



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

PDR-014

DEC 7 1983

Mr. Lyle D. Graber
Licensing Engineer
Licensing Information Service
NUS Corporation
2536 Countryside Boulevard
Clearwater, FL 33515

IN RESPONSE REFER
TO FOIA-83-527

Dear Mr. Graber:

This is in response to your letter dated September 7, 1983 in which you requested, pursuant to the Freedom of Information Act, that the following documents be placed in the Public Document Room:

SECY-83-32
SECY-83-98B
SECY-83-228
SECY-83-228A
SECY-83-240
SECY-83-246
SECY-83-261

SECY-83-32 and SECY-83-98B have already been made available for public inspection and copying at the Public Document Room. You may obtain SECY-83-32 by requesting folder FOIA-83-451 in the name of Billie Pirner Garde. You may obtain SECY-83-98B by requesting folder FOIA-83-325 in the name of Lynn M. Danielson.

SECY-83-228 is a five page memorandum dated June 10, 1983 to the Commission from Martin G. Malsch, Deputy General Counsel, Subject: Disposition of SECY-82-489 and Informal Adjudication Concerning Self-Powered Lighting, Inc.; attachment 1, SECY-82-489; attachment 2, six page memorandum dated January 10, 1983 to the Commission from Trip Rothschild, Acting Assistant General Counsel, Subject: OGC Recommendations Concerning SECY-82-489 ("Licensing of Gunsights Illuminated by Byproduct Material") and the Self Powered Lighting Adjudication; attachment 3, two page letter dated January 19, 1983 to Theodore Olson, Assistant Attorney General, Dept. of Justice, re: licensing of gunsights illuminated by byproduct material; enclosure, three page memorandum dated January 5, 1983 to Commissioner Ahearne from W. Dircks, Subject: Licensing of Gunsights Illuminated by

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Byproduct Material (SECY-82-489); attachment 4, three page memorandum dated June 3, 1983 to Martin Malsch from Robert Shanks, Deputy Assistant Attorney General, Dept. of Justice, re: Inquiry Concerning Licensing of Gunsights Illuminated by Nuclear Byproduct Material; attachment 5, May 5, 1983 letter to Congressman Broomfield from James Fitzgerald; attachment 6, January 12, 1983 letter to Ellen Bass from Trip Rothschild; attachment 7, two page undated draft Commission order re: Byproduct Materials License. Attachments 1, 5, and 6 are in the PDR. The June 10, 1983 Malsch memorandum, January 10, 1983 Rothschild memorandum (attachment 2) and draft order (attachment 7) contain the legal analyses, opinions, and recommendations of the Office of the General Counsel to the Commissioners on the renewal of the Self-Powered Lighting license. The factual contents of the June 10, 1983 memorandum, January 10, 1983 memorandum and draft order are already in the public record in Docket No. 30-9842 and release of these portions would reveal the agency's predecisional determinations as to which facts are important. Therefore, the June 10, 1983 memorandum, January 10, 1983 memorandum and draft order do not contain any reasonably segregable factual portions not already in the public domain. Because the documents reflect the predecisional process between the Office of the General Counsel and the Commissioners, the memorandum and draft order are exempt from mandatory 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). Release of these documents would tend to inhibit the open and frank exchange of ideas essential to the deliberative process. For these reasons, the documents are being withheld in their entirety. Attachment 4 and the enclosure to attachment 3 are undergoing review. As soon as a determination has been made regarding their releasability we will respond further.

SECY-83-228A is being placed in the Public Document Room in its entirety.

SECY-83-240 is being partially released as noted below. Portions of pages 1 and 4 and all of pages 2 and 3 from the June 20, 1983 memorandum and the two page draft Commission order regarding the Shoreham facility contain the legal analyses, opinions, and recommendations of the General Counsel's office to the Commissioners in an adjudicatory matter. The factual contents of the memorandum and draft order are already in the public record in Docket No. 50-322 in the Public Document Room and release of these portions would reveal a predecisional evaluation of the facts in the licensing proceeding. The information contains no reasonably segregable factual portions not already in the public domain and is predecisional in nature in that it reflects the deliberative process between the General Counsel and the Commissioners. Release of the information would tend to inhibit the open and frank exchange of ideas essential to the agency's decisionmaking process. Therefore, it is being withheld from mandatory 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 SECY-83-240 are being placed in the PDR.

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SECY-83-246 is a 14 page memorandum dated June 22, 1983 to the Commission from Herzel H. E. Plaine, General Counsel, Subject: Review of ALAB-724 -- In the Matter of Metropolitan Edison Company, re: Three Mile Island Nuclear Station, Unit No. 1; enclosure (1) two page draft Commission order re: TMI Unit No. 1; enclosure (2) undated one page draft memorandum to W. Dircks, EDO, from S. Chilk, Secretary, Subject: Corrosion in PORVs at TMI-1; enclosure (3) Metropolitan Edison Co., et al. (Three Mile Island Nuclear Station, Unit No. 1), ALAB-724, 17 NRC (April 30, 1983), 5 pages; enclosure (4) one page memorandum dated April 4, 1983 to the Commission from D. Eisenhut, NRR, Subject: Board Notification Regarding the Need for Rapid Primary System Depressurization Capability in PWR's (BN-83-47), attachment, five page service list, enclosure, three page memorandum dated March 27, 1983 to D. Eisenhut from R. Mattson, Subject: Board Notification Regarding PORVs. Enclosures 3 and 4 are in the PDR. The June 22, 1983 memorandum, draft order and draft memorandum contain the legal analyses, opinions, and recommendations of the General Counsel to the Commissioners on the April 30, 1983 Appeal Board order concerning design issues of TMI Unit No. 1. The factual contents of the June 22, 1983 memorandum, draft order and draft memorandum are already in the public record in Docket No. 50-289 and release of these portions would reveal the agency's predecisional determinations as to which facts are important. The documents do not contain any reasonably segregable factual portions not already in the public domain. Because the documents reflect the predecisional process between the General Counsel and the Commissioners, the memorandum, draft order and draft memorandum are exempt from mandatory 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). Release of the documents would tend to inhibit the open and frank exchange of ideas essential to the deliberative process. For these reasons, these documents are being withheld in their entirety.

SECY-83-261 is being partially released. A copy of the expurgated paper will be placed in the Public Document Room. Portions of pages 1, 3, and 5 and all of page 4 of the June 29, 1983 memorandum and the eight page draft memorandum and order regarding the Maine Yankee facility contain the legal analyses, opinions, and recommendations of the General Counsel's office to the Commissioners in an adjudicatory matter. The factual contents of the memorandum and draft memorandum and order are already in the public record in Docket No. 50-309 in the Public Document Room and release of these portions would reveal the agency's predecisional determinations as to which facts are important. The information contains no reasonably segregable factual portions not already in the public domain and is predecisional in nature in that it reflects the deliberative process between the General Counsel and the Commissioners. Release of the information would tend to inhibit the open and frank exchange of ideas essential to the agency's decisionmaking process. Therefore, it is being withheld from mandatory 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).

Mr. Lyle D. Graber

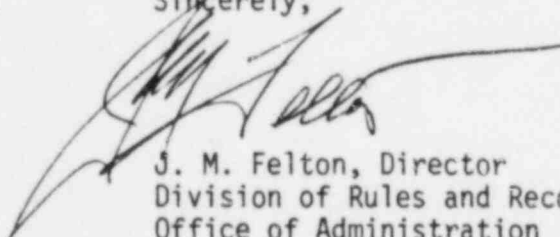
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Pursuant to 10 CFR 9.15 of the Commission's regulations, it has been determined that the information withheld is exempt from production or disclosure and that its production or disclosure is contrary to the public interest. The person responsible for this denial is Mr. John C. Hoyle, Assistant Secretary of the Commission.

This denial may be appealed to the Commission within 30 days from the receipt of this letter. Any such appeal must be in writing, addressed to the Secretary of the Commission, 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,

A handwritten signature in dark ink, appearing to read "J. M. Felton", with a long, sweeping horizontal line extending to the right.

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