PDR-016

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

April 6, 1983

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

IN RESPONSE REFER
TO FOIA-83-A-3
(FOIA-83-1)

Dear Ms. Hiatt:

This is in response to your letter dated March 3, 1983, in which you appealed Mr. J. M. Felton's denial-in-part of your Freedom of Information Act request for documents pertaining to risks from low trajectory turbine missiles to the Perry Nuclear Power Plant.

Acting on your appeal, I have carefully reviewed the record in this case and have determined, for the reasons stated below, that the previously withheld information still requires withholding 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) of the Commission's regulations. Therefore, your appeal is denied.

One of the documents in question is a draft of Section 3.5.1.3 of the Supplement to the Safety Evaluation Report (SSER). This document was prepared as part of the on-going internal deliberative process of the agency regarding this SSER and is both deliberative and predecisional in nature. As you are aware, the SSER has not yet been issued for Perry. The other document is a draft of a response to your Contention 21. This document was also prepared as part of the on-going internal deliberative process of the agency in responding to this Contention and is both deliberative and predecisional in nature. Again as you are aware, NRC has not yet responded to this Contention. Disclosure of these documents would impair the staff's ability to work toward resolving plant-specific technical issues.

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,

William J. Dircks
Executive Director for Operations

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HIATT83-A-3 PDR

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

February 10, 1983

Docket No. 50-440

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

IN RESPONSE REFER
TO FOIA-83-1

Dear Ms. Hiatt:

This is in response to your letter dated December 28, 1982, in which you requested, pursuant to the Freedom of Information Act, four categories of documents pertaining to risks from low trajectory turbine missiles to the Perry Nuclear Power Plant.

The seven documents listed on Appendix A are responsive to your request. Documents 1, 2, and 3 are enclosed in their entirety. Documents 4 and 5 contain information which constitutes advice, opinions and recommendations of the staff. 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). The nonexempt portions of these documents are enclosed.

The two remaining documents contain information which the BWR Owners Group considers confidential business (proprietary) information. This information is being withheld from public disclosure pursuant to Exemption (4) of the Freedom of Information Act (5 U.S.C. 552(b)(4)) and 10 CFR 9.5(a)(4). We have asked the originators of this information to review their proprietary claim, and will let you know as soon as possible whether the documents, or any portions thereof, may be disclosed to the public.

Pursuant to 10 CFR 9.9 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 persons responsible for this denial are the undersigned and Mr. Harold R. Denton, Director, Office of Nuclear Reactor Regulation.

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This denial may be appealed to the Commission's Executive Director for Operations within 30 days from the receipt of this letter. As provided in 10 CFR 9.11, any such appeal must be in writing, addressed to the Executive Director for Operations, 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."

Sincerely,

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

Enclosures: As stated

Appendix A

1. GAI Report No. 1848, "An Analysis of Low Trajectory Turbine Missile Hazard," October 8, 1976.

2. Memorandum for Robert L. Tedesco from William V. Johnston, "The Cleveland Electric Illuminating Company, Perry Nuclear Power Plant Unit Nos. 1 and 2, Safety Evaluation Report Input," April 27, 1982.

3. Memorandum for Thomas M. Novak, from J. J. Stefano, "Perry SER Turbine Missiles Unresolved Issue," December 23, 1982.

4. Memorandum for Robert L. Tedesco from William V. Johnston, "The Cleveland Electric Illuminating Company, Perry Nuclear Power Plant Unit Nos. 1 and 2, Safety Evaluation Report Input," July 26, 1982, with attachment, "Turbine Missiles".

5. Memorandum for Thomas M. Novak from William V. Johnston, "The Cleveland Electric Illuminating Company, Perry Nuclear Power Plant Unit Nos. 1 and 2, Response to "OCRE" Contention 21," December 23, 1982.

6. SLI-8211, "Review of BWR Reactor Vessel Water Level Measurement Systems," July 1982.

7. SLI-8218, "Inadequate Core Cooling Detection in BWR's," December 1982.