



*NW00CS*

RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

NRC FOIA REQUEST NUMBER(S) <b>FOIA -- 89-284</b>	
RESPONSE TYPE	
FINAL	<input checked="" type="checkbox"/> PARTIAL
DATE	<b>NOV - 6 1989</b>
DOCKET NUMBER(S) (if applicable)	

REQUESTER  
**Nancy K. Jones**

PART I. -- AGENCY RECORDS RELEASED OR NOT LOCATED (See checked boxes)

<input type="checkbox"/>	No agency records subject to the request have been located.
<input type="checkbox"/>	No additional agency records subject to the request have been located.
<input type="checkbox"/>	Requested records are available through another public distribution program. See Comments Section.
<input type="checkbox"/>	Agency records subject to the request that are identified on Appendix(es) _____ are already available for public inspection and copying in the NRC Public Document Room, 2120 L Street, N.W., Washington, DC 20555.
<input checked="" type="checkbox"/>	Agency records subject to the request that are identified on Appendix(es) <u>D</u> are being made available for public inspection and copying in the NRC Public Document Room, 2120 L Street, N.W., Washington, DC, in a folder under this FOIA number and requester name.
<input type="checkbox"/>	The nonproprietary version of the proposal(s) that you agreed to accept in a telephone conversation with a member of my staff is now being made available for public inspection and copying at the NRC Public Document Room 2120 L Street, N.W., Washington, DC, in a folder under this FOIA number and requester name.
<input type="checkbox"/>	Agency records subject to the request that are identified on Appendix(es) _____ may be inspected and copied at the NRC Local Public Document Room identified in the Comments Section.
<input type="checkbox"/>	Enclosed is information on how you may obtain access to and the charges for copying records placed in the NRC Public Document Room, 2120 L Street, N.W., Washington, DC.
<input type="checkbox"/>	Agency records subject to the request are enclosed.
<input type="checkbox"/>	Records subject to the request have been referred to another Federal agency(ies) for review and direct response to you.
<input type="checkbox"/>	You will be billed by the NRC for fees totaling \$ _____.
<input type="checkbox"/>	In view of NRC's response to this request, no further action is being taken on appeal letter dated _____, No. _____.

PART II. A -- INFORMATION WITHHELD FROM PUBLIC DISCLOSURE

<input checked="" type="checkbox"/>	Certain information in the requested records is being withheld from public disclosure pursuant to the exemptions described in and for the reasons stated in Part II, sections B, C, and D. Any released portions of the documents for which only part of the record is being withheld are being made available for public inspection and copying in the NRC Public Document Room, 2120 L Street, N.W., Washington, DC, in a folder under this FOIA number and requester name.
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COMMENTS

SIGNATURE, DIRECTOR, DIVISION OF FREEDOM OF INFORMATION AND PUBLICATIONS SERVICES  
*Thomas H. Gandy*

PART II. B - APPLICABLE EXEMPTIONS

E&F

Records subject to the request that are described on the enclosed Appendix(es) are being withheld in their entirety or in part under the Exemptions and for the reasons set forth below pursuant to 5 U.S.C. 552(b) and 10 CFR 9.17(a) of NRC Regulations.

- 1. The withheld information is properly classified pursuant to Executive Order (EXEMPTION 1)
- 2. The withheld information relates solely to the internal personnel rules and procedures of NRC. (EXEMPTION 2)
- 3. The withheld information is specifically exempted from public disclosure by statute indicated: (EXEMPTION 3)
  - 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).
- 4. The withheld information is a trade secret or commercial or financial information that is being withheld for the reason(s) indicated: (EXEMPTION 4)
  - The information is considered to be confidential business (proprietary) information.
  - The information is considered to be proprietary information pursuant to 10 CFR 2.790(d)(1).
  - The information was submitted and received in confidence pursuant to 10 CFR 2.790(d)(2).
- 5. The withheld information consists of interagency or intraagency records that are not available through discovery during litigation. (EXEMPTION 5) Applicable Privilege:
  - 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.)
- 6. The withheld information is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy. (EXEMPTION 6)
- 7. The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated. (EXEMPTION 7)
  - Disclosure could reasonably be expected to interfere with an enforcement proceeding because it could reveal the scope, direction, and focus of enforcement efforts, and thus could possibly allow them to take action to shield potential wrongdoing or a violation of NRC requirements from investigators. (EXEMPTION 7 (A))
  - Disclosure would constitute an unwarranted invasion of personal privacy. (EXEMPTION 7(C))
  - The information consists of names of individuals and other information the disclosure of which could reasonably be expected to reveal identities of confidential sources. (EXEMPTION 7 (D))

OTHER

PART II. C - DENYING OFFICIALS

Pursuant to 10 CFR 9.25(b) and/or 9.25 (c) 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 persons responsible for the denial are those officials identified below as denying officials and the Director, Division of Freedom of Information and Publications Services, Office of Administration and Resources Management, for any denials that may be appealed to the Executive Director for Operations (EDO).

DENYING OFFICIAL	TITLE/OFFICE	RECORDS DENIED	APPELLATE OFFICIAL	
			SECRETARY	EDO
John C. Hoyle	Assistant Secretary of the Commission	E/1	X	
William T. Russell	Regional Administrator, Reg. I	F/1, F/3, F/4		X
James Lieberman	Director, Office of Enforcement	F/2		X

PART II. D - APPEAL RIGHTS

The denial by each denying official identified in Part II.C may be appealed to the Appellate Official identified in that section. Any such appeal must be in writing and must be made within 30 days of receipt of this response. Appeals must be addressed as appropriate to the Executive Director for Operations or 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."

APPENDIX D  
DOCUMENTS BEING PLACED IN THE PDR

1. 4/3/87 Memo from V. Stello to T. Murley and R. Matakas, subject: OI and Region I Cooperation on Peach Bottom. (1 page)
2. 5/21/87 Memo from W. Russell to S. Connelly, subject: Allegation of NRC Inspector Sleeping in Peach Bottom Control Room. (2 pages)
3. 2/4/88 Briefing of Maryland Congressional Delegation Regarding the Peach Bottom Atomic Power Station. (9 pages)
4. 7/13/88 Slide from Periodic Briefing on Status of Operating Reactors Commission Briefing. (2 pages)
5. 12/21/88 Slide from Periodic Briefing on Status of Operating Reactors. (2 pages)
6. 6/1/89 Slide from Periodic Briefing on Status of Operating Reactors. (2 pages)
7. Undated NRC Utility Management Failures. (3 pages)



Re: FOIA-89-284

APPENDIX E  
DOCUMENT BEING WITHHELD IN PART

1. 10/29/86 SECY-86-322 - Operating Power Reactors Requiring Increased NRC Attention and Resources (17 pages) Enclosure 3 draft letter to James Everett from Lando Zech is being withheld pursuant to Exemption 5. Other deleted information is outside the scope of the request.

APPENDIX F  
DOCUMENTS BEING WITHHELD IN THEIR ENTIRETY

1. 8/18/88 25 Letters to individuals from William Kane. (25 pages)  
Exemption 7(A)
2. Various 36 Transcripts of Peach Bottom Operator Enforcement  
Conferences dated between February 8, 1988 and May 17, 1988.  
(approximately 4,000 pages) Exemption 7(A)
3. 11/15/88 Fax sheet transmitting 11/15/88 memo from Gutierrez to Taylor,  
subject: Testimony Before a Senate Committee on Peach Bottom.  
(12 pages) Exemption 5
4. Undated Draft letter from [redacted] to Zech to Senator John Glenn. (5 pages)  
Exemption 5

# SHAW, PITTMAN, POTTS & TROWBRIDGE

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

2300 N STREET, N. W.  
WASHINGTON, D. C. 20037

TELEX/CABLE  
89-2895 (SHAWLAW WSH)

TELEPHONE  
(202) 663-8000

VIRGINIA OFFICE  
1801 FARM CREDIT DRIVE  
MCLEAN, VIRGINIA 22102  
(703) 790-7900

TELECOPIER  
(703) 223-3760 & 223-3761

WRITER'S DIRECT DIAL NUMBER

(202) 663-8398

June 26, 1989

FREEDOM OF INFORMATION  
ACT REQUEST

*FOIA-89-284*  
*Rec'd 6-27-89*

Director, Division of Freedom of Information  
and Publications Services  
Office of Administration and Resources Management  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Re: Freedom of Information Act Request

Dear Sir:

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and the NRC's implementing regulations, 10 C.F.R. § 9.11, et seq., I hereby request that the following described records be made available for inspection and copying. I agree to pay search and duplication costs, as specified in 10 C.F.R. §§ 9.33 - 9.37, up to a maximum of \$500.00.

Description of Requested Records: Any and all internal NRC memoranda, notes, records of telephone conversations, meeting minutes or any other documents not presently included in the NRC's Public Document Room files that pertain to, relate to or discuss or otherwise refer to the NRC-ordered shutdown of Units 2 and 3 of the Peach Bottom Atomic Power Station (NRC Docket Nos. 50-277 and 50-278) on March 31, 1987, the post-shutdown investigations conducted by the NRC or the bases for the shutdown and post-shutdown investigations. The scope of this request includes, but is not limited to, any records memorializing the views, observations or perceptions of NRC personnel regarding the performance of Philadelphia Electric Company, specifically as it relates to the management of the Peach Bottom Station during the period from January, 1983 through March, 1988 (unless otherwise noted below). In particular, this request seeks any such records contained in the files of the following NRC personnel:

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- the NRC Project Manager for the Peach Bottom Station;
- the NRC Project Director for the Peach Bottom Station;
- the Assistant Director for Region I Reactors, Office of Nuclear Reactor Regulation;
- the Director, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation;
- the Director, Office of Nuclear Reactor Regulation;
- the Director, Office of Investigations;
- the Director, Office for Analysis and Evaluation of Operational Data;
- the Executive Director for Operations and his staff;
- the NRC Resident Inspector(s) stationed at the Peach Bottom Station;
- the Chief of the NRC Region I Project Branch having cognizance over the Peach Bottom Station;
- the Director, Division of Reactor Projects, Region I;
- the Director, Division of Reactor Safety, Region I;
- the Director, Division of Radiation Safety and Safeguards, Region I;
- the Region I Deputy Regional Administrator;
- the Region I Regional Administrator;
- the NRC Chairman, Commissioners and their staffs.

Further, this request includes, but is not limited to, the following described records:

Materials prepared by the various NRC Offices, including the Office of Nuclear Reactor Regulation ("NRR"), the Office for Analysis and Evaluation of Operational Data ("AEOD"), the Office of Investigations ("OI") and the Region I Office, in preparation for the NRC Semi-Annual Senior Management Meetings for the period 1986 through the present relating to the Peach Bottom Station.

Materials prepared for Commission Meetings regarding troubled or "problem" plants, to the extent that those materials discuss, refer or relate to the Peach Bottom Station.

Materials prepared in conjunction with operating reactor events meetings held by NRR, to the extent that those materials discuss, refer or relate to the Peach Bottom Station.

Summaries of the daily events phone calls between NRC Headquarters and Region I which discuss, refer or relate to the Peach Bottom Station.

Materials prepared by, or in the possession of, OI regarding the "sleeping operator" issue at Peach Bottom.

Materials, documents or records prepared by AEOD in connection with PECO's performance at Peach Bottom and/or such performance as it compares with other nuclear power plants.

All records provided to the NRC by the Institute of Nuclear Power Operations ("INPO"), or relating to briefings, meetings or discussions with the NRC by INPO which discuss, refer or relate to the Peach Bottom Station.

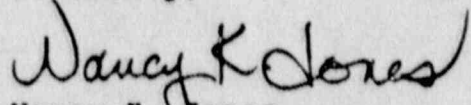
All records, notes, summaries and telephone log entries relating to discussions between NRC senior management and INPO personnel (particularly Messrs. Dennis Wilkerson and Zack Pate) which discuss, refer or relate to the Peach Bottom Station.



This request does not encompass documents presently included in the NRC Public Document Room docket files on Peach Bottom, Units 2 and 3.

Please feel free to contact me should you have any questions regarding the scope of this request.

Sincerely,



Nancy K. Jones  
Legal Assistant

NKJ/lbp