was April 2, 1979. We now appeal the partial denial of Request No. 79-76 and the complete denial of Request No. 79-86.

Mr. Felton provided a partial response to Response No. 79-76 in a letter of April 3, 1979, in which he stated,

The NRC has not yet completed its review of the remaining documents subject to your request. We will respond as soon as the review is completed.

We have received no further response. Even assuming that this letter constituted a notification of extension of time for response under 10 CFR §9.13, the extension would have expired on April 16. We have received no written response of any kind to Request No. 79-86. As provided by §9.9(c), we consider the failure to respond to constitute denial of the requests.

We appeal to your office to order the immediate release of these documents. While the recent events at Three Mile Island may have placed an additional burden on the NRC staff, this cannot excuse the Commission from complying with the requirements of the Freedom of Information Act and its own re-

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Mr. Lee Gossick
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gulations.

The material that the Union Concerned Scientist seeks through these requests relates to the fundamental question of reactor safety in the event of a seismic disturbance. UCS must have this material as soon as possible in order to be able to evaluate the potential danger to people working and living in the vicinity of affected nuclear reactors and to participate in the Commission's consideration of the actions that must be taken to assure the health and safety of the public.

I reiterate my request to Mr. Felton that you notify me as soon as a fair portion of the material becomes available, so that I can arrange for a courier to pick it up. I await your response.

Thank you very much.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Ellyn R. Weiss', with a long horizontal flourish extending to the right.

Ellyn R. Weiss

ERW/gc

ELDON, HARMON, ROISMAN & WEISS

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March 19, 1979

Mr. Joseph Felton, Director
Division of Rules and Records
Office of Administration
United States Nuclear Regulatory
Commission
Washington, D.C. 20555

RE: Freedom of Information Act Request

- NRC Ref. 79-86

Dear Mr. Felton:

This request pursuant to the Freedom of Information Act, 5 USC §552, is made on behalf of the Union of Concerned Scientists ("UCS").

For the purposes of this request, "document" is defined to include but not be limited to drafts and final versions of memoranda, meeting and trip reports, reports of telephone conversations, notes, letters, graphs and charts.

Please provide copies of the following:

1. All documents which have been prepared by NRC staff, its consultants and contractors, in connection with Task Action Plans A-40 and A-41.
2. All documents compiled or gathered by NRC in connection with Task Action Plans A-40 and A-41, including but not limited to documents produced by licensees and vendors and their consultants and contractors.
3. All documents written by H.R. Denton containing discussion of seismic issues.
4. All documents written by H.R. Denton containing discussion of seismic issues.
5. All memoranda and notes prepared for or by H.R. Denton.
6. All documents containing discussion of seismic issues prepared for or by H.R. Denton in connection with the Systematic Evaluation Project.

DUPLICATE DOCUMENT

Entire document previously entered into system under:

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Mr. Joseph Felton, Director

March 19, 1979

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documents prepared by the NRC, its consultants and contractors and documents in the possession of NRC which were prepared by licensees and vendors and their consultants.

7. All inspection reports for the Beaver Valley units.

UCS requests that NRC waive any fees. Disclosure to UCS meets the standard for waiver of fees, being "in the public interest because furnishing the information can be considered as primarily benefiting the general public." 5 USC §552(a)(4)(A). As you know, UCS is a non-profit public interest group with a long-standing interest and established expertise on issues of nuclear safety.

If this request for waiver of fees is denied, you are authorized to incur up to \$100.00 in costs. If the costs exceed \$100.00, we request to be given access to the materials so that we can determine which documents to copy.

Very truly yours,



Eilyn R. Weiss
Counsel for Union of
Concerned Scientists

ERW/dmw

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March 19, 1979

Mr. Joseph Felton, Director *
Division of Rules and Records
Office of Administration
United States Nuclear Regulatory
Commission
Washington, D.C. 20555

RE: Freedom of Information Act Request - NRC Ref. 79-76

Dear Mr. Felton:

This request pursuant to the Freedom of Information Act, 5 USC §552, is made on behalf of the Union of Concerned Scientists ("UCS").

For the purposes of this request, "document" is defined to include but not be limited to drafts and final versions of memoranda, meeting and trip reports, reports of telephone conversations, notes, letters, graphs and charts.

Please provide copies of the following:

1. All documents relating to the discovery and analysis of the discrepancy between the results of original piping analysis for seismic stresses at Beaver Valley Unit 1 and the results of the currently acceptable Stone and Webster code.
2. All correspondence and communication, including but not limited to memoranda, reports of telephone conversations, trip and meeting reports, among or between NRC staff, Stone and Webster, and the licensee concerning the discrepancy described in #1, above.
3. All documents containing any recommendations of action to be taken by NRC following the discovery of the discrepancy described in #1, above.
4. All correspondence including but not limited to

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telephone conversations, meeting reports between NRC and DOE concerning the discrepancy described in #1 above, and the energy supply implications of shutting down the plants affected.

5. All documents containing discussion of re-analysis of the piping at Beaver Valley.
6. All documents connected with the development and implementation of Regulatory Guides 1.92 and 1.60, including but not limited to all documents relevant to the need to develop the Guides and all documents containing discussion of whether the guides should be backfit and/or whether and how the principles established in the Guides should be applied to plants already granted permits or licenses.
7. All draft versions of Regulatory Guides 1.92 and 1.60.
8. All documents containing reviews of or comments on the draft versions of Regulatory Guides 1.92 and 1.60, including those prepared by the NRC staff, their consultants and contractors and licensees and vendors and their consultants and contractors.
9. All Branch Technical positions and drafts thereof dealing with the general subject matter of Regulatory Guides 1.92 and 1.60 which were in use prior to the promulgation of the Guides.

UCS requests that NRC waive any fees. Disclosure to UCS meets the standard for waiver of fees, being "in the public interest because furnishing the information can be considered as primarily benefiting the general public." 5 USC §552(a)(4) (A). As you know, UCS is a non-profit public interest group with a long-standing interest and established expertise on issues of nuclear safety.

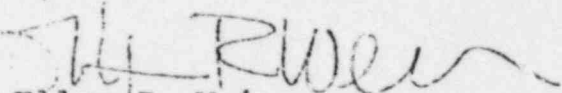
If this request for waiver of fees is denied you are authorized to incur up to \$100.00 in costs. If the costs exceed \$100.00, we request to be given access to the material so that we can determine which documents to copy.

In light of the urgent need for this information, particularly in order to determine whether to request hearings on

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the Orders to show Cause issued by the Commission on March 13, 1979, UCS requests a shortening of the normal 10-day response time and asks for NRC's response by Friday, March 23.

Very truly yours,


Ellyn R. Weiss
Counsel for Union of
Concerned Scientists

ERW/dmw

*Hand-delivered to Mr. Joseph Felton at
Maryland National Bank
7735 Georgetown Road
Room 4210
Bethesda, Maryland

bcc: Dan Ford