



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

PDR-016

January 7, 1980

Mr. John R. Emshwiller  
The Wall Street Journal  
22 Cortlandt Street  
New York, NY 10007

IN RESPONSE REFER  
TO FOIA-79-416

Dear Mr. Emshwiller:

This is in reply to your letter dated September 27, 1979, in which you requested, pursuant to the Freedom of Information Act, copies of any NRC investigations into possible improper practices by NRC inspectors during the course of their duties over the past ten years while inspecting commercial nuclear power plants either under construction or in operation. In your request, you indicated your willingness to accept documents with the specific names of inspectors deleted.

In response to your request, copies of the documents listed in Appendices A and B are enclosed, (total 257 pages) except for documents 2, 6, 12, and 17 of Appendix A which are on file in the NRC Public Document Room (PDR), located at 1717 H Street, N.W., Washington, DC. Copies are also being sent to the PDR.

The charges for reproducing records not located in the NRC Public Document Room is ten cents (\$.10) per page as specified in 10 CFR 9.14(b), a copy of which is enclosed. Accordingly, the cost of reproducing the enclosed 257 pages is \$25.70.

Please send a check in the amount of \$25.70, payable to the "U.S. Nuclear Regulatory Commission", along with a copy of this letter to the Director, Division of Rules and Records, Room MNBB-4210, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

As stated in your letter, we have deleted the names and identifiers of specific inspectors as not being subject to your request. Appendix A lists those documents which are released in their entirety.

Portions of documents 3, 10 and 12 of Appendix B contain advice, opinions, and recommendations of the staff and they are being partially withheld from public disclosure pursuant to Exemption (5) of the Freedom of Information Act (5 U.S.C. 552(b)(5)) and 10 CFR 9.5(a)(5) of the Commission's regulations.

THIS DOCUMENT CONTAINS

POOR QUALITY PAGES

8002110 437

Also, documents 3 through 13 of Appendix B are part of an investigation under the "Open Door Policy" in response to allegations by an NRC employee who was expressly granted confidentiality. Hence, it is necessary to delete the name and various items which could identify the employee in order for the Office of Inspector and Auditor to continue to assure future allegeders that their confidentiality will be respected. Therefore, the exempt portions of these documents are being withheld from public disclosure pursuant to Exemption (5) of the Freedom of Information Act (5 U.S.C. 552(b)(5)) and 10 CFR 9.5(a)(5) of the Commission's regulations.

Portions of documents 1, 2, 15 and 16 of Appendix B have been deleted in order to withhold the names and other personnel or similar files information of specific inspectors. This information was obtained during the performance of law enforcement investigations, and its disclosure would constitute a clearly unwarranted invasion of personal privacy in light of the facts that (1) no, or at best only marginal, derelictions were demonstrated by the investigations, (2) the inspectors have not created any legitimate public interest in themselves due to any far reaching scandal, etc., (3) substantial damage to the careers of individual inspectors would result from the release of all of the essentially unsubstantiated (or at least mostly mitigated) details of alleged misconduct by the named inspectors and (4) this damage would not be justified by the small amount of public interest that would be served. The exempt portions of these documents are being withheld from public disclosure pursuant to Exemption (6) of the Freedom of Information Act (5 U.S.C. 552(b)(6)) and 10 CFR 9.5(a)(6) of the Commission's regulations. Also, because the information contained in documents 1, 2, 15 and 16 of Appendix B were obtained as a result of law enforcement investigations, and because disclosure of the information would constitute an unwarranted invasion of personal privacy, these four documents are also being withheld from public disclosure pursuant to Exemption (7)(C) of the Freedom of Information Act (5 U.S.C. 552(b)(7)(C)) and 10 CFR 9.5(a)(7)(iii) of the Commission's regulations. Portions of document 14 of Appendix B are being withheld from public disclosure pursuant to Exemption (7)(C) for the same reason.

Document 14 of Appendix B is an investigatory record compiled for law enforcement purposes. A portion of this record is being withheld from public disclosure pursuant to Exemption (7)(D) of the Freedom of Information Act (5 U.S.C. 552(b)(7)(D)) and 10 CFR 9.5(a)(7)(iv) of the Commission's regulations because the disclosure of the information would disclose the identity of a confidential source.

Documents 3 through 5, 8 and 10 of Appendix B contain material related to a simultaneous investigation of personnel concerns of the allegeder. This is a separate matter that is not subject to your request. Note, however, that even if this other matter were subject to your request, we would make the same deletions pursuant to Exemption (6) of the Freedom of Information Act, because it is a personnel matter and release of the information would cause an unwarranted invasion of the allegeder's personal privacy.

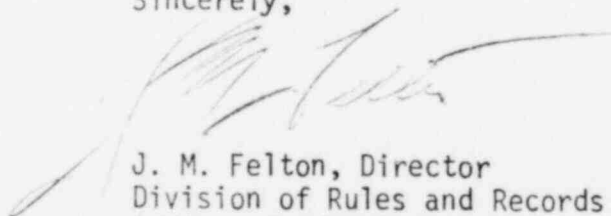
Document 1 of Appendix C is withheld in its entirety because this document constitutes a personnel or similar file which was compiled for law enforcement purposes. The reasons advanced above for withholding portions of documents 1, 2, 15 and 16 of Appendix B are equally applicable here except that with respect to document 1 of Appendix C, the dereliction was substantiated. Document 1 of Appendix C is being withheld from public disclosure in its entirety pursuant to Exemptions (6) and (7)(C) of the Freedom of Information Act (5 U.S.C. 552(b)(6) and (7)(C)) and 10 CFR 9.5(a)(6) and (7)(iii) of the Commission's regulations, because disclosure of the information would constitute a clearly unwarranted invasion of personal privacy, and, it is an investigatory record compiled for law enforcement purposes and disclosure of the information would constitute an unwarranted invasion of personal privacy.

Pursuant to 10 CFR 9.15 of the Commission's 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 this denial is Mr. James J. Cummings, Director, Office of Inspector and Auditor.

This denial may be appealed to the Commission within 30 days from the receipt of this letter. Any such appeal must be in writing, addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should clearly state on the envelope and in the letter that it is an "Appeal from an Initial FOIA Decision."

This completes action on your request.

Sincerely,



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

Enclosures: As stated

APPENDIX A

1. July 15, 1974 Memo from Ward to Moseley w/enclosures, (6 pages)
- \*\*2. May 4, 1976 Memorandum from McTiernan to Thornburg, "Inquiry into Allegations by a Nuclear Engineering Company (NECO) Employee that NRC Inspections are Deficient at NECO's, Beatty, Nevada, Waste Burial Site." (Filed in NRC PDR\*\* see: FOIA-77-130 (TYE)).
3. December 7, 1976 Memorandum from Schnebelen to Ryan (1 page).
4. December 10, 1976 Memorandum from McTiernan to Davis (1 page).
5. January 14, 1977 Memo from Volgenau to McTiernan w/attachments. (19 pages)
- \*\*6. January 14, 1977 Memorandum from McTiernan to Commission, "Special Inquiry Concerning Inspection Program at Virginia Electric and Power Company's (VEPCO) North Anna Power Plant." (Filed in NRC PDR\*\* see: FOIA-77-59/69 (TYE)).
7. January 14, 1977 Note from Schnebelen to Abston (1 page).
8. January 24, 1977 Memorandum from Ryan to File 77-4 (2 pages).
9. January 25, 1977 Memorandum from McTiernan to Volgenau (1 page).
10. Attachments A through Q to OIA's interview of Joseph M. Varela. (Total 55 pages)
  - A. Drawing of AP&L backing strip. (1 page)
  - B. CO Rpt. No. 50-313/69-5 (p.3) w/notes (1 page).
  - C. November 3, 1969, Memo from O'Reilly to Sr. Reactor Inspectors (1 page).
  - D. Chicago Bridge & Iron Co. transmittal (4 pages).
  - E. March 22-25, 1970 - Varela's notes (4 pages).
  - F. April 10, 1970 - Memo from Varela to (deleted) w/attached page for monthly summary reportedly written by (deleted) (3 pages).
  - G. December 17, 1969 - Varela's draft report (pp. 1, 2, 8-10, 12-18) (12 pages).
  - H. Undated memo from Varela to (deleted)(p. 1 only) w/attached p. 4 of "official report by (deleted)" (2 pages).

- I. December 23, 1969 - Memo to (deleted) (P. 1 only) w/notes (1 page)
  - J. November 19, 1969 - Varela's draft Feeder Report (14 pages)
  - K. Drawing of welds (2 pp.)
  - L. January 23, 1970 - Memo to Boyd (2 copies of p. 1 only w/various notes) (2 pages)
  - M. CO Rpt. Nos. 50-280/69-8, 50-281/69-8 (p. 7) w/notes (1 page)
  - N. CO Rpt. Nos. 50-280/70-1, 50-281/70-1 (p. 3) w/notes (1 page)
  - O. Pictures of tank w/notes, undated and attached Form U-1 (back) (2 pp.)
  - P. February 20, 1970 - Pictures of shields w/notes (1 page).
  - Q. May 9, 1977 - Letter from Varela to Volgenau w/outgoing dated April 29, 1977 (3 pages).
- 11. December 5, 1977 Memorandum from Ryan to McTiernan (2 pages)
  - \*\*12. June 26, 1978 Memorandum from McTiernan to Commission, "Inquiry into an Allegation of Employee Misconduct by Restricting the Investigation to Determine the Reliability of the Florida Power Grid Serving St. Lucie," (Filed in NRC PDR\*\*).
  - 13. October 31, 1978 Memo from Fortuna to Strickler (1 page)
  - 14. October 31, 1978 Memo from Strickler to Fortuna (1 page)
  - 15. November 2, 1978 Report of Interview--Joseph M. Varela. (2 pages) [Relates to Document No. 19 in this Appendix A].
  - 16. November 2 and 3, 1978 Report of Interview--Joseph M. Varela without attachments. (4 pages) [Relates to Document No. 19 in this Appendix A]
  - \*\*17. November 9, 1978 Memorandum from Abston to Commission, "Inquiry into the Alleged Omission of a Line Inspector's Views from the Shearon Harris Construction Permit Hearing," Volumes I through III. (Filed in NRC PDR\*\*)
  - 18. March 15, 1979 Memorandum from Cummings to Davis transmitting OIA interview of Joseph M. Varela without enclosure (1 page)
  - 19. March 19, 1979 Memorandum from Gamble to File transmitting two OIA interviews of Joseph M. Varela without attachments (1 pg.)
  - 20. May 30, 1979 Memo from Davis to Cummings (1 page)
  - 21. May 30, 1979 Memo from Thornburg to Seyfrit (1 page)
  - 22. May 30, 1979 Memo from Thornburg to Grier (1 page)
  - 23. May 30, 1979 Memo from Thornburg to O'Reilly (1 page)

KEY: \*\*Document available in NRC Public Document Room, 1717 H Street, N.W., Washington, DC

APPENDIX B

- \*\*\*\*1. August 7, 1975, Memo from McTiernan to Knuth "Possible Employee Misconduct,"  
\*\*\*\* transmitting report of same date (5 pages)
- \*\*\*\*2. May 11, 1977, Memo from McTiernan to Strauss . . . Conflict of Interest,"  
\*\*\*\* transmitting report dated May 3, 1977 (91 pages)
- \*\*\*3. June 9, 1977, Memo from Boulden to McTiernan with attached undated slip from  
W.E.R. to McT and June 15, 1977 Note from McTiernan to Abston (6 pages)
- \*\*\*4. October 7, 1977, Memo from Yanez and Strickler to McTiernan with attached  
undated slip to McT (8 pages)
- \*\*\*5. October 11, 1977, Memo from Strickler and Yanez to McTiernan (1 page)
- \*\*\*6. October 13, 1977, Memo from Yanez to File 77-39 (1 page)
- \*\*\*7. October 19, 1977, Memo from Strickler and Yanez to McTiernan with attached  
slip from W.E.R. to Strickler and back (3 pages)
- \*\*\*8. October 25, 1977, Memo from McTiernan to Volgenau (1 page)
- \*\*\*9. October 27, 1977, Memo from Strickler and Yanez to McTiernan with attached  
undated slip from W.E.R. to McT (4 pages)
- \*\*\*10. October 28, 1977, Memo from Strickler to Ryan with attached October 28  
slip from W.E.R. to McT (6 pages)
- \*\*\*11. Undated, Draft memo from McTiernan to Commission with attached November 11  
"Routing and Transmittal Slip" from W.E.R. to McT (6 pages)
- \*\*\*12. November 16, 1977, Memo from McTiernan to Ryan (2 pages)
- \*\*\*13. December 7, 1977, Memo from Ryan to McTiernan (1 page)
- \*\*\*\*\*14. November 6, 1978, Letter from Abston to . . . (1 page)  
\*\*\*\*\*
- \*\*\*\*15. May 2, 1979, Memo from Cummings to Davis "Report of Investigation--Collection  
\*\*\*\* of Inspection Fees by IE Inspector," transmitting report (17 pages)
- \*\*\*\*16. May 31, 1979, Memo from Cummings to Davis "Possible Allegations Against . . ."  
\*\*\*\* (2 pages)

KEY: \*\*\*Deletions per Exemption 5  
 \*\*\*\*Deletions per Exemption 6  
 \*\*\*\*\*Deletions per Exemption 7C  
 \*\*\*\*\*Deletions per Exemption 7D

APPENDIX C

\*\*\*\*  
\*\*\*\*\* 1. Undated

Report of Investigation, "Possible Alteration of  
IE Training Exam . . ."

Key:

- \*\*\*\* Deletions per Exemption 6
- \*\*\*\*\* Deletions per Exemption 7C

Sept. 27, 1979

Dear Sirs:

Under the provisions of the Freedom of Information Act, I would like copies of any investigations done by the Nuclear Regulatory Commission (NRC) into possible improper practices by NRC inspectors during the course of their duties. I would also like any such reports in the NRC's possession done by its predecessor, the Atomic Energy Commission. The scope of this request covers investigations of inspectors of commercial nuclear power plants, either while operating or under construction, done over the past 10 years.

To expedite this request, I would be willing to accept documents where the specific names of inspectors are blocked out.

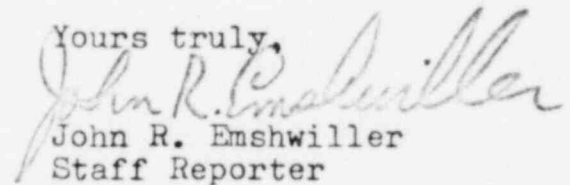
I can be reached by phone at 212-285-5122.

FREEDOM OF INFORMATION  
ACT REQUEST

FOIA-79-416

Rec'd 10-2-79

Yours truly,

  
John R. Emshwiller  
Staff Reporter