

APPEAL OF INITIAL FOIA DECISION

81-A-4C(81-18)

Rec'd 4-10-81

CITIZENS

FOR

A

BETTER

ENVIRONMENT

6 April 1981

Secretary of the Commission
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Re: Appeal from an Initial FOIA Decision: FOIA-81-18

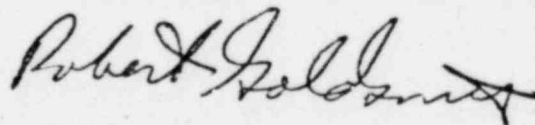
Dear Secretary of the Commission:

Pursuant to 10 CFR 9.11, this is an appeal of a decision denying in part a freedom of information request (FOIA) of January 13, 1981, FOIA-81-18. The requester, Citizens for a Better Environment, was denied all materials listed in Appendix B (copy attached) on the ground that exemption (5) of 10 CFR 9.5(a) and 5 U.S.C. 552(b) applied.

It is not clear from the letter denying these materials why their release is not in the public interest. Moreover, these could be useful to the citizens who have requested a public hearing for the decontamination of Dresden 1.

Please notify me as soon as any decision is reached.

Sincerely,



Robert Goldsmith
Counsel for CBE et al.

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DISTRIBUTION

March 31, 1981

DRR Rdg SNWigginton
 DRR Subj NABrams
 DJDonoghue NOBrown
 JMaynard JLSouder
 ECShomaker LPDR
 JCCarr PDR *Parrish*

Docket #50-10

Mr. Robert Goldsmith
 Citizens For a Better Environment
 Suite 1600, 59 East Van Buren Street
 Chicago, IL 60605

IN RESPONSE REFER
 TO FOIA-81-18

Dear Mr. Goldsmith:

This is in further response to your letter of January 13, 1981 in which you requested, pursuant to the Freedom of Information Act, three categories of documents pertaining to the decontamination of Dresden 1.

Please find enclosed the documents listed on Appendix A. These documents were undergoing review for releasability determination at the time of our response on February 4.

The documents listed on Appendix B contain information which constitutes advice, opinions and recommendations of the Commissioners and their 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."

This completed NRC action on your request.

Sincerely,

(Signed) J. M. Felton

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

Enclosures: As stated

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ADM:DRR	ADM:DRR	ADM:DRR	OGC	SECY: <i>8</i>	LPDR: <i>early release</i>
<i>SNWigginton/sf</i>	JCCarr	JMFelton	RParrish <i>*</i>	NOBrown	JLSouder
03/23/81	03/23/81	03/31/81	03/30/81	03/13/81	03/23/81

APPENDIX A

1. July 25, 1980 Commissioner Action Item to Samuel J. Chilk from Commissioner Gilinsky
2. July 26, 1980 Commissioner Action Item to Samuel J. Chilk from Chairman Ahearne, with attachment (2 pages)
3. August 1, 1980 Memorandum for Leonard Bickwit from Samuel J. Chilk, re: SECY-A-80-101
4. December 29, 1980 Response Sheet to Samuel J. Chilk from Chairman Ahearne, with attachments (3 pages)
5. January 6, 1981 Affirmation Vote to Samuel J. Chilk from Commissioner Gilinsky
6. January 7, 1981 Memorandum for the Record, re: SECY-A-80-108

APPENDIX B

1. January 6, 1981 Memo from D. Hassell to Commissioner Hendrie,
re: SECY-A-80-188
2. December 29, 1980 William Manning comments to Commissioner Gilinsky,
re: SECY-A-80-188
3. December 15, 1980 Memo to Commissioner Bradford from Bill Clements,
re: SECY-A-80-188
4. December 2, 1980 SECY-A-80-188, "Petition for a Hearing in the
Matter of the Proposed Decontamination of the
Dresden Nuclear Power Station"
5. July 28, 1980 Memo from D. Hassell to Commissioner Hendrie,
re: SECY-A-80-101
6. July 25, 1980 William Manning comments to Commissioner Gilinsky,
re: SECY-A-80-101
7. July 24, 1980 Memo from Vicki Harding to John Ahearne, re:
SECY-A-80-101
8. July 17, 1980 Memo to Commissioner Bradford from Bill Clements,
re: SECY-A-80-101
9. July 14, 1980 SECY-A-80-101, "Director's Grant in Part and Denial
in Part of 2.206 Relief (In the Matter of Common-
wealth Edison Company)"
10. Undated Commissioner Hendrie's notes on SECY-A-80-188
11. Undated Commissioner Hendrie's Response Sheet on SECY-A-80-101
12. Undated Commissioner Hendrie's Response Sheet on SECY-A-80-188

FREEDOM OF INFORMATION
ACT REQUEST

FOIA-81-12

rec'd 1-19-81

January 13, 1980

Jay D. Felton
Division of Rules and Records
Office of Administration
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

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Re: Freedom of Information Act Request

Dear Mr. Felton:

This is a request under the Freedom of Information Act ("Act") 5 U.S.C. 552, as amended. This request is made on behalf of Citizens for a Better Environment (CBE) and its members. Please provide the following documents:

1. All documents, studies, memoranda, letters or other material composed or received since CBE's previous FOIA request of November 5, 1980, either interagency, intraagency or from outside the government regarding an evaluation or estimate of the possibility that decontamination of Dresden 1 using NS-1 solvent will accomplish its goals as specified in Section 2.4 of the Final EIS for the Dresden Unit 1 Decontamination.
2. All documents, studies, memoranda, letters (excluding the two from counsel for Commonwealth Edison, dated November 14, 1980 and December 3, 1980) or material related to CBE's Petition for a Public Hearing, dated July 8, 1980.
3. All documents, studies, memoranda, letters and material from intraagency, interagency, consultants (e.g. Brookhaven National Laboratories or Argonne) or any other source regarding the proposed decontamination of Dresden 1 composed or received since CBE's November 5, 1980 request or not included in the response to that request.

In the unlikely event that access is denied to any part of the requested records, please describe the deleted material in detail and specify the statutory basis for the denial as well as your reasons for believing the the alleged statutory justification applies in this instance. Please state specifically

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your reasons for not involving your discretionary powers to release the requested document in the public interest.

We anticipate that you will make the requested materials available within the statutory period. We also request that you waive any applicable fees since disclosure meets the statutory standard for waiver of fees in that "furnishing the information can be considered as primarily benefiting the general public." 5 U.S.C. 552(a)(4)(A).

If you have any questions regarding this request, please telephone me at (312) 939-1530.

Sincerely,

Robert Goldsmith

Robert Goldsmith
Attorney for CBE