



*Handwritten: 7/2/93*

**RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST**

**FOIA — 92-436**

RESPONSE TYPE

FINAL

PARTIAL

DATE

**JUN 14 1993**

DOCKET NUMBER(S) (if applicable)

REQUESTER

Mr. Victor Gilinsky

**PART I.—AGENCY RECORDS RELEASED OR NOT LOCATED (See checked boxes)**

No agency records subject to the request have been located.

No additional agency records subject to the request have been located.

Requested records are available through another public distribution program. See Comments section.

Agency records subject to the request that are identified in Appendix(es) \_\_\_\_\_ are already available for public inspection and copying at the NRC Public Document Room, 2120 L Street, N.W., Washington, DC.

Agency records subject to the request that are identified in Appendix(es) \_\_\_\_\_ are being made available for public inspection and copying at the NRC Public Document Room, 2120 L Street, N.W., Washington, DC, in a folder under this FOIA number.

The nonproprietary version of the proposal(s) that you agreed to accept in a telephone conversation with a member of my staff is now being made available for public inspection and copying at the NRC Public Document Room, 2120 L Street, N.W., Washington, DC, in a folder under this FOIA number.

Agency records subject to the request that are identified in Appendix(es) \_\_\_\_\_ may be inspected and copied at the NRC Local Public Document Room identified in the Comments section.

Enclosed is information on how you may obtain access to and the charges for copying records located at the NRC Public Document Room, 2120 L Street, N.W., Washington, DC.

Agency records subject to the request are enclosed.

Records subject to the request have been referred to another Federal agency(ies) for review and direct response to you.

Fees

You will be billed by the NRC for fees totaling \$ \_\_\_\_\_.

You will receive a refund from the NRC in the amount of \$ \_\_\_\_\_.

In view of NRC's response to this request, no further action is being taken on appeal letter dated \_\_\_\_\_, No. \_\_\_\_\_.

**PART II, A—INFORMATION WITHHELD FROM PUBLIC DISCLOSURE**

Certain information in the requested records is being withheld from public disclosure pursuant to the exemptions described in and for the reasons stated in Part II, B, C, and D. Any released portions of the documents for which only part of the record is being withheld are being made available for public inspection and copying in the NRC Public Document Room, 2120 L Street, N.W., Washington, DC in a folder under this FOIA number.

COMMENTS

GISA, Ex. 5 - Disclosure is likely to involve accusing any person of a crime or formally censuring any person.

GISA, Ex. 7 - Disclosure is likely to disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, because disclosure would (A) interfere with enforcement proceedings.

GISA, Ex. 10 - Disclosure is likely to specifically concern the issuance of a subpoena, participation in a civil action or proceeding, matters involving formal agency adjudication, or other determinations on the record.

SIGNATURE, DIRECTOR, DIVISION OF FREEDOM OF INFORMATION AND PUBLICATIONS SERVICES

*Handwritten signature: Connie H. Adams*

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PDR FOIA  
GILINSK92-436 PDR

**RESPONSE TO FREEDOM OF  
INFORMATION ACT (FOIA) REQUEST  
(CONTINUATION)**

FOIA NUMBER(S)

**FOIA — 92-436**

DATE

**JUN 14 1993**

**PART II.B — APPLICABLE EXEMPTIONS**

Records subject to the request that are described in the enclosed Appendix(es) W are being withheld in their entirety or in part under the Exemption No.(s) and for the reason(s) given below pursuant to 5 U.S.C. 552(b) and 10 CFR 9.17(a) of NRC regulations.

- 1. The withheld information is properly classified pursuant to Executive Order. (Exemption 1)
- 2. The withheld information relates solely to the internal personnel rules and procedures of NRC. (Exemption 2)
- 3. The withheld information is specifically exempted from public disclosure by statute indicated. (Exemption 3)
  - Sections 141-145 of the Atomic Energy Act, which prohibits the disclosure of Restricted Data or Formerly Restricted Data (42 U.S.C. 2161-2165).
  - Section 147 of the Atomic Energy Act, which prohibits the disclosure of Unclassified Safeguards Information (42 U.S.C. 2167).
- 4. The withheld information is a trade secret or commercial or financial information that is being withheld for the reason(s) indicated. (Exemption 4)
  - The information is considered to be confidential business (proprietary) information.
  - The information is considered to be proprietary information pursuant to 10 CFR 2.790(d)(1).
  - The information was submitted and received in confidence pursuant to 10 CFR 2.790(d)(2).
- 5. The withheld information consists of interagency or intraagency records that are not available through discovery during litigation. (Exemption 5). Applicable Privilege:
  - Deliberative Process: Disclosure of predecisional information would tend to inhibit the open and frank exchange of ideas essential to the deliberative process. Where records are withheld in their entirety, the facts are inextricably intertwined with the predecisional information. There also are no reasonably segregable factual portions because the release of the facts would permit an indirect inquiry into the predecisional process of the agency.
  - Attorney work product privilege. (Documents prepared by an attorney in contemplation of litigation.)
  - Attorney-client privilege. (Confidential communications between an attorney and his/her client.)
- 6. The withheld information is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy. (Exemption 6)
- 7. The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated. (Exemption 7)
  - Disclosure could reasonably be expected to interfere with an enforcement proceeding because it could reveal the scope, direction, and focus of enforcement efforts, and thus could possibly allow recipients to take action to shield potential wrongdoing or a violation of NRC requirements from investigators. (Exemption 7 (A))
  - Disclosure would constitute an unwarranted invasion of personal privacy. (Exemption 7 (C))
  - The information consists of names of individuals and other information the disclosure of which could reasonably be expected to reveal identities of confidential sources. (Exemption 7 (D))
- OTHER  
Exemptions 5, 7(A), & 10 of the Government in the Sunshine Act, 5 U.S.C. 552b

**PART II.C — DENYING OFFICIALS**

Pursuant to 10 CFR 9.25(b) and/or 9.25(c) of the U.S. Nuclear Regulatory Commission 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 persons responsible for the denial are those officials identified below as denying officials and the Director, Division of Freedom of Information and Publications Services, Office of Administration, for any denials that may be appealed to the Executive Director for Operations (EDO).

DENYING OFFICIAL	TITLE/OFFICE	RECORDS DENIED	APPELLATE OFFICIAL		
			EDO	SECRETARY	IG
John Hoyle	Assistant Secretary of the Commission	Appendix W		X	

**PART II.D — APPEAL RIGHTS**

The denial by each denying official identified in Part II.C may be appealed to the Appellate Official identified there. Any such appeal must be made in writing within 30 days of receipt of this response. Appeals must be addressed, as appropriate, to the Executive Director for Operations, to the Secretary of the Commission, or to the Inspector General, 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."

Re: FOIA-92-436

APPENDIX W

RECORDS PARTIALLY WITHHELD

<u>NUMBER</u>	<u>DATE</u>	<u>DESCRIPTION &amp; EXEMPTION</u>
1.	3/31/83	SECY-83-117, Review of ALAB-701 - In the Matter of Philadelphia Electric Co., Et Al. (19 pages) EX. 5
2.	4/5/83	SECY-83-125, Palo Verde Immediate Effectiveness Decision and Review of ALAB-713 (4 pages) EX. 5
3.	4/12/83	SECY-83-131, Appeal From the Initial Decision to Withhold The Transcript of the Closed Commission Meeting of January 5, 1983 on the Clinch River Breeder Reactor (FOIA-83-46) (21 pages) EX. 3, 5, & GISA EX. 10
4.	10/13/83	SECY-83-416, Review of Transcript of Closed Commission Meeting on September 16, 1983 (2 pages) EX. 3, 5 & GISA EX. 5 & 7A
5.	10/28/83	SECY-83-441, GAP FOIA Appeal for Palo Verde Investigative Files (43 pages) EX. 3, 5 & GISA EX. 10
6.	11/15/83	SECY-83-466, Review of October 6, 1983 Closed Commission Meeting (26 pages) EX. 3, 5 & GISA EX. 5 & 7A
7.	11/17/83	SECY-83-471, Review of Transcript of November 3, 1983 Commission Meeting on Diablo Canyon (2 pages) EX. 3, 5 & GISA EX. 5, 7A & 10

VICTOR GILINSKY

August 25, 1992

FREEDOM OF INFORMATION  
ACT REQUEST

Samuel Chilk  
Secretary  
Nuclear Regulatory Commission  
Washington, DC 20555

FOIA-92-436  
Rec'd 8-27-92

Dear Sam:

I am writing to follow up, after long delay, on our discussions over my collection of NRC papers at the Hoover Library.

As you know the papers have been opened to the public with the exception of a set of about 700 or so whose public release gave concern to the General Counsel. It seems to me that the best way to resolve the question of public availability of these remaining papers, and to do it in an amicable and fair manner, is for the General Counsel to formally apply to them the strict standards of the Freedom of Information Act.

The papers are a well-defined category and there should be no problem in identifying them. No doubt the General Counsel has a list. I expect the papers are all neatly stacked in a corner somewhere. In order to trigger the formal review, I therefore request the papers in question be released under the Freedom of Information Act.

Sincerely,

*Victor Gilinsky*

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