

FDIL-016



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

July 13, 1982

Mr. Dudley Thompson
President
Dudley Thompson Associates
2197 Stratton Drive
Potomac, MD 20854

IN RESPONSE REFER
TO FOIA-82-A-9
(FOIA-82-207)

Dear Mr. Thompson:

This is in reply to your letter dated June 8, 1982 in which you appealed the denial of one category of documents which you requested on April 21, 1982. As stated in Mr. Felton's May 28th letter to you, 11 of the 12 categories of documents you requested have been made publicly available.

The withheld documents consist of recommendations of the regional staff concerning the imposition of civil penalties against certain licensees. After carefully considering your appeal, I have determined that the withheld documents remain exempt from public disclosure pursuant to Exemption (5) of the Freedom of Information Act (FOIA) (5 U.S.C. 552(b)(5)) and 10 CFR 9.5(a)(5) of the Commission's regulations. In addition, Enforcement Action Number 82-52 contains Safeguards Information which is exempt from public disclosure pursuant to Exemption (3) of the FOIA (5 U.S.C. 552(b)(3)) and 10 CFR 9.5(a)(3).

The statutory authority for withholding Safeguards Information is found in Section 147 of the Atomic Energy Act (42 U.S.C. 2167). The withheld information identifies the location of vital areas at the Browns Ferry Nuclear Plant.

The use of Exemption (5) in this instance is necessary to protect the candid exchange of opinions that would be impossible if all internal communications were made public. Advice from staff assistants and the exchange of ideas among agency personnel would not be completely frank if the agency were forced to operate in a fishbowl. (See H. Rept. No. 1497, 89th Cong., 2nd Sess.) In addition, the recommendations of the regional staff in assessing civil penalties continue to remain predecisional documents regardless of the fact that a proposed civil penalty has been issued. I have also determined that there is no segregable information which has not already either been made public in the docket file or is withholdable as staff advice, opinions, and recommendations in the deliberative process.

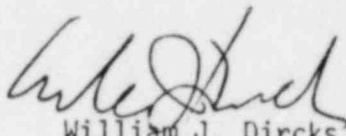
Accordingly, I have determined that disclosure of the material is contrary to the public interest because it would inhibit candid communications between the regional staff and the headquarters Office of Inspection and Enforcement in the sensitive area of assessing civil penalties for licensees.

Mr. Dudley Thompson

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This is a final agency action. As set forth in the Freedom of Information Act (5 U.S.C. 552(a)(4)(B)), judicial review of this decision is available in a district court in the United States in either the district in which you reside, have your principal place of business, or in the District of Columbia.

Sincerely,

A handwritten signature in dark ink, appearing to read "William J. Dircks". The signature is fluid and cursive, with a large initial "W" and "D".

William J. Dircks
Executive Director for Operations