



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-36
(FOIA-89-540)

Dear Ms. Bauman:

This is in response to your letter dated August 8, 1990, in which you appealed Mr. Donnie H. Grimsley's response dated August 6, 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.

Acting on your appeal, I have carefully reviewed the record in this case and have determined that some of the previously withheld information can now be made publicly available. The attachment to document two listed on the enclosed appendix can now be made publicly available and is enclosed. Your appeal is, therefore, partially granted and partially denied.

The withheld portions of document two, and documents one, three, four, and six through ten contain the advice, opinions, and recommendations of the staff. Exemption (5) shields from mandatory disclosure information generated in the deliberative process that precedes decisions of government agencies.

Documents five, twelve, and thirteen are drafts which were prepared prior to and in the course of reaching final agency decisions. Exemption (5) was intended to permit agencies to withhold such documents to preserve the free and candid internal dialogue necessary for the careful formulation of their decisions.

Documents eleven, twelve and thirteen are withheld under the attorney work-product privilege of Exemption 5. The documents were prepared by an attorney in contemplation of litigation.

This is a final agency decision on the thirteen records listed on the appendix. As set forth in the FOIA (5 U.S.C. 552(a)(4)(B)), judicial review of this

L. Bauman

- 2 -

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. Document

APPENDIX

<u>NUMBER</u>	<u>DATE</u>	<u>DESCRIPTION</u>
1.	Undated	Handwritten notations on the typed note which is dated 11/23/88. EXEMPTION 5
2.	5/17/89	Routing and Transmittal Slip from H. Meadows to B. Brown, attaching list of twelve factors. (2 pages) PORTION RELEASED ON APPEAL, EXEMPTION 5
3.	2/24/89	Typed and handwritten notes. (4 pages) EXEMPTION 5
4.	2/27/89	Typed and handwritten notes. (2 pages) EXEMPTION 5
5.	4/18/89	Draft letter with handwritten notations. (5 pages) EXEMPTION 5
6.	4/24/89	Handwritten note. (1 page) EXEMPTION 5
7.	4/24/89	Handwritten note. (1 page) EXEMPTION 5
8.	6/13/89	Handwritten note. (1 page) EXEMPTION 5
9.	6/13/89	Handwritten note. (1 page) EXEMPTION 5
10.	Undated	Forms. (2 pages) EXEMPTION 5
11.	11/9/88	Analysis of OIA Report. (5 pages) EXEMPTION 5
12.	Undated	Draft Analysis of OIA Report. (5 pages) EXEMPTION 5
13.	Undated	Draft Analysis of OIA Report. (3 pages) EXEMPTION 5