



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

PDR(P1-37)

NOV - 8 1990

Ms. Linda L. Bauman
Robinson, Robinson, Peterson, Berk,
Rudolph, Cross & Garde
103 East College Avenue
Appleton, WI 54911

IN RESPONSE REFER
TO FOIA-90-A-35
(FOIA-89-540)

Dear Ms. Bauman:

This is in response to your letter dated August 1, 1990, in which you appealed Mr. Donnie H. Grimsley's response dated July 20, 1990. Mr. Grimsley's response denied the records, identified on the enclosed appendix, subject to your Freedom of Information Act (FOIA) request for records concerning the Jim Kelley Arbitration hearing conducted during the week of December 11 - 15, 1989. Messrs. Chilk and Williams will respond separately concerning the remaining eight records denied in Mr. Grimsley's July 20, 1990 response.

Acting on your appeal, I have carefully reviewed the record in this case and have determined that some of the previously withheld information may now be made publicly available. Your appeal is, therefore, partially granted and partially denied.

The documents listed at numbers twelve and thirteen, and the previously withheld portions of records listed at numbers two and three on the enclosed appendix can now be made publicly available and are enclosed. The remainder of the previously withheld information will continue to be withheld from public disclosure pursuant to Exemptions (5), (6) and (7)(C) of the FOIA (5 U.S.C. 552(b)(5), (6), and (7)(C)) and 10 CFR 9.17(a)(5), (6), and (7)(iii) of the Commission's regulations.

Portions of the record listed at number one will continue to be withheld from disclosure pursuant to Exemptions (6) and (7)(C). The withheld information consists of the names of four individuals, and other personal information the disclosure of which would cause a clearly unwarranted invasion of personal privacy. I find that there are overriding privacy and public interests in protecting this information. The interest in disclosing the information does not outweigh the significant privacy interests of the individuals who, if their identities were disclosed, could reasonably be expected to be subjected to harassment or other harm.

The documents listed at numbers four through nine, fourteen, and twenty contain the advice, opinions, and recommendations of members of the staff. Exemption (5) shields from mandatory disclosure information generated in the deliberative process that precedes decisions of government agencies.

L. Bauman

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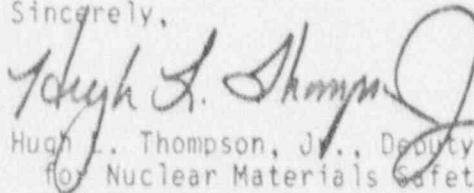
Documents four through seven, nine, and eleven are confidential communications between an attorney and his client and are withheld under the attorney-client privilege of Exemption 5.

Document eight was prepared by an attorney in contemplation of litigation and is withheld under the attorney work product privilege of Exemption 5.

The documents listed at numbers ten, eleven, fifteen through nineteen, and twenty-one are drafts which were prepared prior to and in the course of reaching a final agency decision. Exemption (5) was intended to permit the agency's withholding of such documents to preserve the free and candid internal dialogue necessary for the careful formulation of agency decisions.

This is a final agency decision on the twenty-one records listed on the appendix. As set forth in the FOIA (5 U.S.C. 552(a)(4)(B)), judicial review of this decision is available in a district court of the United States in the district in which you reside or have your principal place of business or in the District of Columbia.

Sincerely,



Hugh L. Thompson, Jr., Deputy Executive Director
for Nuclear Materials Safety, Safeguards
and Operations Support

Enclosures:

1. Appendix
2. Released records

APPENDIX

NUMBER	DATE	DESCRIPTION AND EXEMPTION
1.	10/19/88	Memorandum re: Observations Concerning the OIA Memo dated September 26, 1988, Transmitting Their South Texas Report. (4 pages) EX. 6 & 7C
2.	12/8/89	Handwritten note with a Public Affairs Release, and an organizational chart. (4 pages) RELEASED
3.	Undated	Handwritten notations on the bottom half of typed note which is dated 11/23/88. RELEASED
4.	Undated	Handwritten note to Bob from Bill (2 pages), with handwritten 23-page attachment. EX. 5
5.	Undated	Handwritten note to Bob from Bill, with note at top stating the note was "Privileged-Lawyer/Client Information." (2 pages) EX. 5
6.	1/24/89	Handwritten note to Bob from Bill. (2 pages) EX. 5
7.	1/27/89	Handwritten analysis with note at top stating "Privileged Lawyer-Client Information." (4 pages) EX. 5
8.	Undated	Typewritten document entitled "Charge, Conclusion, Characterization." (5 pages) EX. 5
9.	11/28/89	Handwritten note to Bob from Bill. (1 page) EX. 5
10.	Undated	Draft typewritten note to Taylor from Martin, subject: Proposed OIA Actions, with 2 attached typewritten draft memoranda, with 4-line handwritten note. (5 pages) EX. 5

APPENDIX

NUMBER	DATE	DESCRIPTION AND EXEMPTION
11.	Undated	Draft questions for Bob Martin. (15 pages) EX. 5
12.	Undated	Typewritten document with handwritten notation: "This may be helpful in answering questions." (7 pages) RELEASED
13.	Undated	Handwritten note (6 lines). (1 page) RELEASED
14.	11/9/88	Handwritten note from Bob M. to Sharon Connelly: OIA Report Things Needed. (1 page) EX. 5
15.	Undated	Proposed Settlement Agreement. (2 pages) EX. 5
16.	Undated	Suggested provision in Settlement Agreement. (1 page) EX. 5
17.	Undated	Proposed Settlement Agreement, with handwritten note to Bill at top. (2 pages) EX. 5
18.	Undated	Draft Settlement Agreement, with numerous handwritten changes. (2 pages) EX. 5
19.	Undated	Draft Counter-Offer, with handwritten changes on 1st page. (2 pages) EX. 5
20.	Undated	Handwritten notes. (1 page) EX. 5
21.	Undated	Draft Settlement Agreement. (2 pages, 1 of which is legal sized) EX. 5