

Dr. Robert K. Bolate  
Alexander L. Lockhart, III,  
Therese L. R. Phillips  
1000 M Street, N.W.  
Washington, DC 20036

IN RESPONSE LETTER  
TO FOIA-82-308

Dear Mr. Bolate: In response to your letter dated July 14, 1982, in which you requested, pursuant to the Freedom of Information Act, copies of all documents in which the Commission or the AEC staff has "focused on the risks associated with fuel loading and low power operation, and (2) in which the Commission has "chosen a level of emergency preparedness appropriate to assure the health and safety of the public" for fuel loading and low power operation.

In response to your request it has been determined that documents one and two of Appendix A contain information which constitutes advice, opinions and recommendations of the staff. There are no factual or otherwise segregable portions of these memoranda related to assessment of risks associated with low power testing that are not addressed in the Deble Gungun, Madire, and San Diego test series which are parts of the public record in these proceedings. Paragraph 3 of Appendix A is an attorney-client communication and attorney work product; the disclosure of which could reveal the legal strategy of the agency prematurely. 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 9.9(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 the denial of documents 1 and 2 of Appendix A is Mr. Donald K. Robinson, Acting Director, Office of Policy Evaluation, and for the denial of document 3 of Appendix A is Mr. Guy H. Esmerigian, III, Executive Legal Director.

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 20545, and should clearly state on the envelope and in the letter that it is an "Appeal" from an Initial PMA Decision.



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

PDR-016

August 5, 1982

Mr. Robert R. Belair  
Kirkpatrick, Lockhart, Hill,  
Christopher & Phillips  
1900 M Street, N.W.  
Washington, DC 20036

IN RESPONSE REFER  
TO FOIA-82-308

Dear Mr. Belair:

This is in response to your letter dated July 14, 1982, in which you requested, pursuant to the Freedom of Information Act, copies of all documents in which the Commission or the NRC staff has "focused on the risks associated with" fuel loading and low power operation, and (2) in which the Commission has "chosen a level of emergency preparedness appropriate to assure the health and safety of the public" for fuel loading and low power operation.

In response to your request it has been determined that documents one and two of Appendix A contain information which constitutes advice, opinions and recommendations of the staff. There are no factual or otherwise segregable portions of these memoranda related to assessment of risks associated with low power testing that are not addressed in the Diablo Canyon, McGuire, and San Onofre testimonies which are parts of the public record in those proceedings. Document 3 of Appendix A is an attorney-client communication and attorney work product, the disclosure of which could reveal the legal strategy of the agency prematurely. 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 the denial of documents 1 and 2 of Appendix A is Mr. Dennis K. Rathbun, Acting Director, Office of Policy Evaluation, and for the denial of document 3 of Appendix A is Mr. Guy H. Cunningham, III, Executive Legal Director.

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."

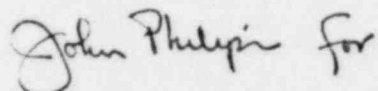
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BELAIR82-308 PDR

Mr. Robert R. Belair

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As suggested in your letter, Mr. Michael T. Jamgochian was contacted concerning your request. Mr. Jamgochian suggested that you may find the information you are seeking in the footnotes accompanying the Notice published in the FEDERAL REGISTER at 47 FR 30233.

Sincerely,

A handwritten signature in cursive script that reads "John Philip for".

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

Enclosure: As stated

APPENDIX A

1. 6/3/81 Memo to the NRC Commissioners, from Dennis K. Rathbun, "Issuance of Low Power License to McGuire". (5 pages)
2. 8/6/81 Memo to the NRC Commissioners, from Dennis K. Rathbun, "Issuance of Low Power License to Diablo Canyon".
3. 4/23/82 Note to William J. Dircks, from Guy H. Cunningham, III, Rulemaking On Emergency Planning Requirements For Low Power Testing. (1 page)