



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

PDR-016

August 6, 1982

OFFICE OF THE
SECRETARY

Mr. Bill Lodge
The Dallas Morning News
Communications Center
Dallas, Texas 75265

IN RESPONSE REFER
TO 82-A-7(82-193)

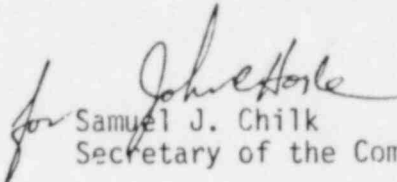
Dear Mr. Lodge:

This is in response to your Freedom of Information Act (FOIA) appeal of the decision to withhold the March 22, 1982 memorandum from Regional Administrator John Collins to Mr. Richard DeYoung, Director, Office of Inspection and Enforcement, transmitting Region IV's final draft inspection and investigation reports relating to Hayward Tyler Pump Company. NRC's Executive Director of Operations addressed the remainder of your appeal in a July 14, 1982 letter. The Commission has determined that the final draft reports are exempt from mandatory public release and that the public interest is best served by maintaining those reports in confidence at this time. Accordingly, your appeal is denied.

The draft reports constitute the final input of the Regional Office to an ongoing investigation. The reports do not represent a final agency position on this matter. Primary responsibility for concluding the investigation and recommending a course of action has been shifted to the NRC's new Office of Investigations. The Region's final draft reports contain a small amount of information which has not been previously disclosed. Release of this material could interfere with the conclusion of the investigation and is therefore exempt from mandatory release under Exemption 7(a) of the FOIA and the Commission's regulations. 10 CFR 9.5(a)(7) (i). Furthermore, release of pre-decisional draft documents of this nature could lead to public confusion regarding the ultimate basis for Commission decisions and is therefore protected under the deliberative process privilege of Exemption 5 of the FOIA and the Commission's regulations. 10 CFR 9.5(a)(5). Any segregable non-exempt portions of these documents have already been made available through release of prior drafts of these reports and related documents. Finally, policy directives have been issued which now forbid release of draft inspection and investigation reports, primarily for the reasons cited above. Accordingly, pursuant to 10 CFR 9.15(a), the Commission has determined that the Region's final draft reports should continue to be withheld in their entirety.

This letter represents the final agency action on your FOIA appeal regarding the Region's final draft reports. Judicial review of the decision is available in a federal district court in the district in which you reside or have your principal place of business, or in the District of Columbia.

Sincerely,


for Samuel J. Chilk
Secretary of the Commission



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

May 14, 1982

Mr. Bill Lodge
The Dallas Morning News
Communications Center
Dallas, TX 75265

IN RESPONSE REFER
TO FOIA-82-193

Dear Mr. Lodge:

This is in further response to your letter dated April 8, 1982, in which you requested, pursuant to the Freedom of Information Act, copies of documents concerning the Hayward Tyler Pump Company.

In my letter to you dated May 6, 1982, I stated that ten documents were still being reviewed. That review has now been completed and enclosed are the first nine documents listed on the appendix to this letter. The numbers listed on this appendix correspond to the numbers on the appendix to my May 6, 1982 letter.

The tenth document contains investigatory records compiled for law enforcement purposes and is being withheld from public disclosure pursuant to exemption (7)(A) of the Freedom of Information Act (5 U.S.C. 552(b)(7)(A)) and 10 CFR 9.5(a)(7)(i) of the Commission's regulations, because disclosure of the information would interfere with an enforcement proceeding.

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 black ink, appearing to read "J. M. Felton".

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

Enclosures: As stated

PDR
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Appendix

12. February 18, 1982, briefing outline from John Collins
14. Undated draft investigator's and inspector's reports and NOV provided in IE:HQ review on February 18, 1982
15. February 19, 1982 Memo from Karl Seyfrit to Roger Fortuna transmitting a February 19, 1982 letter to HTPC from Karl Seyfrit regarding "Final" Report of Investigation No. 99900345/82-01. (Statements and administrative page have been deleted from Report) (See Item 37).
21. March 5, 1982 Memo to Commission from EDO reporting release of draft reports to HTPC and including copies of documents released.
29. Undated/Unsigned draft Investigation Report No. 99900345/82-01.
30. Undated/Unsigned draft Investigation Report No. 99900345/82-01.
31. Undated/Unsigned draft letter to HTPC from John Collins regarding Inspection Report No. 99900345/82-02.
32. Undated/Unsigned draft letter to HTPC from John Collins regarding Inspection Report No. 99900345/82-02.
33. February 19, 1982 Letter to HTPC from John Collins regarding Inspection Report No. 99900345/82-02.
36. March 22, 1982 Memo from John Collins to R. DeYoung transmitting final draft investigation and inspection reports.



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

May 6, 1982

Mr. Bill Lodge
The Dallas Morning News
Communications Center
Dallas, TX 75265

IN RESPONSE REFER
TO FOIA-82-193

Dear Mr. Lodge:

This is in partial response to your letter dated April 8, 1982, in which you requested, pursuant to the Freedom of Information Act, copies of the draft inspection and investigation reports with their transmittal letters, correspondence, complaints submitted to NRC, and the identity of all persons present at a February 12, 1982 meeting regarding the Hayward Tyler Pump Company; copies of all documents referring to Marcus Rowden since June 1977; and copies of I&E Reports 81-12 and 81-20 for Comanche Peak.

The documents listed on the Appendix to this letter are enclosed with the exceptions noted below.

A home telephone number has been deleted from document 35 pursuant to exemptions (6) and (7)(C) of the Freedom of Information Act (FOIA) and 10 CFR 9.5(a)(6) and (7)(iii) of the Commission's regulations because disclosure of this information would constitute an unwarranted invasion of personal privacy. The remaining portions of this document are enclosed. Document 37 consists of investigatory records compiled for law enforcement purposes, and is being withheld from public disclosure pursuant to exemptions (7)(A) and (D) of the FOIA and 10 CFR 9.5(a)(7)(i) and (iv) because disclosure of the information would interfere with an enforcement proceeding and disclose confidential information furnished by a confidential source.

The review of documents 12, 14, 15, 21, 29, 30, 31, 32, 33 and 36 has not been completed. As soon as our review is completed, we will advise you of our disclosure determination.

Pursuant to 10 CFR 9.9 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 the denial of document 35 is the undersigned. The persons responsible for the denial of document 37 are the undersigned and Mr. Richard C. DeYoung, Director, Office of Inspection and Enforcement.

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Mr. Bill Lodge

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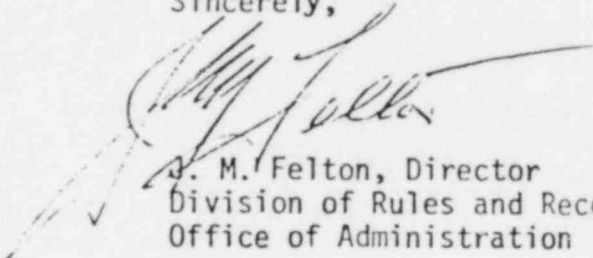
This denial may be appealed to the Commission's Executive Director for Operations within 30 days from the receipt of this letter. As provided in 10 CFR 9.11, any such appeal must be in writing, addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should clearly state on the envelope and in the letter that it is an "Appeal from an Initial FOIA Decision."

At this time the I&E investigation is still continuing, and I expect it will be at least another month or two before it is completed and a final report issued.

With respect to that portion of your request for documents referring to Mr. Rowden, as you were informed in a telephone conversation on April 15, 1982 with Carol Ann Reed, of my staff, it is reasonable to assume that the files located throughout the various Offices and Divisions of the NRC contain documents relating to this subject. We cannot, however, short of examining every file possessed by NRC, state with any degree of confidence that all documents relating to it have been located. In view of the scope and nature of this portion of your request, we conclude that it does not meet the requirements of 5 U.S.C. 552(a)(3). Accordingly, no further action will be taken with respect to this portion of your request.

If you consider this to be a denial, you may appeal this determination within 30 days to the Executive Director for Operations.

Sincerely,



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

Enclosures: As stated

Appendix

1. December 11, 1981 Letter from Rep. Markey to Chairman Palladino with 5 affidavits.
2. December 15, 1981 Letter from Cong. Jeffords to Chairman Palladino regarding progress of investigation.
3. December 16, 1981 Memo from Com. Ahearne to EDO requesting update on Markey request.
4. December 22, 1981 Memo to Rehm from Collins regarding 12/11/81 Markey letter.
5. December 22, 1981 Memo to Rehm from Collins regarding 12/16/81 Ahearne memo.
6. December 23, 1981 Memo from Com. Bradford to EDO requesting investigation.
7. January 18, 1982 Letter to Rep. Markey from OCA responding to December 11 request.
8. January 18, 1982 Memo to Bradford from EDO preliminary response to December 23 memo.
9. January 21, 1982 Letter to Cong. Jeffords from EDO responding to December 15 letter.
10. January 25, 1982 Memo to EDO from Bradford forwarding newspaper article.
11. January 26, 1982 Memo to Ahearne from EDO in response to December 16 Ahearne memo.
12. February 18, 1982 briefing outline from John Collins.
13. February 12, 1982 Memo to Bradford from EDO final response to December 23 Bradford memo.
14. Undated draft investigator's and inspector's reports and NOV provided in IE:HQ review on February 18, 1982.
15. February 19, 1982 Memo from Karl Seyfrit to Roger Fortuna transmitting a February 19, 1982 letter to HTPC from Karl Seyfrit regarding "Final" Report of Investigation No. 99900345/82-01 (Statements and administrative page have been deleted from Report) (See Item 37).
16. February 23, 1982 Memo to Cummings from Collins requesting OIA review of reports.
17. March 5, 1982 Memo to Commission from Cummings reporting release of report to vendor.
18. March 5, 1982 Memo to Chairman from EDO announcing OIA investigation.
19. March 5, 1982 Memo to EDO from Collins chronology.
20. March 5, 1982 Memo to Cummings from EDO requesting OIA audit.

21. March 5, 1982 Memo to Commission from EDO reporting release of draft reports to HTPC and including copies of documents released.
22. March 5, 1982 Memo to File by W. J. Ward documenting transmittal of draft reports to Commission and EDO.
23. March 9, 1982 Memo from Cummings to Chairman advising of invitation of investigation.
24. March 10, 1982 Letter from HTPC to DeYoung advising of Field inspection program.
25. March 20, 1980 Letter from Uldis Potapovas to HTPC regarding QA Program Inspection conducted on February 25-27, 1980.
26. January 21, 1982 Memo from John Collins to Ed Jordan regarding listing of pumps manufactured by Hayward Tyler Pump Company for the period 1977-1981.
27. January 28, 1982 Informal note from David Reiff to G. Bagchi regarding investigation of defective Hayward Tyler pumps.
28. February 25, 1982 Memo from EDO to Commissioner Ahearne regarding Region IV Report delay.
29. Undated/Unsigned draft Investigation Report No. 99900345/82-01.
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33. February 19, 1982 Letter to HTPC from John Collins regarding Inspection Report No. 99900345/82-02.
34. Chronology of Contact Between NRC and HTPC.
35. October 30, 1981 Note to W. Reinmuth from J. Sniezek regarding 10 CFR Part 21 Reports/Allegation.
36. March 22, 1982 Memo from John Collins to R. DeYoung transmitting final draft investigation and inspection reports.
37. Written statements and Reports of Interview (with names included) and a key which reveals the identities of those not mentioned by name in the report.
38. March 24, 1982 Note to Jim Cummings from Jim Sniezek transmitting above Document #36 (enclosure not repeated here).

39. March 19, 1982 Memo from James Sniezek to Roger Fortuna regarding continued investigation and enforcement activities regarding HTPC.
40. March 10, 1982 Letter from Rep. Markey to Chairman Palladino regarding hearing on circumstances surrounding release of draft reports.



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

May 14, 1982

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IN RESPONSE REFER
TO FOIA-82-193

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Sincerely,

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

Enclosures: As stated

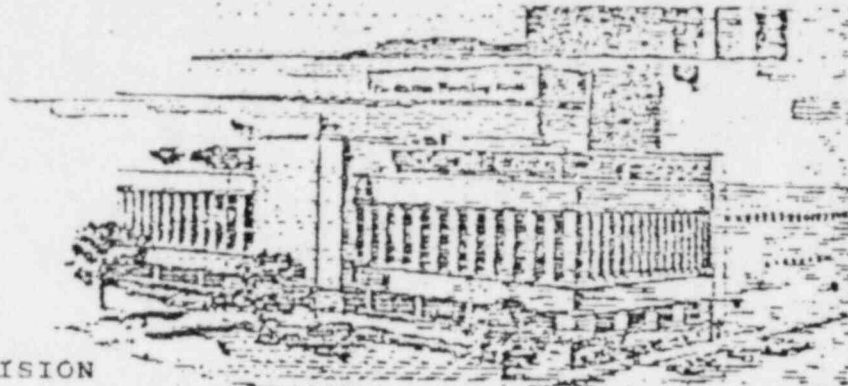
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The Dallas Morning News



APPEAL FROM AN INITIAL FOIA DECISION

Bill Lodge
c/o The Dallas Morning News
Communications Center
Dallas, Texas 75265

May 31, 1982

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

APPEAL OF INITIAL FOIA DECISION

82-A-7E+C(82-193)
Rec'd 6-8-82

Dear Folks,

I respectfully appeal the NRC staff's initial decision to withhold information requested in my letter of April 8, 1982, now labeled as FOIA-82-193.

It is my position that the information withheld in J.M. Felton's letters of May 6 and May 14 is a matter of public record.

Thank you for your time and consideration.

Sincerely,

Bill Lodge
Bill Lodge

PDR
8208260361 FAX to Carol Ann Reed
4210 HNBB
28133
1 Page

From: R. Parrish 43229