

Nuclear Regulatory Commission  
Washington, D.C. 20555

Rec'd

9-18-89  
In Secy

Re: Freedom of Information Act Appeal

APPEAL OF INITIAL FOIA DECISION  
89-A-29C (89-143)  
Rec'd 9-19-89

Dear Sir,

This is an appeal under the Freedom of Information Act.

On March 30, I requested documents under the Freedom of Information Act. My request was assigned the following identification number: FOIA-89-143. On August 12, I received a response to my request in a letter signed by Harold R. Denton. I appeal the denial of my request. The documents that were withheld must be disclosed under the FOIA for the following reason.

- 1) I suppose that portion withheld refer the incident on the BWR recirculation pump in the possession of Japanese electric power company, TEPCO. In Japan, every electric power company is managed monopolistic in each district, and is a public utility which differs other commercial companies. Therefore, disclosure will not be harm the competitive position of TEPCO but increase public interest by telling the fact.
- 2) The reason for which NRC official withheld the documents is that "The information was submitted and received in confidence pursuant to 10 CFR 2.790(d) (2)". But there is no evidence which states clearly that the TEPCO and MITI want for NRC to withhold the documents.

Sincerely,

Shigeki Okutsu

Secretary General  
The Citizens Movement for  
Public Access to Information  
504 Parkside Yamaguchi 2-4-3 Hongo  
Bunkyo-ku Tokyo 113  
Japan

8912050036 890918  
PDR FOIA  
OKUTSU89-A-29 PDR



## RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

FOIA -- 89-143

RESPONSE TYPE

XX FINAL

PARTIAL

DATE

JUL 28 1989

DOCKET NUMBER(S) (if applicable)

REQUESTER

Shigeki Okutsu

### 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) A\* 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) B\* 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 \$25.00 (\$20.00 computer time, \$5.00 duplication)
- 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

With regard to your request for a "list of recycling pumps related mishaps," please note the description of the computer printouts identified on Appendix B, items 14 and 15. With regard to your request for "all information about the mishaps," please note that these printouts are abstracts only of Licensee Event Reports (LERs), which are publicly available in their entirety in the NRC Public Document Room (PDR) located at 2120 L Street, NW, Washington, DC 20555. In the event these abstracts do not satisfy your interest in certain matters, you may order copies of the entire LERs from the PDR. Other records related to the LERs such as NRC Inspection Reports and Preliminary Notification of Unusual Occurrences (PN) are also available in the PDR. After reviewing the enclosed records and obtaining from the PDR and reviewing any specific LERs, you may wish to submit another FOIA request for records related to any additional specific related records in which you are interested.

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

*Wm H. Hinzley*

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PART II B - APPLICABLE EXEMPTIONS

Records subject to the request that are described on the enclosed Appendix(es) 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 fact 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 reasons 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
Harold R. Denton	Director, C-PA	Appendix C	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 ALREADY IN THE PDR

1. 9/14/87 Letter from Kent A. Huber to NRC, subject: Technical Service Bulletin 8707-80-008 "Reactor Recirculation Pump Cover Thermal Cracking. PDR Accession No. 8709250495
2. 8/29/88 Letter from R. Guidley, TVA, to NRC, subject: Browns Ferry Nuclear Plant - Byron Jackson Company Recirculation Pump Shaft and Cover Cracking. PDR Accession No. 8809060224

APPENDIX B  
DOCUMENTS BEING PLACED IN THE PDR

1. 2/2/89 Fax message, re: Cracks on PLP Pump Bearing Ring. (3 pages)
2. 2/6/89 Note from R. Hauber, subject: Additional Information on the Japanese BWR Recirculation Pump In-Water Bearing Ring Problem, with attachments. (15 pages)
3. 2/7/89 Draft with Handwritten notes. (1 page)
4. 2/7/89 Memo from M. Williams to T. Novak, re: U.S. Experience - RCP Bearing/Impeller Failures. (1 page)
5. Undated Draft NRC Information Notice No. 89- : Weld Failures Reported in a Pump of Byron-Jackson Design. (2 pages)
6. 2/24/89 NRC Information Notice 89-20: Weld Failures In A Pump of Byron-Jackson Design. (3 pages)
7. 3/1/89 Note from R. Hauber, subject: Additional Information on the Japanese BWR Recirculation Pump In-Water Bearing Ring Problem, with attachments. (3 pages)
8. Undated Draft NRC Information Notice No. 89- : Weld Failures Reported in a Pump of Byron-Jackson Design. (2 pages)
9. 2/9/89 Draft NRC Information Notice No. 89-: Weld Failures Reported in a Pump of Byron-Jackson Design. (2 pages)
10. Undated Draft NRC Information Notice No. 89-: Weld Failures Reported in a Pump of Byron-Jackson Design. (4 pages)
11. Undated Typed and Handwritten notes. (1 page)
12. Undated Diagrams. (2 pages)
13. Undated Information on Recirculation Pumps. (57 pages)
14. Various Dates Computer printout from the Sequence Coding and Search System for Licensee Events Reports - 20 abstracts for events involving problems with BWR recirculating pumps.
15. Various Dates Computer printout from the Sequence Coding and Search System for Licensee Events Reports - 204 abstracts which consists of events in which recirculating pumps are in some way related or affected.

APPENDIX C  
DOCUMENTS BEING WITHHELD IN PART

1. 2/2/89 Handwritten notes, re: MITI release. (4 pages released)  
Portions withheld pursuant to Exemption 4.
2. Undated Handwritten notes. (3 pages released) Portions withheld  
pursuant to Exemption 4.
3. Jan/1989 Foreign Reactor Weld Failures In Recirculation Pumps. (3 pages  
released) Portions withheld pursuant to Exemption 4.
4. Undated Notes regarding recirculation pumps. (2 pages released)  
Portions withheld pursuant to Exemption 4.

Nuclear Regulatory Commission  
Washington, D.C. 20555

Re: A Freedom of Information Request

FREEDOM OF INFORMATION  
ACT REQUEST  
FOIA-89-143  
Rec'd 8-6-89

Dear Sir,

Persuant to the Freedom of Information Act, 5 U.S.C. 552, I hereby request access to, or a copy of the information, together with all appendices, annexes or other materials attached to that, as follows in the column.

- i) All the list of recycling pumps related mishaps in BWR reported to NRC, and all informations about what the mishaps were
- ii) The reports of its recycling pumps of Byron-Jackson Co. to the NRC

If you determine that all or a part of the information on my request can be disclosed, please send me that one by airmail as soon as possible.

If any expenses in excess of \$50 are incurred in connection with this request, please inform me in advance for my approval. And I ask that any fees be waived because furnishing information could be considered as "primarily benefitting the public".

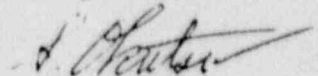
If you determine that some portion of the information on my request are exempt from release, I request that you provide me with remainder, I hereby reserves my right to appeal any such decisions.

If you do not grant this request within 10 working days, I will consider my request denied. If you should wish to discuss the matter, please write me about that.

Thanking you in advance for your time and consideration, I am,

Sincerely,

Shigeki Okutsu



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