



**NUDOCS**  
**RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST**

**FOIA — 89-284**

RESPONSE TYPE

FINAL

PARTIAL

DATE

**OCT 16 1989**

DOCKET NUMBER(S) (if applicable)

REQUESTER

Nancy K. Jones

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

No agency records subject to the request have been located.

No additional agency records subject to the request have been located.

Requested records are available through another public distribution program. See Comments Section.

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.

Agency records subject to the request that are identified on Appendix(es) A 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.

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.

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.

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.

Agency records subject to the request are enclosed.

Records subject to the request have been referred to another Federal agency(ies) for review and direct response to you.

You will be billed by the NRC for fees totaling \$ \_\_\_\_\_.

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**

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.

COMMENTS

8910200099 891016  
PDR FOIA PDR  
JONES89-284 PDR

SIGNATURE, DIRECTOR, DIVISION OF FREEDOM OF INFORMATION AND PUBLICATIONS SERVICES

*Honore A. Brunsley*

PART II. B — APPLICABLE EXEMPTIONS

Records subject to the request that are described on the enclosed Appendix(es) **B & C** 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	IG	EDO
John C. Hoyle	Assistant Secretary of the Commission	B/1, B/2, C/1-15	X		
James Lieberman	Director, Office of Enforcement	B/3, C/16-24			X
William T. Russell	Regional Administrator, Reg. I	B/4			X
Mark E. Resner	Assistant Director for Investigations, IG	B/5		X	
James A. Fitzgerald	Assistant General Counsel for Adjudications and Opinions	C/25	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 A  
DOCUMENTS BEING PLACED IN THE PDR

1. 3/27/87 Memo from R. S. Fleischmann, II, enclosing 3/27/87 memo from J. W. Gallagher. (2 pages)
2. 4/3/87 Memo from R. S. Fleischmann, II, to Peach Bottom Personnel, subject: Remarks by J. L. Everett. (1 page)
3. 4/7/87 Memo from D. C. Smith to Control Room Personnel, subject: Monitoring Activities in Control Room. (3 pages)
4. 4/8/87 Memo from R. Gallo to W. Kane, subject: Enforcement History - Peach Bottom Atomic Power Station. (5 pages)
5. 4/10/87 Slides: Briefing on Status of Peach Bottom - Commission Meeting. (5 pages)
6. 4/11/87 Note from "Paul" to "Bill," providing notes on the Maryland Briefing. (2 pages)
7. 4/14/87 Briefing on Status of Peach Bottom State of Maryland Meeting. (9 pages)
8. 5/6/87 Briefing on Status of Peach Bottom Commonwealth of Pennsylvania. (10 pages)
9. 7/10/87 Memo from Sharon Connelly to William Russell, subject: Investigation of Alleged NRC Inspector Misconduct, (2 pages), with the following attachments:
10. -- OIA Report of Investigation 87-21, with enclosures 1 through 8, and 10 through 12. Enclosure #9 is addressed on Appendix B, Item 5. (33 pages)
11. 6/2/87 OIA Rights Warning. (1 page)
12. 5/28/87 OIA Rights Warning. (1 page)
13. 5/28/87 Note from J. D. McGoldrick. (3 pages)
14. 6/2/87 Handwritten statement from Crescenzo. (2 pages)
15. -- Log notes. (4 pages)
16. -- Sketch of Peach Bottom Control Room. (1 page)
17. 3/27/98 Memo from C. J. Cowgill to addresses, subject: Peach Bottom Shift Inspection Watch List. (2 pages)
18. 12/29/87 Memo from J. Persensky to W. Kane, subject: Interim Inspection Report on Operator Rehabilitation Training Program. (13 pages)



APPENDIX A  
DOCUMENTS BEING PLACED IN THE PDR  
(Continued)

19. 5/3/88 T. Elsasser's notes from 5/3/88 meeting with PECO officials. (1 page)
20. 5/16/88 Memo from T. Elsasser to Comm. Carr, subject: Telephone Conversation with Corbin McNeil of PECO. (1 page)
21. 8/9/88 Notification of Significant Enforcement Action - EN-88-65. (1 page)
22. 10/5/88 Briefing slides of PECO representatives for 10/5/88 Commission Briefing on Peach Bottom (Chairman Carr's handwritten notes.) (39 pages)
23. 4/3/88 Memo from J. Lieberman to W. Russell. (1 page)
24. 4/13/88 Draft comments on Peach Bottom - Status of Implementation of TMI Action Plan Items. (1 page)
25. Undated Slide #5 from 12/17/88 Commission Briefing: Periodic Briefing on Status of Operating Reactors and Fuel Facilities. (Notes of Margaret Federline). (1 page)
26. Undated Viewgraphs given to Comm. Carr on 12/15/87 while visiting the Peach Bottom Station. (2 pages)
27. Undated Draft notes, subject: Opening remarks for Peach Bottom Operator Enforcement Conference. (2 pages)
28. 8/15/? Note to File. (1 page)
29. Undated Questions for Peach Bottom Operator Conferences. (2 pages)
30. Undated Questions from Operators to Management. (6 pages)
31. Undated Excerpt: 87-1 NRC Order Suspends Power Operations of Peach Bottom Facility Due to Inattentiveness of the Control Room Staff. (2 pages)
32. Undated Brent Clayton's private notes from Peach Bottom Meeting of 1/27/88.

APPENDIX B  
DOCUMENTS BEING RELEASED IN PART

1. 1/5/88 Memorandum to File from T. Elsasser, subject: Commissioner Carr's Visit to the Peach Bottom Site and Speech to the Region I Residents at King of Prussia. (3 pages) Portions withheld pursuant to Exemption 5. [Some deleted portions are outside the scope of the request.]
2. Undated Memorandum to File, subject: Commissioner Curtiss' Visit to the Peach Bottom Atomic Power Station (PBAPS) on March 27, 1989. (4 pages) Portions withheld pursuant to Exemption 5.
3. Undated Enforcement Conference Package and Enforcement Conference Outline. (4 pages) Portions withheld pursuant to Exemption 5.
4. 9/29/88 Slides - Meeting with NRC on PBAPS Restart, with handwritten notes. (21 pages) Portions withheld pursuant to Exemption 5.
5. Undated Attachment 9 to OIA Report of Investigation 87-21: List of Instructions. (1 page) Portions withheld pursuant to Exemption 6.

APPENDIX C  
DOCUMENTS BEING WITHHELD IN THEIR ENTIRETY

1. 7/15/88 SECY-88-201, "Proposed Enforcement Actions Against Philadelphia Electric Company and the Individuals Who Comprised the Shift Operations Staff at Peach Bottom At The Time Of The March 31, 1987 Shutdown Order. (EA-88-04, et. al.) (69 pages) Withheld pursuant to Exemption 5.
2. 7/21/88 Correction Notice for SECY-88-201, attaching draft order. (7 pages) Withheld pursuant to Exemption 5.
3. 8/2/88 Commissioner Kenneth Carr's vote sheet on SECY-88-201. (3 pages) Withheld pursuant to Exemption 5.
4. 7/26/88 Chairman Lando Zech's vote sheet on SECY-88-201. (1 page) Withheld pursuant to Exemption 5.
5. 8/1/88 Commissioner Kenneth Rogers' vote sheet on SECY-88-201. (1 page) Withheld pursuant to Exemption 5.
6. 8/3/88 Commissioner Thomas Roberts' vote sheet on SECY-88-201. (1 page) withheld pursuant to Exemption 5.
7. 8/8/88 Commissioner Thomas Robert's vote sheet on SECY-88-201. (1 page) Withheld pursuant to Exemption 5.
8. 8/8/88 Memo from S.J. Chilk to V. Stello, subject: Staff Requirements - SECY-88-201. (1 page) Withheld pursuant to Exemption 5.
9. 7/27/88 Note to Comm. Carr and his assistants from Steve Burns, regarding SECY-88-201, with Tom Elsasser's and George Felgate's comments. (1 page) Withheld pursuant to Exemption 5.
10. -- Routing slip from SECY-88-201 with Tom Elsasser's and George Felgate's comments. (1 page) Withheld pursuant to Exemption 5.
11. -- Steve Bunn's comments on the routing slip on Comm. Roberts' vote sheet for SECY-88-201. (1 page) Withheld pursuant to Exemption 5.
12. 9/14/87 Note to Comm. Carr and George Felgate from Jim Milhoan regarding 9/14/87 Commission meeting on Peach Bottom. (2 pages) Withheld pursuant to Exemption 5.
13. -- Note to Comm. Carr and his assistants from Margaret Federline, regarding 7/15/87 meeting between NRC and Philadelphia Electric, attaching Federline's handwritten notes from the meeting, and George Felgate's handwritten note. (9 pages) Withheld pursuant to Exemption 5.

APPENDIX C  
DOCUMENTS BEING WITHHELD IN THEIR ENTIRETY  
(Continued)

14. 10/14/88 Note to Comm. Carr and his assistants from Tom Elsasser, regarding 10/5/88 briefing on the status of Peach Bottom. (8 pages) Withheld pursuant to Exemption 5.
15. 5/2/88 Note to Comm. Carr from G. Felgate. (1 page) Withheld pursuant to Exemption 5.
16. 9/14/87 Memo from W. Russell to J. Lieberman, subject: Proposed Peach Bottom Violations. (1 page) Withheld pursuant to Exemption 5.
17. 12/18/87 Draft Notes - Peach Bottom Licensed Operator Enforcement Conference Options. (4 pages) Withheld pursuant to Exemption 5.
18. 4/28/88 Note to Files from Jim Lieberman, subject: Peach Bottom. (1 page) Withheld pursuant to Exemption 7(A).
19. 5/20/88 Memo from J. Lieberman, W. Kane and B. Boger to T. Murley, subject: Observations from the Peach Bottom Operator Enforcement Conferences. (1 page) Withheld pursuant to Exemption 5.
20. 6/3/88 Memo from W. Russell to J. Lieberman, subject: Proposed Civil Penalty and Order to Philadelphia Electric Company (Peach Bottom, Units 2 and 3) and Proposed Civil Penalties and/or Notice of Violation In Certain Licensed Individuals (Shift Superintendents, Senior Reactor Operators, and Reactor Operators) at Peach Bottom At The Time The Facility Was Shut Down By The NRC. (72 pages) Withheld pursuant to Exemption 5.
21. 8/24/88 Memo from Howard Wong to F. Miraglia, subject: Response to Rhodes (Commissioner on Penn. Public Utility Commission) letter dated 8/16/88 concerning Peach Bottom. (2 pages) Withheld pursuant to Exemption 5.
22. Undated Draft notes regarding Peach Bottom licensed operator interviews. (1 page) Withheld pursuant to Exemption 5.
23. Undated Draft Proposed Peach Bottom Notice of Violation. (2 pages) Withheld pursuant to Exemption 5.
24. Undated Draft letter to Mr. Joseph Rhodes regarding enforcement action against PECO. (4 pages) Withheld pursuant to Exemption 5.
25. 8/20/87 Memo from James Fitzgerald to Ben Hayes, subject: OI Region I Investigation No. 1-87-003 (Peach Bottom Unit 3). (5 pages) Withheld pursuant to Exemption 5.