

December 20, 1982

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
CLEVELAND ELECTRIC ILLUMINATING)
COMPANY, ET AL.)
(Perry Nuclear Power Plant,)
Units 1 and 2))

Docket No. 50-440 OL
50-441 OL

NRC STAFF'S ANSWER OPPOSING OCRE'S MOTION
FOR AN ORDER REQUIRING THE STAFF TO ANSWER
OCRE'S SIXTH SET OF INTERROGATORIES TO THE STAFF

I. Introduction

On November 30, 1982 Intervenor Ohio Citizens for Responsible Energy (OCRE) requested that in accordance with 10 CFR 2.720(h)(2)(ii) and 10 CFR 2.744 the Licensing Board require the NRC Staff to answer certain interrogatories and provide copies of documents asserted by OCRE to be relevant to Issue #8.^{1/} The Staff opposes OCRE's motion.^{2/}

1/ "Ohio Citizens for Responsible Energy Resubmission of Sixth Set of Interrogatories to Staff with the Presiding Officer and Motion Requesting the Presiding Officer to Require the NRC Staff to Answer Same" dated November 30, 1982.

2/ During a telephone conference of December 9, 1982 the Licensing Board orally provided its "interpretations" of OCRE's interrogatories and asked that the Staff in its reply to OCRE's motion also address whether it would be appropriate for the Board to require the Staff to answer the Board's interpretations in lieu of answering OCRE's interrogatories. See Memorandum dated December 10, 1982 and Staff Counsel's Notes of Telephone Conference of December 9, 1982 attached to a letter to the Licensing Board dated December 13, 1982.

II. Background

On September 13, 1982 OCRE filed "Ohio Citizens for Responsible Energy Sixth Set of Interrogatories to NRC Staff." That document set forth thirty seven interrogatories, some of which included requests for documents, purportedly related to Issue #8 (the hydrogen control contention). On October 29, 1982 Staff Counsel in a letter to OCRE's Representative informed OCRE that with the exception of Interrogatory No. 6-1 all of OCRE's interrogatories appeared to the Staff to be directed to matters beyond the scope of the only hydrogen control contention that, according to the Appeal Board, may be litigated in this proceeding, i.e., a contention predicated on the assumption of a TMI-2 type accident at Perry. See ALAB-675, 15 NRC 1105, 1115 (1982). Staff Counsel in his letter also informed OCRE that even the answer to Interrogatory No. 6-1 would be useless to OCRE because the NRC Staff had not identified an accident scenario for BWR's that is the equivalent of the TMI-2 accident^{3/} and that the Staff would not voluntarily answer any of the thirty-seven interrogatories. By its motion of November 30, 1982 OCRE seeks to require Staff answers to all of its interrogatories and document requests, except No. 6-36,^{4/} on the grounds that it has demonstrated that the answers to these interrogatories are necessary to

3/ Interrogatory No. 6-1 reads as follows:

What does the Staff consider to be the equivalent of a TMI-2 accident at Perry? Provide the probability of its occurrence and a thorough description of its consequences, including fuel failure modes, effect on containment integrity, and off-site doses to the public at 2, 5, 10, and 50 miles from PNPP.

4/ OCRE does not address in its motion Interrogatory 6-36.

a proper decision in the proceeding and not reasonably obtainable from any source other than the NRC Staff and that the documents are relevant to Issue #8.

III. Discussion

A. The Standards for Discovery Against the Staff

OCRE appears to recognize that interrogatories to the NRC Staff are governed by 10 CFR 2.720(h)(2)(ii) and that document requests to the Staff are limited by 10 CFR 2.744. OCRE also appears to recognize that to require the Staff to answer OCRE's interrogatories the Board must find that the answers are both necessary to a proper decision in the proceeding and not reasonably obtainable from any other source. However, OCRE does not appear to recognize that 10 CFR 2.744 by its own terms applies only to situations where the NRC has not made available for inspection and copying in the PDR a document requested by a party on the grounds that (1) it is not relevant or (2) it is exempted from disclosure under 10 CFR 2.790 and disclosure is not necessary to a proper decision in the proceeding or the document or the information in it is reasonably obtainable from another source. 10 CFR 2.744 does not apply where as here OCRE has been advised that all of the documents it seeks are in the PDR, and production of documents has not been refused on the ground that the documents are not relevant to this proceeding.^{5/} See OCRE's Motion

^{5/} Until the Staff objects to producing any documents that may be pertinent to answering specific interrogatories, the answers to which are determined by the Board over the objections of the Staff to be both necessary to a proper decision in this proceeding and not reasonably available from any other source, 10 CFR 2.744 would not appear to be applicable. However, a decision by the Board that an answer to an interrogatory is required would appear to require that the documents pertinent to answering that interrogatory, and specifically called for by the interrogatory, be produced.

at 3, n. 2; see also note 6 infra. As to OCRE's assertion that it is a public interest group with limited financial resources and that the Board should give some weight to such a claim in making its discovery rulings, the Staff would only note that the Commission has indicated that its regulations apply to all parties. See Statement of Policy on Conduct of Licensing Proceedings, CLI-81-8, 13 NRC 452, 454 (1981).

B. OCRE's Justifications for Specific Interrogatories and Document Requests

As was noted above, OCRE appears to realize that specific findings are required by the Licensing Board under 10 CFR 2.720(h)(2)(ii) before the Staff can be required by the Licensing Board to answer OCRE's interrogatories. However, OCRE has failed completely to provide the Board any valid bases for making the required findings. Much of the difficulty is caused by the fact that Issue #8 was admitted in spite of its lacking any credible accident scenario as required, and the contention remains vague and unparticularized to the extent that it cannot meaningfully be litigated in its present form. See ALAB-675, 15 NRC 1105, 1115 (1982). OCRE admits that it is presently unable to define a TMI-2 type accident scenario. OCRE's Motion at 4. It is crystal clear that under the Commission's Rules of Practice OCRE is not entitled to discovery to particularize its vague, unparticularized contention. The Rules of Practice do not permit the filing of a vague, unparticularized contention, followed by an endeavor to flesh it out through discovery against Applicants or Staff. Wisconsin Electric Power Company (Point Beach Nuclear Plant, Unit 1), ALAB-696, 16 NRC ____, slip op. at 32 (October 1, 1982). However, OCRE's asserted reasons for its claim that the answers are necessary to a

proper decision in the record are merely that: OCRE needs the information to define "the TMI-2 type accident scenario for Perry" (Interrogatories Nos. 6-1, 6-2, 6-3, 6-4 to 6-25); the information pertains to containment strength and is considered by OCRE "to be of central importance to Issue #8" (Interrogatories Nos. 6-5, 6-12, 6-13, 6-26 and 6-30); the information pertains to the suitability and efficacy of various hydrogen control systems and "may well be (emphasis added) vital to a proper decision" (Interrogatories Nos. 6-6, 6-7, and 6-10); the information pertains to the effectiveness and safety of using recombiners and "becomes relevant to (emphasis added) Issue #8" (Interrogatories Nos. 6-8, 6-14, 6-15, 6-32 and 6-34); the information pertains to the proposed hydrogen control rule and related research and "it is important for OCRE to be aware of (emphasis added)" such information (Interrogatories Nos. 6-9 and 6-11); the information concerns the safety and efficacy of using glow-plug igniters and "Applicants have proposed the use of igniters at Perry" (Interrogatories Nos. 6-16, 6-17, 6-18 and 6-24); the information concerns whether the Perry hydrogen control systems "meet all NRC regulatory requirements" (Interrogatories Nos. 6-19 and 6-21); the information pertains to sources of ignition within the Perry containment and "is relevant to (emphasis added) Issue #8" (Interrogatory No. 6-20); the information concerns the environmental qualification of hydrogen analyzers to be used at Perry and "the timely initiation of the analyzers may be (emphasis added) dependent upon the environment" (Interrogatory No. 6-22); the information pertains to the hydrogen mixing system and its effectiveness "could affect (emphasis added) later stages of the accident"

(Interrogatories Nos. 6-23, 6-31 and 6-33), the information concerns the pressure and temperature transient experienced by the Perry containment and "such information is necessary to a proper decision" (Interrogatories Nos. 6-27, 6-28 and 6-29); the information concerns whether the manual initiation of the hydrogen control system is acceptable and "OCRE suspects (emphasis added) that manual operation of this system may be (emphasis added) unreliable" (Interrogatory No. 6-35); and "this is a general interrogatory the answer to which may provide OCRE (emphasis added) with information that is necessary to a proper decision in this proceeding" (Interrogatory No. 6-37). In discovery against the Staff neither a mere assertion nor even an affirmative demonstration of relevance is sufficient to require Staff answers to interrogatories. Only "where the information is necessary to a proper decision in the case and not obtainable elsewhere" may a Board require the Staff to answer interrogatories. Pennsylvania Power and Light Company (Susquehanna Steam Electric Station, Units 1 and 2), ALAB-613, 12 NRC 317, 323 (1980). Moreover, the Commission's Rules of Practice state that Staff documents only need be made available for inspection and copying in the PDR. Id. at 336. There is no requirement that any party be given copies of another party's documents. Id. at 338. As recounted above, OCRE's "demonstration" that the information (and documents) sought in its interrogatories to the Staff are necessary to a proper decision amounts to nothing more than simple statements that the information is relevant and needed by OCRE and the unsupported assertion that the information is necessary for a decision. OCRE has wholly failed to demonstrate that answers to any of its interrogatories or document requests are necessary to a proper decision in this proceeding.

OCRE's reasons for its claim that the Staff is the only reasonable source of the information are even less substantial and amount to no more than bare assertions. The mere inclusion in interrogatories of phrases such as "what does the Staff consider", "does the Staff believe", or "in the Staff's opinion" neither makes the information sought necessary to a proper decision in the proceeding nor makes the Staff the only reasonable source of any necessary information on the subject matter of the contention. Thus OCRE has not met its burden of demonstrating either that the answers to its interrogatories and document requests are necessary to a proper decision in this proceeding or that the Staff is the only reasonable source of answers, even if answers are necessary to a proper decision in the proceeding.

C. The Licensing Board's "Interpretations" of OCRE's Interrogatories

During the discussion of OCRE's motion in the telephone conference on December 9th the Licensing Board requested that the Staff in its reply to OCRE's motion also address whether it would be appropriate for the Board to require the Staff to answer the Board's "interpretations" of OCRE's interrogatories in lieu of answering the interrogatories. See note 2, supra. In a Memorandum dated December 10th the Board set forth its "interpretations" of OCRE's sixth set of interrogatories as follows:

1. What, if anything, has the staff done to develop different scenarios about a TMI-type accident (a loss of coolant accident, compounded by one or more human errors) that results in core uncover and hydrogen generation?
2. What, if anything, has the staff done to determine whether such scenarios are credible?
3. Discuss whatever doubts the staff has about whether a TMI-type accident could occur at Perry or at similar BWR reactors.

4. Provide documents and analyses that are not available in the docket room but bear on the above questions and cite publicly available documents.
5. Provide the name of any staff person who, in the course of work for the NRC, prepared a memorandum or other written document suggesting that there are one or more credible TMI-type accident scenarios for Perry or for similar BWR reactors.

Rather than merely interpreting OCRE's interrogatories the Staff believes that the Board's "interpretations" ask for both more and different information than do OCRE's interrogatories. None of OCRE's interrogatories can reasonably be interpreted as asking the Staff to discuss whatever doubts it has about whether a TMI-type accident could occur at Perry or a similar BWR (Item 3 of the Board's "interpretations"), or as asking the Staff to identify any Staff person who in the course of work for the NRC prepared a memorandum or other written document suggesting that there are one or more credible TMI-type accident scenarios for Perry or a similar BWR (Item 4 of the Board's "interpretations"). Nor can any of OCRE's interrogatories reasonably be interpreted as asking "[w]hat, if anything, has the Staff done to develop [TMI-type accident scenarios] that result in core uncovering and hydrogen generation" (Item 1 of the Board's "interpretations"), or "[w]hat, if anything, has the Staff done to determine whether such scenarios are credible" (Item 2 of the Board's "interpretations"). OCRE asked only "[w]hat does the Staff consider to be the equivalent of a TMI-2 accident at Perry" and "[w]hat does the Staff consider to be the worst-case accident in terms of H₂ generation at Perry." OCRE Interrogatories Nos. 6-1 and 6-2. A statement that the Staff has not identified a TMI-2 type accident for Perry would be a completely responsive answer to OCRE's Interrogatories

Nos. 6-1 and 6-2. That is because any "worst-case" accident relevant to Issue #8 would be a TMI-2 type accident. See ALAB-675, 15 NRC 1105, 1115 (1982). An entirely different response would be required by Board Items 1 and 2. Moreover, if the Staff had identified for Perry any credible TMI-2 type LOCA with dose consequences in excess of 10 CFR Part 100 guideline values the Staff could not have concluded as it did in Section 15.3.1 of the Perry SER (NUREG-0887) "that Perry is adequately designed to mitigate the offsite consequences arising from a LOCA." See 10 CFR 100.11, n. 1. Finally OCRE asked only that the Staff produce certain analyses and studies, "[l]ist all documents relied upon in answering [Interrogatories Nos. 6-1 through 6-36], and list all persons responsible for the answers, along with their professional qualifications." OCRE Interrogatories Nos. 6-3, 6-13, 6-20, 6-21, 6-22 and 6-37. None of OCRE's interrogatories, including Interrogatory No. 6-37, can reasonably be interpreted as asking the Staff to provide copies of "documents and analyses that are not in the docket room but bear on [Board Items 1, 2 and 3] and cite publicly available documents" (Item 5 of the Board's "interpretations").

6/ The Commission's Rules of Practice provide only that final NRC records and documents (with exceptions not pertinent in the present situation) will be made available (i.e., produced) for inspection and copying in the NRC Public Document Room. 10 CFR 2.790; Pennsylvania Power and Light Company (Susquehanna Steam Electric Station, Units 1 and 2), ALAB-613, 12 NRC 317, 329 and 336-337 (1980). 10 CFR 2.744 applies only where a document has not been made available for inspection and copying and thus does not apply in the present situation. Moreover, OCRE has been provided copies of numerous documents on the subject of hydrogen control in response to its many FOIA requests. See, for example, the correspondence related to OCRE's FOIA requests dated December 22, 1981; March 17, 1982; and November 4, 1982 (attached). In the Staff's view OCRE has had made available to it under the Commission's FOIA rules more hydrogen-related information than it would have been entitled to have had produced under the Commission's discovery rules.

To require the Staff to answer these Board interrogatories at the discovery stage of the proceeding the Board must have some basis for believing the existence of a serious hydrogen generation and control safety problem at Perry that warrants its sua sponte replacement of OCRE's interrogatories with those framed by the Board, and the Board must make an appropriate affirmative finding.^{7/} As the Commission has made very clear, the mere admission of a contention to a proceeding does not justify a Board to assume that a serious safety problem exists or otherwise relieve it of its obligation to make an affirmative finding that such a problem exists prior to exercising its sua sponte authority over the contention. Texas Utilities Generating Company (Comanche Peak Steam Electric Station, Units 1 and 2), CLI-81-36, 14 NRC 1111, 1114 (1981). Until a Board has complied with currently applicable procedures for exercising its sua sponte powers, it would be inappropriate for that Board to broaden either an intervenor's interrogatories or the contention to which the interrogatories are asserted to be relevant. In taking this position the Staff is mindful of the Licensing Board's view, recently expressed in its ruling compelling Applicants to respond to several Board questions on Issue #6, that the Board "cannot simply sit back like an umpire." Memorandum and Order dated November 8, 1982. However, the Staff does not believe that the authority cited by the Board in support of its view

^{7/} Board questions necessary to assure a complete record on an issue that has survived summary disposition procedures may be appropriate. See Scenic Hudson Preservation Conference v. Federal Power Commission, 354 F.2d 608, 620 (2d Cir. 1965). However, the necessity of such questions cannot reasonably be determined until the Board has reviewed the evidence presented by the parties on that issue.

justifies the Board's involving itself as it has in "interpreting" OCRE's discovery requests or in the altering of contentions prior to making the affirmative finding required by the Comanche Peak case. CLI-81-36, supra. That portion of the Vermont Yankee case cited by the Licensing Board in support of its position simply says that if a Board has reasonable grounds for believing that a serious safety problem exists it has a responsibility under the Atomic Energy Act to resolve that problem on the record, even in an operating license proceeding in which the issue was not raised by the parties but has to be raised by the Board sua sponte, and regardless of whether the documents that gave rise to the Board's belief that a serious safety problem exists are in the record of the proceeding. Vermont Yankee Nuclear Power Corporation (Vermont Yankee Nuclear Power Station), ALAB-124, 6 AEC 358, 362 (1973). There is no direct conflict between the Commission's views in Comanche Peak and the Appeal Board's views of a Board's sua sponte obligations as expressed in Vermont Yankee, so long as a Board follows the procedures currently obtaining for invoking its sua sponte authority. There is, however, a direct conflict where a Board shapes the issues in an operating license proceeding by broadening a contention or by expanding a party's discovery requests on a contention without following prescribed procedures for invoking its sua sponte authority.

Thus, in the present circumstances it would not be appropriate for the Licensing Board to require the Staff to respond to the Board's interrogatories.

IV. Conclusion

For all of the reasons discussed above OCRE's motion should be denied, and the Staff should not be required either to provide answers or documents in response to OCRE's interrogatories and document requests or to respond to the Licensing Board's "interpretations" of those interrogatories and document requests.

Respectfully submitted,



James M. Cutchin IV
Counsel for NRC Staff

Dated at Bethesda, Maryland
this 20th day of December, 1982

December 22, 1981

Director, Office of Administration
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

FREEDOM OF INFORMATION
ACT REQUEST

FOIA-81-516
Rec'd 12-29-81

Re: FREEDOM OF INFORMATION ACT REQUEST

Dear Sir/Ms.,

Pursuant to the Freedom of Information Act, 5 U.S.C. Section 552, as amended, and the provisions of 10 CFR Part 9, the undersigned hereby requests the following items:

1. any studies or documents concerning the susceptibility of boiling water reactor pressure vessels to the pressurized thermal shock phenomenon identified in PWRs.
2. Commission decision of June 29, 1981, CLI-81-?, ? NRC ?, (exact citation unknown), Duke Power Company (William B. McGuire Nuclear Station, Units 1 and 2).
3. SECY-80-107 "Proposed Interim Hydrogen Control Requirements for Small Containments"
4. SECY-80-107A "Additional Information Re: Proposed Interim Hydrogen Control Requirements"
5. SECY-81-245 "Interim Amendment to 10 CFR Part 50 Related to Hydrogen Control and Certain Degraded Core Considerations"
6. NUREG-0772 "Technical Bases for Estimating Fission Product Behavior During Light-Water Reactor Accidents" March 1981
7. NUREG-0465 "A Transportation Security Personnel Training Manual" (latest edition)
8. SECY-80-409, Sept. 4, 1980, and SECY-80-409C, Nov. 7, 1980. Proposed rulemaking on ATWS.
9. NRC Branch Technical Position USEC-2, "Control of Combustible Gas Concentrations in Containment Following a LOCA"
10. NUREG/CA-0913 "Generation of Hydrogen During the First Three Hours of the Three Mile Island Accident" Oct. 1979
11. NUREG/CA-1561 "The Behavior of Hydrogen During Accidents in Light Water Reactors" Oct. 1980
12. NUREG/CA-1575 "Hydrogen-Mixing in a Closed Containment Compartment Based on a One-Dimensional Model" Sept. 1980
13. any documents concerning the use of in-core thermocouples in BWRs, particularly in BWR/6 reactors.

This requester asks that fees for the search and production of the above documents be waived, in accordance with 10 CFR 9.14a, for the following reasons:

1. This information will be disseminated to the general public through newsletters, press releases, and other media; the "public" benefiting thereby includes but is not limited to the population of Northeast Ohio.
2. By the availability of this information the public will be better informed on nuclear safety issues and this will therefore enhance the quality of public debate on these issues. Public debate on these matters crucial to public health and safety and the quality of the environment is imperative.
3. This information will be used in a proceeding currently before the Atomic Safety and Licensing Board: In the Matter of Cleveland Electric Illuminating Co., et al., Ferry Nuclear Power Plant, Units 1 and 2, Docket Nos. 50-440/441. Upon this requester's review and analysis of the requested documents, they will be used by intervenors in this case; these intervenors will thereby be better able to protect their health, safety, and environmental interests (and those of the general public) in this proceeding.
4. This requester expects no financial benefit from the use of these documents.
5. The financial resources of this requester are limited; thus, the payment of fees incurred herein would result in an undue hardship.

These factors clearly indicate that furnishing the documents requested herein will benefit the general public, and therefore the waiver of any and all fees for search and production is appropriate.

Thank you for your assistance.

Sincerely,

Susan L. Hiatt

Susan L. Hiatt
5275 Munson Rd.
Mentor, OH 44060

Nina

January 7, 1982

Ms. Susan L. Hiatt
8275 Munson Road
Mentor, OH 44060

IN RESPONSE REFER
TO FOIA-81-516

Dear Ms. Hiatt:

This is in response to your letter dated December 22, 1981, in which you requested, pursuant to the Freedom of Information Act, 13 categories of documents relating to nuclear power plants.

In Item 3 of your letter, you indicate that the requested documents will be used in the Perry proceeding. It is our understanding that you also are a member of the Ohio Citizens for Responsible Energy (OCRE) as is Mr. Robert Alexander. Mr. Alexander submitted a request dated November 26, 1981, which is similar to your December 22 letter. Therefore, for your information, we are enclosing a copy of a letter from Mr. William J. Dircks to Mr. Alexander, dated January 5, 1982, stating the decision of the NRC to respond to requests for documents relevant to current issues and contentions granted during the hearing process.

~~Accordingly, we request that you also indicate how each of the 13 categories of documents you requested relate to the contentions accepted in the Perry proceeding. Also, please specify the contention number and the date of the ASLB order accepting those contentions as this will simplify the processing of your request.~~

~~As provided in 10 CFR 9.14(b)(5), your request will not be further processed until you agree to bear the applicable reproduction costs or have submitted the above information. After the documents have been provided, you will be billed as appropriate by NRC's Division of Accounting.~~

If you have any questions, please telephone Mr. John C. Carr, Chief, FOI/PA Branch on (301) 492-8133.

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Sincerely,

(Signed) J. M. Felton

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

Enclosure: As stated

OFFICE	ADM:DRR	ADM:DRR	ADM:DRR				
SURNAME	NLToms/swf	JCCarr	JMFelton				
DATE	01/17/82	01/17/82	01/17/82				

January 5, 1982

Mr. Robert Alexander
OCRE Interim Representative
2030 Portsmouth Street #2
Houston, TX 77098

IN RESPONSE REFER
TO FOIA-81-A-19
(FOIA-81-436)

Dear Mr. Alexander:

This is in response to your letter of November 26, 1981 in which you appealed, on behalf of the Ohio Citizens for Responsible Energy (OCRE), Mr. Felton's letter of November 20, 1981 denying your fee waiver request.

Acting on your appeal, I have carefully reviewed the record in this case and have concluded that the initial denial of your fee waiver request should be reversed as it applies to documents required to participate in NRC licensing proceedings. Your request for waiver of fees is, therefore, granted in part and denied in part, for the following reasons.

In your letter you state that "OCRE agrees that the compelling reason test is proper", but you disagree that OCRE did not meet the test. Section 9.14a(g) of NRC's regulations provides:

The NRC will not waive the reproduction costs for documents located or made available in the NRC Public Document Room or a local public document room in the absence of a compelling reason to do so.

The statement of considerations published in the Federal Register at the time the fee waiver provisions were adopted in March 1979 (copy enclosed) states:

Under the circumstances when access to records can be provided to a requester at a PDR or LPDR, to also waive reproduction costs would result in a private benefit only to the requester. This practice has now been incorporated into the regulations by adding a sentence to §9.10(a) of the effective rule that provides that copies of documents disclosed in response to FOIA requests will normally be placed in the NRC PDR or local PDR, and by providing in §9.14a(g) that the NRC will not waive reproduction costs for documents located in the PDR or LPDR in the absence of a compelling reason to do so. A "compelling reason" could be, for example, if the requester were both indigent and required the documents for intervention in an NRC licensing proceeding.

You state in your letter that OCRE "could easily acquire (copy) those documents found at the Perry LPDR", but that reproduction fees should be waived for records not located at the Perry LPDR and which are located only at the Public Document Room in Washington, D.C. All documents relating to the Perry plant are located in the Perry LPDR. The records you have requested, and which are not located at the Perry LPDR, relate primarily to other nuclear power plants. The issue then is whether these documents are required for intervention in an NRC licensing proceeding. If they are required, and if the requester is indigent, NRC regulations provide that reproduction fees may be waived. However, the only reasonable method by which the NRC can know if the documents are required is if they relate to some contention in a licensing proceeding which has been accepted by the licensing board. To say, as you suggest in item 1 of your letter, that fees should be waived if it will help OCRE frame a contention to be offered to the board would be unmanageable since, conceivably, all of the documents located in the Public Document Room could, in some manner, help OCRE frame a contention, even though that contention may not be at all relevant to the Perry proceeding. Thus, while NRC agrees that the issue of relevance is not germane to a request for records under the Freedom of Information Act, it is germane in deciding whether the NRC should waive reproduction fees.

In item 2 of your letter, and in your letter of October 26, 1981, you argue that the NRC should waive fees because OCRE is a "bootstrap" operation consisting primarily of college students with limited resources. As noted above, indigency, or the inability to pay, is only one-half of the test. However, in view of OCRE's assertions concerning its financial status, NRC agrees to waive 75 percent of the reproduction costs of any documents which are relevant to a contention which has been admitted by the licensing board in the Perry proceeding. Precedent for this action has been established for another group of intervenors, similar to yours, in the Allens Creek proceeding.

Finally, you assert that the NRC should be estopped from charging fees because the NRC did not charge fees on your FOIA requests dated September 5 and 28, 1981. The NRC has a very liberal fee policy, and seeks to accommodate requesters to the extent it can. In this regard, the NRC has not charged fees on any of your five previous requests, or the three requests made by Jeff Alexander on behalf of OCRE, regardless of the fact that there was no showing of relevance of the documents to the proceeding. Estoppel, however, implies reliance on NRC's actions to the detriment of the requester. Here there is no detriment, and OCRE is in no worse position than it otherwise would have been had NRC charged reproduction fees from the beginning. Rather, the issue is simply the extent to which public funds should be used for essentially private benefit.

In view of my decision on this matter, OCRE should, in any future request that it may make, indicate how the requested documents are relevant to contentions accepted in the Perry proceeding. For ease of reference, OCRE should specify in its letter the contention number and the date of the Board's order accepting the contention. In the interim, as requested by your letter, the FOIA Branch is assembling the documents you requested, and will forward them to you shortly. If you wish, you may also make the above showing for any documents listed in your October 26 letter, and NRC will issue you a credit or a refund covering the cost of any documents found to be relevant to the Perry proceeding.

This is a final agency action. As set forth in the Freedom of Information Act (5 U.S.C. 552(a)(4)(B)), judicial review of this decision is available in a district court of the United States in either the district in which you reside, have your principal place of business, or in the District of Columbia.

Sincerely,

(Signed) William J. Dircks

William J. Dircks
Executive Director for Operations

Enclosure: As stated

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		NEAbrams	TEnglehardt			

January 13, 1982

Mr. J.M. Felton, Director
Division of Rules and Records
Office of Administration
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Re: FOIA-81-516

Dear Mr. Felton:

This is in response to your letter dated January 7, 1982, in which you explained the Commission's decision regarding the reproduction of documents. Accordingly, I have indicated below now each of the 13 categories of documents I requested in my December 22, 1981 letter relate to the Perry proceeding:

Item 8, on ATWS, relates to Issue #6, admitted by the Special Prehearing Conference Memorandum and Order dated July 28, 1981, pp. 74-76.

Item 6, NURIG-0772, is related to Issue #1, on emergency planning, admitted by the Special Prehearing Conference Memorandum and Order dated July 28, 1981, pp. 17-28. This contention includes the use of potassium iodide as a thyroid blocking agent. Part of the issue at stake here is whether radioiodine, as a result of its behavior during a reactor accident, will or will not pose a danger to the public. This issue was addressed during the TMI-1 restart hearings, Docket No. 50-289; NURIG-0772 was mentioned at pp. 18,351-18,352 of the transcripts (April 9, 1981) of that proceeding.

Items 2, 3, 4, 5, 9, 10, 11, and 12 relate to a contention on hydrogen control which has just recently been submitted to the Board.

Items 1, 7, and 13 do not relate to any contentions accepted or presently under consideration by the Board.

I understand that the NRC has agreed to waive 75% of the reproduction costs for any documents relevant to a contention admitted by the ASLR in the Perry case (Items 6 and 8). I also understand that the normal reproduction costs are those enumerated in 10 CFR 9.14(a). For the remaining items, I would like to receive an estimate of the costs involved so that I may better assess my ability to pay. I must have an estimate before I can agree to bear the applicable costs. Thank you for your assistance.

Sincerely,

Susan L. Matt

Susan L. Matt
8275 Munson Rd.
Benton, CA 94060

February 22, 1982

Ms. Susan L. Hiatt
8275 Munson Road
Mentor, OH 44060

IN RESPONSE REFER
TO FOIA-81-516

Dear Ms. Hiatt:

This is in response to your letters dated December 22, 1981, and January 13, 1982, in which you requested pursuant to the Freedom of Information Act, 13 different categories of documents which you listed in your letter.

The documents listed on Appendix A were found to be responsive to your request. These documents are enclosed.

~~As you are aware, the decision of the Commission is to waive 75% of the reproduction costs for any documents relevant to a contention admitted by the Atomic Safety and Licensing Board.~~ Charges for the documents relating to items 6 and 8 of your request reflect this decision and you are being charged accordingly. Excluding NUREG-0772, (Item 8) you are being charged in full for the remaining NUREG documents which you requested.

Two NRC Regulatory Guides were found to be responsive to your request. There is a set fee of \$1.50 by the NRC for each of these Regulatory Guides.

Finally, as specified in 10 CFR 9.14(b), the charge for reproducing the remaining 329 pages at five cents (\$0.05) per page is \$16.45. As agreed to in your telephone conversation of February 10, 1982, with Nina Toms of my staff, you will bear the charges for the documents being sent to you. The total charge for your request is \$42.79. You will be billed by our Division of Accounting for this amount.

Should you have any questions regarding your request, please contact Ms. Toms at (301)492-8133.

File
This review and aggregation of an additional document subject to your request has not yet been completed. When this review is completed, you will be notified of our determination.

DISTRIBUTION

DRR Rdg NLToms
DRR Subj PDR
DJDonoghue
JMaynard
ECShomaker
JCCarr

Sincerely,

(Signed) John C. Carr

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

OFFICE	Enclosures: As stated	ADM:DRR	ADM:DRR	ADM:DRR		
SURNAME		NLToms/smf	JCCarr	JMFelton		
DATE		02/27/82	02/27/82	02/27/82		

Appendix A

	<u>Amount</u>
1. Letter to Joseph H. White from S. H. Hanauer, January 21, 1982 (2 pages)	\$0.10
2. Extracted page from "Preliminary Task Action Plan - Pressurized Thermal Shock (PTS) (TASK-49)" (1 page)	0.05
3. CLI-81-15, 14NRC 1 (1981) June 29, 1981 (13 pages)	0.65
4. SECY-80-107, "Proposed Interim Hydrogen Control Requirements for Small Containments" (40 pages)	2.00
5. SECY-80-170A, "Additional Information Re: Proposed Interim Hydrogen Control Requirements" (41 pages)	2.05
6. SECY-81-245, "Interim Amendments to 10 CFR Part 50 Related to Hydrogen Control and Certain Degraded Core Considerations" (105 pages)	5.25
7. NUREG-0772* - "Technical Bases for Estimating Fission Product Behavior During LWR Accidents"	2.00
8. NUREG-0465 - "Transportation Security Personnel Training Manual"	9.50
9. SECY-80-409* - "Proposed Rulemaking to Amend 10 CFR Part 50 Concerning Anticipated Transients Without Scram (ATWS) Events"	0.34
10. Branch Technical Position CSB 6-2 (15 pages)	0.75
11. Reg. Guide 1.7, "Control of Combustible Gas Concentrations in Containment Following a Loss-of-Coolant Accident"***	1.50
12. NUREG/CR-0913, "Generation of Hydrogen During the First Three Hours of the Three Mile Island Accident"	2.00
13. NUREG/CR-1561, "The Behavior of Hydrogen During Accidents in Light Water Reactors, August 1980"	7.50
14. NUREG/CR-1575, "Hydrogen Mixing in a Closed Containment Compartment Based on a One-Dimensional Model with Connective Effects," June 1980	2.00

* Relates to an ASLB Contention; charged 25% of cost

** NRC charge for all Reg. Guides is \$1.50

Appendix A

(Continued)

	<u>Amount</u>
15. Letter from C. L. Wheeler to W. Johnston, April 6, 1981 (11 pages)	\$0.55
16. Reg. Guide 1.97, "Instrumentation for Light-Water Cooled Nuclear Power Plants to Access Plant and Environs Conditions During and Following an Accident," December 1980	1.50
17. Thermal Analysis of In-Core Thermocouples in Boiling Water Reactors by S. Levy, November 1981 (35 pages)	1.75
18. General Electric Evaluation of the Need for BWR Core Thermocouples, November 16, 1981 (37 pages)	1.85

March 23, 1982

Ms. Susan L. Hiatt
8275 Munson Road
Mentor, OH 44060

IN RESPONSE REFER
TO FOIA-81-516

Dear Ms. Hiatt:

This is in further response to your letters dated December 22, 1981, and January 13, 1982, in which you requested pursuant to the Freedom of Information Act, 13 different categories of documents which you listed in your letter.

The review of an additional document, which is subject to your request, has been completed. The enclosed document is listed below:

SECY-81-582 - "TMI Action Plan II.F.2 (NUREG-0737); Additional Instrumentation for Detection of Inadequate Core Cooling," October 7, 1981.

As specified in 10 CFR 9.14(b), the charge for reproducing the enclosed 29 pages at five cents (\$0.05) per page is \$1.45. You are being charged in full for this document as it is not relevant to a contention admitted by the Atomic Safety and Licensing Board in the Perry proceedings.

You will be billed for this document by our Division of Accounting.

This completes NRC's action on your request.

DISTRIBUTION

DRR Rdg
DRR Subj
DJDonoghue
JMaynard
ECShomaker
JCCarr
NLToms
PDR
Enclosure: As stated

Sincerely,

original signed by
J. M. Felton, Director

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

OFFICE	ADM: DRR	ADM: DRR	ADM: DRR				
SURNAME	JJGms/smf	JCCarr	JMFelton				
DATE	03/23/82	03/23/82	03/23/82				

March 17, 1982

File 28133

Mr. J.M. Felton, Director
Division of Rules and Records
Office of Administration
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

FREEDOM OF INFORMATION
ACT REQUEST
FOIA-82-172
Rec'd 11-2-82

FREEDOM OF INFORMATION ACT REQUEST

Dear Mr. Felton:

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, as amended, and the provisions of 10 CFR Part 9, the undersigned hereby requests the following items:

1. Documents specifying the materials used, and the dimensions and specifications thereof, for the piping from the heat exchangers to the cooling towers at the Perry Nuclear Power Plant, Docket No. 50-440/441. ✓
2. Petition for Rulemaking on ATWS by Electric Utilities, Docket No. PRM-50-29. (45 FR 73080 (Nov. 4, 1980) and 46 FR 10501 (Feb. 3, 1981)). ✓
3. Advance Notice of Proposed Rulemaking: Acceptance Criteria for Emergency Core Cooling Systems for Light Water Cooled Power Plants (Part 50), 43 FR 57157 (Dec. 6, 1978) and transcripts/minutes of meeting with General Electric and NRC Staff in June 1981, discussing proposed changes to the rule (mentioned in Regulatory Agenda, 46 FR 53608, Oct. 29, 1981).
4. Memorandum of Chairman Joseph M. Hendrie to Commissioners Gilinsky, Bradford, and Ahearne, "ATWS", dated June 9, 1981. ✓
5. NEDO-10812, "Hydrogen Flammability and Burning Characteristics in BWR Containments" (April 1973) ✓
6. M.P. Paulson and J. O. Bradfute, "Pressure and Temperature Transients Resulting from Postulated Hydrogen Fires in Mark III Containments" EI 75-4, Energy, Inc. *4/21/75*
7. General Electric Nuclear Reactor Study and its related Sub-Task Force Reports, generally known as the Reed report (see CLI-80-35, 12 NRC 409 for the decision regarding public disclosure of this document). ✓

In accordance with the Commission's policy as related in your response to my earlier FOIA request (FOIA-81-516), I request that 75% of the fees incurred for the search and production of those documents related to a contention admitted in the Perry proceeding be waived. The above documents relate to the Perry proceeding as follows:

#1 relates to Issue #3 (see LPB-81-24, 14 NRC 175 (July 28, 1981)).

#2 and #4 relate to Issue #6 (see LPB-81-24, 14 NRC 175 (July 28, 1981)).

#3 relates to Issue #4 (see LPB-81-24, 14 NRC 175 (July 28, 1981)).

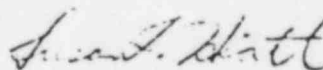
#5 and #6 relate to Issue #8, admitted by a Memorandum and Order dated March 3, 1982.

#7 - since the contents of this document are unknown to this requester, it is not known how the Reed Report relates to any contention admitted to the Perry proceeding. It is entirely possible that portions of the Reed Report are relevant to one or more of the contentions admitted by the ASLB. If this is the case, the cost of producing those portions of the report should be reduced 75%.

This requester agrees to accept the residual (25%) charges for items 1-6 and the charges, as appropriate, for item 7.

Thank you for your assistance.

Sincerely,



Susan L. Hiatt
OCRE Interim Representative
S275 Munson Rd.
Mentor, OH 44060
(216) 255-3158

May 7, 1982

Ms. Susan L. Hiatt
OCRE Interim Representative
8275 Munson Road
Mentor, OH 44060

IN RESPONSE REFER
TO FOIA-82-172

Dear Ms. Hiatt:

This is in response to your letter dated March 17, 1982, in which you requested, pursuant to the Freedom of Information Act, seven categories of documents which you described in your letter.

As agreed in a telephone conversation between you and Nina Toms of my staff, you will visit the NRC Local Public Document Room located in the Perry Public Library, 3753 Main Street, Perry, Ohio. The records subject to item 1 of your request are contained in the applicant's Final Safety Analysis Report (FSAR). Table 3.2-1, and sections describing the Service Water, Emergency Service Water Heat Exchanger and the Circulation Water Heat Exchanger should be of particular interest to you.

The documents listed on Appendix A are relevant to items 2, 3, 4 and 5 of your request. These documents are enclosed.

As you are aware, it is the Commission's decision to waive 75% of the reproduction costs for documents relating to contentions admitted by the Atomic Safety and Licensing Board in the Perry proceedings. Therefore, the charge for reproducing the enclosed 212 pages is \$2.65. You will be billed directly by our Division of Accounting for this amount.

A copy of the document you requested in item 6 of your letter may be obtained by writing directly to the address listed below.

Energy Incorporated
P.O. Box 736
Idaho Falls, Idaho 83402
Telephone: (208) 529-1000

In regard to item 7 of your request, the Commission had determined to make a copy of the Reed Report available to the public. A copy of that decision and an addendum are enclosed for your information. The General Electric Company thereafter sued the NRC to enjoin disclosure of the Report and a federal district court in an October 31, 1980 order, (copy enclosed) barred disclosure of the Report and its contents by the NRC pending resolution of the various claims for them. Accordingly, the NRC cannot provide the information you seek. In this regard, see GTE Sylvania Inc. v Consumers Union of the United States, Inc., _____ U.S. _____ 63 L.Ed.2d 467 (1980) (copy enclosed).

Ms. Susan L. Hiatt

-2-

The NRC will keep you informed of the disposition of the lawsuit and may be able to respond fully to your request at a later date. For future information on the availability of the Reed Report, you may contact Ms. Carol Ann Reed at (301) 492-8133.

Sincerely,

*original letter signed
by John Philips*

(for)

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

DISTRIBUTION

DRR Rdg
DRR Sub
PGNorry
Maynard
Shomaker
Carr
Toms
PDR

OFFICE ▶	ADM: DRR	ADM: DRR	ADM: DRR				
SURNAME ▶	HToms/sf	JCarr	JMFelton				
DATE ▶	5/1/82	5/1/82	5/1/82				

Appendix A

1. Petition for Rulemaking on ATWS.* (44 pages)
2. Supplement to Petition for Rulemaking on ATWS.* (7 pages)
3. Advance Notice of Proposed Rulemaking.* (3 pages)
4. Memo for Roger Mattson, from Wayne Hodges, Summary of March 29, 1981, Meeting with General Electric on "Proposed ECCS Approach for BWR's," July 2, 1981.* (55 pages)
5. Memo for the Commissioners from Chairman Hendrie, "ATWS," June 9, 1981.* (31 pages)
6. Licensing Topical Report - Hydrogen Flammability and Burning Characteristics in BWR Containments, April 1973." (72 pages)
7. Commission's Decision on Reed Report.
8. Addendum to Reed Report.
9. Court Order, October 31, 1980.

*Relates to an ASLB Contention; charged 25% of cost.

FREEDOM OF INFORMATION
ACT REQUEST

FOIA-82-545

Rec'd 11-9-82

November 4, 1982

Mr. J.M. Felton, Director
Division of Rules and Records
Office of Administration
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

FREEDOM OF INFORMATION ACT REQUEST

Dear Mr. Felton:

Pursuant to the Freedom of Information Act, 5 USC § 552, as amended, and the provisions of 10 CFR Part 9, the undersigned hereby requests the following items:

1. The LWR Hydrogen Manual, as described in Enclosure E to the Weekly Information Report for the Commissioners for the week ending July 14, 1982. This document relates to Issue #8 in the Perry OL proceeding; see LBP-82-15, 15 NRC 555.
2. All results of the computer analysis of hydrogen burns in Mark III containments using the HECTR code developed by Sardia National Labs., as described in Enclosure E of the Weekly Information Report to the Commissioners for the week ending July 14, 1982. This item relates to Issue #8 in the Perry proceeding.
3. All internal NRC memoranda to, from, or concerning James M. Catchin, IV, Esq. and pertaining to the Perry Nuclear Power Plant OL proceeding, Docket Nos. 50-440/441.
4. Any analyses performed with the MARCH code for any accident sequences specific to the Perry Nuclear Power Plant, and any documents discussing the capabilities and limitations of the MARCH code. This relates to Issue #8 in the Perry proceeding.
5. All details of spontaneous hydrogen explosions occurring in the off-gas systems of the following BWRs: Cooper, Browns Ferry 3, Millstone 1. (These are mentioned in NUREG/CR-1561, p. 49) This relates to Issue #8 in the Perry proceeding. LTC
6. Provide all details of all instances in which the NRC has received complaints or allegations from employees of the Cleveland Electric Illuminating Co. or its contractors concerning a deficiency in construction or quality assurance at the Perry plant. This relates to Issue #3 in the Perry proceeding.
7. Provide all details of any instances of harassment or intimidation of inspectors at the Perry plant construction site. Also any instances in which an employee of CEI or any of its contractors was fired as a result of making allegations of poor construction practices or other improprieties at the Perry site to the NRC, news media, or any other persons or entity. This relates to Issue #3.
8. All internal notes, memoranda, or correspondence not made available in the NRC's inspection reports concerning the construction activities at the Perry Nuclear Power Plant. This relates to Issue #3.

9. 5. 17
All details of any monetary penalties imposed upon CEI for QA violations at the Perry Nuclear Power Plant. This relates to Issue #3.

- 10.* Any trend analyses performed by the NRC concerning the construction of the Perry plant. This relates to Issue #3.
11. Any requests made by the NRC to CEI (and CEI's answers to same) pertaining to the information detailed in 10 CFR 50.54(f).
12. Any communications made with the NRC concerning the Perry site construction by any State or local agencies.

In accordance with the Commission's policy, as related in your response to my earlier request (FOIA-81-516), I request that 75% of the fees for the search and production of all items except #3 be waived, as they all pertain to an issue that has been admitted in the Perry OL proceeding. I agree to accept the residual (25%) charges for these items and all charges for item #3.

Sincerely,



Susan L. Hiatt
OCRE Representative
8275 Munson Rd.
Mentor, OH 44060
(216) 255-3158

Catchen

Docket No. 50-441

December 7, 1982

Ms. Susan L. Hiatt
OCRE Representative
8275 Munson Road
Mentor, OH 44060

IN RESPONSE REFER
TO FOIA-82-545

Dear Ms. Hiatt:

This is in response to your letter dated November 4 which was received in our office November 9, 1982, in which you requested, pursuant to the Freedom of Information Act, 12 categories of documents relating to the Perry Power Plant.

With respect to the LWR Hydrogen Manual, item 1 of your request, the final draft is not yet available. This report will be available to the public in early 1983.

NUREG/CR-2530, Review of the Grand Gulf Hydrogen System Ignitor (which addresses item 2 of your request), is being published in two weeks.

As discussed in a telephone conversation with Nina Toms of my staff, the MARCH code, item 4 of your request, was not run for Perry. However, the following reports relate to the capabilities and limitations of the MARCH code.

1. NUREG/CR-1711 - MARCH Code User's Manual, October 1980.
2. NUREG/CR-2285 - Interim Technical Assessment of MARCH Code, November 1981.
3. NUREG/CR-0850, Appendix A, November 1981.
4. NUREG/CR-2672, Small Break LOCA Outside Containment at Browns Ferry Unit One (Appendix B - MARCH Evaluation).

All of the documents referenced above may be purchased by writing directly to the address below:

National Technical Information Services
5285 Port Royal Road
Springfield, VA 22141
Telephone: (703) 487-4650

The documents listed on Appendix A are responsive to item 5 of your request. As you are aware, 75 percent of the reproduction costs for documents relating to contentions admitted by the Board in the Perry proceedings are being waived. Therefore, the charge for reproducing the enclosed 404 pages is \$5.05. As mentioned in an earlier response to you, our Division of Accounting will bill you for this amount.

Items 8 and 10 of your request have previously been addressed in an earlier FOIA request. You may review these records by visiting the NRC Local Public Document Room located in the Perry Public Library, 3753 Main Street, Perry, Ohio, or writing to the NRC Public Document Room, 1717 H Street, N.W., Washington, DC. You may obtain access to these records by requesting FOIA-82-305, in the name of Hubbard.

The search for items 3, 6, 7, 9, 11, and 12 of your request is continuing. When we have completed our search, you will be notified of our determination.

Sincerely,

(Signature)

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

Enclosures: As stated

DISTRIBUTION

- DRR Rdg
- DRR Subj
- JCCarr
- NLToms
- PGNorry
- ECShomaker
- PDR
- JCutchin, ELD
- LT/DK
- J.S. ...

OFFICE	ADM:DRR	ADM:DRR	ADM:DRR			
SURNAME	NE/MS/smf	JM Felton	JMFelton			
DATE	12/6/82	12/8/82	12/ /82			

Appendix A

1. 4/2/74 Memo for A. Giambusso from B. H. Grier re: Boiling Water Reactor Off-Gas System Explosions w/enclosures (62 pages)
2. 4/3/74 Memo for J. G. Davis from B. H. Grier re: Off-Gas System Explosions in Boiling Water Reactors (1 page)
3. 12/14/77 Letter to D. C. Switzer from Boyce H. Grier re: Preliminary Notification w/attachment (6 pages)
4. 12/22/77 Letter to Boyce H. Grier from D. C. Switzer re: Sequence of Events w/attachment (11 pages)
5. 12/23/77 Letter to D. C. Switzer from Boyce H. Grier re: Off-Gas System Detonation (1 page)
6. 12/23/77 Memo for Boyce H. Grier from E. C. McCabe, Jr., re: 12/16/77- Public Meeting on Millstone I Off-Gas Explosions (3 pages)
7. 12/27/77 Letter to Boyce H. Grier from E. J. Ferland re: Licensee Event Report w/attachment (10 pages)
8. 1/3/78 Memo for R. J. Mattson from V. Stello, Jr., re: DOR Input to Congressman Dingell Letter Response on Off-Gas Explosions (11 pages)
9. 1/16/78 Letter to D. C. Switzer from Eldon J. Brunner re: Inspection 50-245/77-33 w/attachment (36 pages)
10. 1/18/78 Letter to Boyce H. Grier from E. J. Ferland re: Licensee Event Report w/attachment (4 pages)
11. 1/25/78 Memo for E. L. Jordan from B. H. Grier re: Congressional Investigator's Report on Millstone Point I Off-Gas System Explosions on 12/13/77 w/enclosures (28 pages)
12. 2/10/78 Memo for Distribution from Boyce H. Grier re: Potential Explosive Gas Mixture Accumulations Associated with BWR Off-Gas System Operations w/enclosures (35 pages)
13. 2/14/78 Memo for E. L. Jordan from B. H. Grier re: Analysis of Licensee Report on Millstone I Off-Gas Explosion w/enclosure (3 pages)
14. 3/2/78 Letter to Boyce H. Grier from D. C. Switzer re: IE Bulletin No. 78-03 (1 page)
15. 4/21/78 Letter to Boyce H. Grier from E. J. Ferland re: Hydrogen Detonation in December 1977 (2 pages)

Appendix A

(Continued)

16. 8/14/78 Memo for Chairman Hendrie et. al. from O. Gene Abston re: GAO Final Report to the Honorable Tom Beville on Off-Gas Explosions (9 pages)
17. 8/25/78 Memo for E. J. Brunner et. al. from Roger W. Woodruff re: Inspection of Licensee Response to IEB-78-03 Per MC 92703 (11 pages)
18. 9/7/78 Memo for R. W. Woodruff from E. J. Brunner re: IEB 78-03 Responses (1 page)
19. 10/13/78 Memo for R. W. Woodruff from F. J. Long re: Inspection of Licensee Response to IEB-78-03 (1 page)
20. 10/26/78 Letter to The Honorable Jack Brooks from Joseph M. Hendrie re: Technical Report on Operating Experience w/Boiling Water Reactor Off-Gas Systems (4 pages)
21. 11/29/78 Memo for B. K. Grimes from E. L. Jordan re: Review of Responses to IE Bulletin 78-03 w/enclosures (117 pages)
22. 11/29/78 Memo for E. J. Brunner et. al. from E. L. Jordan re: Commission Response Regarding GAO Report on Off-Gas Explosions w/enclosure (5 pages)
23. 1/15/79 Memo for E. L. Jordan from B. K. Grimes re: Proposed DOR Action on Prevention of Off-Gas Explosions (5 pages)
24. 1/30/79 Memo for E. J. Brunner et. al. from E. L. Jordan re: Information Regarding Proposed DOR Action on Prevention of Off-Gas Explosions (2 pages)
25. 2/7/79 Memo for E. L. Jordan from G. L. Madsen re: Information Regarding Proposed DOR Action on Prevention of Off-Gas Explosions (1 page)
26. 2/13/79 Memo for E. L. Jordan from R. C. Lewis re: Information Regarding Proposed DOR Action on Prevention of Off-Gas Explosions (1 page)
27. 3/21/79 Memo for E. J. Brunner et. al. from E. L. Jordan re: Current DOR Acceptance Criteria for Prevention of Off-Gas Explosions in Operation BWRs w/enclosure (14 pages)
28. 8/13/79 Letter to James P. O'Reilly from J. R. Calhoun re: Licensee Event Report w/enclosure (3 pages)
29. Undated Inspection on July 9 - August 3, 1979 re: Browns Ferry Nuclear Plant (5 pages)

Appendix A

(Continued)

30. 1/18/78 Letter to Steve Gadler from Ernst Volgenau re: Off-Gas Explosion at the Millstone Nuclear Power Station, Unit No. 1, on 12/13/77 w/enclosure (11 pages)

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
CLEVELAND ELECTRIC ILLUMINATING)	Docket No. 50-440 OL
COMPANY, <u>ET AL.</u>)	50-441 OL
(Perry Nuclear Power Plant,)	
Units 1 and 2))	

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S ANSWER OPPOSING OCRE'S MOTION FOR AN ORDER REQUIRING THE STAFF TO ANSWER OCRE'S SIXTH SET OF INTERROGATORIES TO THE STAFF" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, or, as indicated by an asterisk, by deposit in the Nuclear Regulatory Commission's internal mail system, this 20th day of December, 1982:

*Peter B. Bloch, Esq., Chairman
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Donald T. Ezzone, Esq.
Assistant Prosecuting Attorney
105 Main Street
Lake County Administration Center
Painesville, Ohio 44077

*Dr. Jerry R. Kline
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Susan Hiatt
8275 Munson Road
Mentor, Ohio 44060

*Mr. Frederick J. Shon
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Daniel D. Wilt, Esq.
P. O. Box 08159
Cleveland, Ohio 44108

Jay Silberg, Esq.
Shaw, Pittman, Potts and Trowbridge
1800 M Street, NW
Washington, DC 20036


Terry Lodge, Esq.
Attorney for Intervenors
915 Spitzer Building
Toledo, Ohio 43604

John G. Cardinal, Esq.
Prosecuting Attorney
Ashtabula County Courthouse
Jefferson, Ohio 44047

*Atomic Safety and Licensing
Board Panel
U.S. Nuclear Regulatory Commission
Washington, DC 20555

*Atomic Safety and Licensing
Appeal Board Panel
U.S. Nuclear Regulatory Commission
Washington, DC 20555

*Document Management Branch
Document Control Desk
Room 016, Phillips Building



James M. Cutchin IV
Counsel for NRC Staff