



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

*Dupay  
for microfiche*

May 11, 1981

OFFICE OF THE  
SECRETARY



Robert R. Holt, Ph.D  
New York University  
Department of Psychology  
6 Washington Place, 4th Floor  
New York, NY 10003

Re: FOIA 81-43  
(81-A-1)

Dear Dr. Holt:

Although your February 18, 1981 Freedom of Information Act appeal concerned only the documents denied in NRC's response of January 21, 1981, the Commission has decided to treat that appeal as if it were directed also to the documents subsequently denied on March 25, 1981. All of the documents at issue concern the development of the Indian Point Order, issued on January 8, 1981, and the report of the Task Force on Interim Operation of Indian Point. As in its April 8, 1981 letter, the Commission has determined that the documents in question are exempt from mandatory public disclosure under Exemption 5 and should be withheld because disclosure of this information about a proceeding of extreme sensitivity would adversely affect the deliberative process and inhibit the free flow of information between Commissioners and their staffs. 5 U.S.C. 552(b)(5), 10 CFR 9.5(a)(5). The Commission believes that the public interest in this matter is outweighed by the need for candid and complete deliberations among the Commissioners, between them and their respective staffs and their principal advisors - deliberations which would be impeded if subject to full disclosure.

The documents subject to this appeal are being withheld in their entirety, based upon the following reasoning (please refer to the attached list of documents):

- Document #1. Memo from Commissioner Hendrie to Commissioners Re: Indian Point, SECY-A-80-95 and SECY-A-80-96, dated 7/22/80.

This document consists entirely of the author's recommendations and opinions regarding the Indian Point Order, especially questions for consideration and decision criteria. This pre-decisional document is exempt from mandatory disclosure under Exemption 5 and is being withheld for reasons described above.

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- Document #2. Memo from Commissioner Hendrie to Commissioners  
Re: Indian Point, dated 9/18/80.
- Document #3. Memo from D. Hassell to Commissioner Hendrie  
Re: Indian Point Order, dated 10/15/80.
- Document #4. Memo from D. Hassell to Commissioner Assistants  
Re: Indian Point Order and enclosure, dated 10/17/80.
- Document #5. Commissioner Hendrie's note and D. Hassell's  
note Re: Commissioner Gilinsky's memo dated 9/30/80.
- Document #6. D. Hassell note on T. Gibbon's memo dated  
9/18/80.

These documents contain draft versions of portions of the Indian Point Order and comments thereon in the form of recommendations and opinions. These records are a part of the deliberative process, the disclosure of which would inhibit the free flow of advice, opinions, and recommendations among Commissioners and between Commissioners and their principal advisors. They are therefore exempt from mandatory disclosure pursuant to Exemption 5 and are being withheld for reasons described above. Any factual matter is already in the public record through the Task Force Report.

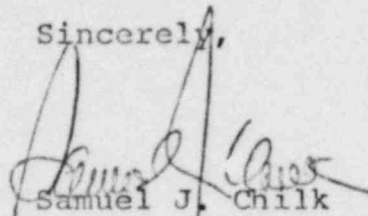
- Document #7. Commissioner Hendrie's notes on L. Bickwit and E. Hanrahan's memo dated 7/15/80 Re: Indian Point Units 2 and 3 -- Memorandum and Order.

This document consists of the author's comments upon a draft version of the Indian Point Order and is exempt from mandatory disclosure under Exemption 5. It is being withheld for reasons described above. Attached to this document is a copy of the Union of Concerned Scientists' Motion to Disqualify Commissioner Hendrie, filed with the Commission on June 23, 1980, which is already available for inspection at the Commission's Public Document Room located at 1717 H Street, N.W., Washington, D.C., and at the Local Public Document Room situated at the White Plains Public Library, White Plains, New York.

This letter represents the final action of the Commission in this matter. Judicial review of this decision is available in a

district court of the United States in the district in which you reside or have your principal place of business, in which the records are located, or in the District of Columbia.

Sincerely,



Samuel J. Chilk  
Secretary of the Commission

Attachment:

List of documents.

APPENDIX

1. Memo from Commissioner Hendrie to Commissioners Re: SECY-A-80-95 and SECY-A-80-96, dated 7/22/80
2. Memo from Commissioner Hendrie to Commissioners Re: Indian Point, dated 9/18/80
3. Memo from D. Hassell to Commissioner Hendrie Re: Indian Point Order, dated 10/15/80
4. Memo from D. Hassell to Commissioner Assistants Re: Indian Point Order and enclosure, dated 10/17/80
5. Commissioner Hendrie's note and D. Hassell's note Re: Commissioner Gilinsky's memo dated 9/30/80
6. D. Hassell note on T. Gibbon's memo dated 9/18/80
7. Commissioner Hendrie's notes on L. Bickwit and E. Manrahan's memo dated 7/15/80 Re: Indian Point Units 2 & 3 -- Memorandum and Order

APPEAL FROM INITIAL FOIA DECISION

February 18, 1981

Secretary of the Commission and/or  
Executive Director for Operations  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

APPEAL OF INITIAL FOIA DECISION

81-A-1C(80-578)

Rec'd 2-20-81

Dear Sir:

This letter constitutes a formal appeal of your letter dated January 21, 1981, signed by Mr. J.M. Felton, and referred to as FOIA-80-578.

In that letter numerous documents were listed on Appendix B as being exempt pursuant to Exemption (5) of the Freedom of Information Act and pertinent implementing regulations.

It is my contention that certain of those documents, in toto and/or in part, are not covered by Exemption (5) in that some of the material is factual as distinguished from policy advice, that some of the material was incorporated into the agency's order of January 8, 1981 on interim operation of Indian Point 2 and 3, and that in any event Exemption (5) is not to be applied by rote but that a balancing of the public interest favors disclosure in this particular request.

In addition, I contend that there is additional relevant information in documentary form that was not listed on either Appendix A or Appendix B in your January 21, 1981 response to my November 17, 1980 request for such documents.

I trust that the time requirements of 10 CFR secs. 9.11 and 9.13 will be adhered to in dealing with this appeal.

Thanking you for your continued cooperation, I am

Sincerely yours,

*Robert R. Holt*

Robert R. Holt, Ph.D.  
Professor of Psychology

Dupe of

8104160686





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

January 21, 1981

Robert R. Holt, Ph.D  
New York University  
Department of Psychology  
6 Washington Place, 4th Floor  
New York, NY 10003

IN RESPONSE REFER  
TO FOIA-80-578

Dear Dr. Holt:


This is in response to your letter dated November 17, 1980 in which you requested, pursuant to the Freedom of Information Act, a copy of all documents regarding the Task Force on Interim Operation of Indian Point submitted to the NRC Commissioners in June, 1980 and any other subsequent correspondence.

The documents listed on Appendix A are enclosed. The documents listed on Appendix B contain information which constitutes advice, opinions and recommendations of the staff. This information is 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.

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. Samuel J. Chilk, Secretary of the Commission.

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."

Sincerely,



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

Enclosures: As stated

Dupe of 814284365 (3pp)



APPENDIX B

1. 6/25/80 Memo from Tom Gibbon to Commissioner Bradford Re: Indian Point
2. 7/11/80 Note from Bill Manning to Commissioner Gilinsky Re: Interim Operations
3. 7/16/80 Note from Bill Manning to Commissioner Gilinsky Re: Interim Operations
4. 7/21/80 Memo from Manning to Commission Assistants Re: Draft Order
5. 7/25/80 Draft of Commissioner Gilinsky's separate views
6. 7/25/80 Memo from Bradford to Commissioners Re: Indian Point
7. 8/1/80 Memo from Roger Tweed to Samuel Chilk Re: Indian Point
8. 9/23/80 Memo from Bill Manning to Commissioner Gilinsky Re: Draft Order
9. 9/30/80 Memo from Commissioner Gilinsky to Commissioners Re: Draft Order
10. 11/5/80 Memo from Bill Manning to Samuel Chilk Re: Draft Order
11. 11/23/80 Bill Manning's handwritten notes Re: Draft Order
12. 11/25/80 Note from Manning to Commissioner Gilinsky Re: Draft Order
13. 11/26/80 Note from Manning to Commissioner Gilinsky Re: Draft Order
14. Undated Note from Bill Manning to Commissioner Gilinsky Re: Comments on Task Force Report
15. Undated Draft - Gilinsky questions to the Appeal Board





**New York University**  
*A private university in the public service*

FREEDOM OF INFORMATION ACT REQUEST

Faculty of Arts and Science  
Department of Psychology  
Psychology Building  
6 Washington Place, 4th Floor  
New York, N.Y. 10003  
Telephone: (212) 598-2745

November 17, 1980

Mr. Joseph Felton, Director  
Division of Rules and Records  
Office of Administration  
Nuclear Regulatory Commission  
Washington, DC 20555

FREEDOM OF INFORMATION  
ACT REQUEST

FOIA--80-578  
REC'D 11-25-80

Dear Mr. Felton,

Pursuant to the Freedom of Information Act, I hereby request copies of the following: all reports, memoranda, drafts, statements of data, and other working documents relevant to the report of the Task Force on Interim Operation of Indian Point, submitted to the Commissioners in June 1980, and any other subsequent reports, memoranda, or correspondence pertaining thereto up to 11/14/1980.

Thanking you for your cooperation, I am

Sincerely yours,

Robert R. Holt, Ph.D.  
Professor of Psychology

RRH:jc

Dupe of 81φL28φ376 (1p)



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

March 25, 1981

Robert R. Holt, Ph.D.  
New York University  
Department of Psychology  
6 Washington Place, 4th Floor  
New York, NY 10003

IN RESPONSE REFER  
TO FOIA-81-43

Dear Dr. Holt:

This is in further response to your previous Freedom of Information Act request regarding the Tank Force on Interim Operation of Indian Point Nuclear Power Station.

NRC staff have recently located additional documents subject to your request. These documents, listed on the appendix, contain information which constitutes advice, opinions and recommendations of the staff. This information is 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).

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. Samuel J. Chilk, Secretary of the Commission.

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".

Sincerely,

A handwritten signature in cursive script, appearing to read "J. M. Felton".

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

Enclosure: As stated

Dupe of 81-401-22 (2pp)

APPENDIX

1. Memo from Commissioner Hendrie to Commissioners Re: SECY-A-80-95 and SECY-A-80-96, dated 7/22/80
2. Memo from Commissioner Hendrie to Commissioners Re: Indian Point, dated 9/18/80
3. Memo from D. Hassell to Commissioner Hendrie Re: Indian Point Order, dated 10/15/80
4. Memo from D. Hassell to Commissioner Assistants Re: Indian Point Order and enclosure, dated 10/17/80
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