U.S. NUCLEAR REGULATORY COMMISSION

NUPOCS

RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

NRC FOIA REQUEST NUMBER(S)
FOIA – 95-219

RESPONSE TYPE
XX FINAL | PARTIAL

DATE OCT 23 1995

DOCKET NUMBER(S) *(If applicable)*

REQUESTER
J. Gregory Copeland

PART I.–AGENCY RECORDS RELEASED OR NOT LOCATED *(See checked boxes)*

	No agency records subject to the request have been located.
	No additional agency records subject to the request have been located.
	Requested records are available through another public distribution program. See Comments section.
	Agency records subject to the request that are identified in Appendix(es) _____ are already available for public inspection and copying at the NRC Public Document Room, 2120 L Street, N.W., Washington, DC.
XX	Agency records subject to the request that are identified in Appendix(es) K are being made available for public inspection and copying at the NRC Public Document Room, 2120 L Street, N.W., Washington, DC, in a folder under this FOIA number.
	The nonproprietary version of the proposal(s) that you agreed to accept in a telephone conversation with a member of my staff is now being made available for public inspection and copying at the NRC Public Document Room, 2120 L Street, N.W., Washington, DC, in a folder under this FOIA number.
	Agency records subject to the request that are identified in Appendix(es) _____ may be inspected and copied at the NRC Local Public Document Room identified in the Comments section.
	Enclosed is information on how you may obtain access to and the charges for copying records located at the NRC Public Document Room, 2120 L Street, N.W., Washington, DC.
XX	Agency records subject to the request are enclosed. Appendix K documents are enclosed.
	Records subject to the request have been referred to another Federal agency(ies) for review and direct response to you.
XX	Fees SEE BELOW
	You will be billed by the NRC for fees totaling $ _____.
	You will receive a refund from the NRC in the amount of $ _____.
	In view of NRC's response to this request, no further action is being taken on appeal letter dated _____, No. _____

PART II. A–INFORMATION WITHHELD FROM PUBLIC DISCLOSURE

	Certain information in the requested records is being withheld from public disclosure pursuant to the exemptions described in and for the reasons stated in Part II, B, C, and D. Any released portions of the documents for which only part of the record is being withheld are being made available for public inspection and copying in the NRC Public Document Room, 2120 L Street, N.W., Washington, DC in a folder under this FOIA number.

COMMENTS

The actual fees for processing your two FOIA requests are as follows:

FOIA-95-219:		FOIA-95-267:	
Search (28 hrs, 40 mins.)	$ 937.79	Search (5 hrs, 15 mins)	$170.46
Review (48 hrs)	1531.43	Review (5 hrs, 15 mins)	170.46
Duplication	167.60	Duplication	179.40
	$2636.82		$520.32

The total amount of fees for processing your two requests is $3157.14. Since you've already submitted advanced payment in the amount of $3495.71 ($2,083.26 for FOIA-95-219, and $1412.45 for FOIA-95-267), you will receive a refund from the NRC Division of Accounting in the amount of $338.57.

This completes NRC action on your request.

SIGNATURE, DIRECTOR, DIVISION OF FREEDOM OF INFORMATION AND PUBLICATIONS SERVICES

Re: FOIA-95-219

APPENDIX K
DOCUMENTS BEING RELEASED IN THEIR ENTIRETY

NUMBER	DATE	DESCRIPTION
1.	6/18/93	Memo from J. Taylor to the Commission, subject: South Texas Project Electric Generating Station Diagnostic Evaluation Team Report. (1 page)
2.	2/17/94	Memo from J. Taylor to the Commission, subject: South Texas Project Unit 1 Restart. (3 pages)
3.	5/13/94	Memo from J. Taylor to the Commission, subject: South Texas Project Unit 2 Restart. (2 pages)

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FREEDOM OF INFORMATION ACT REQUEST
FOIA-95-219
Rec'd 5-10-95

H-3991

May 9, 1995

Director, Division of Freedom of Information
and Publications Services
Office of Administration
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

By Federal Express

Re: Subpoena/Freedom of Information Act Request regarding the South Texas Project, Docket Nos. 50-498 & 50-499

Dear Sir or Madam:

This is a Freedom of Information Act request pursuant to 5 U.S.C. § 552(a)(3) and 10 CFR § 9.23. This request asks that you make available to the undersigned the documents responsive to the attached Subpoena Duces Tecum. The deposition of Mr. Charles W. Hehl, an NRC employee, was originally scheduled for April 19, 1995, and will probably be rescheduled for some date in June. The documents need to be available in advance of that date. Of course, I agree to bear the cost of this request as per 10 C.F.R. §§ 9.25(4), 9.33, 9.35, 9.39 & 9.40. Please contact the undersigned (713-229-1867) at your convenience if you have any questions about this request. Please direct your response pursuant to 10 CFR § 9.27 to the undersigned at the following address:

J. Gregory Copeland
Baker & Botts, L.L.P.
3000 One Shell Plaza
910 Louisiana
Houston, Texas 77002-4995

Thank you for your time and attention to this matter.

Very truly yours,

J. Gregory Copeland

J. Gregory Copeland

Encl.
cc: Mr. Charles Mullins

HOU02:180887.1 05/09/95 3:11pm

9505310255

SUBPOENA DUCES TECUM

Directions and Instructions

1. The term "NRC" means the United States Nuclear Regulatory Commission, all offices and/or branches thereof specifically including but not limited to Region IV office in Arlington, Texas, and also includes all employees, consultants, agents, and representatives to the maximum extent permitted by 10 C.F.R. § 9.300, unless otherwise indicated by the request.

2. The term "DET" means the Diagnostic Evaluation Team that performed an investigation at STP in 1993, including all members and/or supervisors thereof.

3. The term "Watch List" means the NRC's Problem Plant List, List of Problem Plants, or similar designation for the list of plants receiving heightened NRC scrutiny, such as was the case for STP between June 1993 and February 1995.

4. The term "Austin" refers to plaintiff, The City of Austin, and to any other name under which Austin has conducted its business, the Austin City Council, the Mayor of Austin, all city departments, and to any person or entity acting on Austin's behalf, including but not limited to all employees, agents, elected or non-elected representatives,

5. The term "Austin City Council" refers to the collective governing body, as well as individual council members and all members of their individual or collective staffs.

6. The term "Mayor of Austin" refers to any person holding this office and all members of his or her staff.

7. The term "HL&P" refers to defendant Houston Lighting & Power Company.

8. The term "San Antonio" refers to the City of San Antonio and the City Public Service Board.

9. The term "CP&L" refers to Central Power and Light Company.

10. The term "STP" refers to the two-unit, nuclear-powered electric generation plant in Matagorda County, Texas, owned by HL&P, Austin, San Antonio, and CP&L.

11. The term "Agreement" refers to the Participation Agreement, executed as of July 1, 1973, and all written amendments thereto.

12. The term "Management Committee" means the committee created by the Agreement.

13. The term "documents" includes, but is not limited to, any complete original or a true, correct, and complete copy, and any non-identical copy (whether different from the original by reason of notations or otherwise), of all matters and things within the possession, custody, or control of the NRC (within the meaning of Tex. R. Civ. P. 166b(2)(b)), examples of which include, but are not limited to, all writings, transcripts of conversations, written or recorded statements, bills, invoices, drafts, receipts, memoranda, correspondence, minutes, notes, contracts, notebooks, ledgers, photographs, recording (including without limitation audio and video tapes), electronic data, microfilm, and microfiche. The request for production of non-identical copies, in addition to production of an original or a true, correct, and complete copy, does not require NRC to search for and

produce every copy of a responsive document, but rather requires only that NRC produce every non-identical copy found in the course of a reasonable search for responsive documents.

14. The term "electronic data" means writings of every kind and description, in forms other than ordinary paper records, whether inscribed by mechanical, facsimile, electronic, magnetic, digital, video, or other means. Such writings may include, but are not limited to, computer programs (whether private, commercial, or work-in-progress); programming notes or instructions; electronic mail messages, receipts, and/or transmittals; data files; output resulting from the use of any software program, including word processing documents, computer printouts, spreadsheets, data sheets, data base files, charts, graphs, and outlines; source code of all types; programming languages; linkages and compilers; peripheral drivers; any and all ASCII files; and any and all miscellaneous files and/or file fragments, regardless of the media on which they reside and regardless of whether said electronic data consists in an active file, deleted file, or file fragment. Electronic data includes any and all items stored on computer memories, hard disks, floppy disks, CD-ROM drives, Bernoulli Box drives, optical storage devices, and their equivalent; magnetic tape of all types; data processing cards; punched cards; punched tape; computer chips (including but not limited to EPROM, PROM, RAM, and ROM, to the extent that such chips are used for purposes other than computer systems functions at levels involving machine language or operating systems); facsimile transmission machines; or on or in any other vehicle for digital data storage and/or transmittal. The term "electronic data" also includes the file, folder tabs, and/or containers and labels appended to, or associated with, any physical storage

device associated with any of the other items and materials identified in this paragraph. Unless otherwise noted in a particular interrogatory, if a document is produced in hard-page format, that document does not need to be produced in electronic data format. However, documents are requested to be produced in electronic data format when the documents constitute a database, spreadsheet, information or records management, financial accounting or analysis, and/or other similar electronic data files and programs that are available for use in the ordinary course of business and which can be produced in electronic format without undue burden or expense. If such documents in electronic data format are produced, all programming and other information necessary to read and/or view the documents is also to be produced. Notwithstanding the foregoing, all requests for production call for production of any document that exists in electronic data format if that document does not list in a hard-page format.

15. The term "person" when used herein includes any natural person, as well as any entity such as a corporation, partnership, proprietorship, or business association.

16. The term "communications" includes all verbal, written, or electronic transmissions and/or exchanges of information.

17. Documents "concern" or are "concerning" the matters at issue in a request for production when they contain any matters, facts, or events that discuss, describe, depict, consider, refer to, relate to, or are in any way connected to or with, the matters at issue in the request for production, and shall be interpreted as broadly as possible to promote the full disclosure of information.

18. The term "INPO" means Institute for Nuclear Power Operations.

19. If any document is withheld, please prepare a privilege log as to which a claim of privilege or statutory or other authority is made as a ground for non-production. "Prepare a privilege log" means to provide the following information:

(a) date;

(b) title;

(c) author and addressee of any other recipient;

(d) type of document (*e.g.*, memorandum, report, chart, etc.);

(e) subject matter (without revealing the information as to which privilege or statutory authority is claimed);

(f) factual and legal basis for the privilege claimed or the specific statutory or other authority that provides the claimed ground for non-production;

(g) the place, including the name and the entity or office, in which the document is located.

Documents Requested

1. All documents concerning the NRC's Diagnostic Evaluation Team's investigation of STP, especially including but not limited to:

   a. Austin's and San Antonio's contention that the DET demonstrates that HL&P allegedly operated STP in an unsafe manner;

   b. Austin's and San Antonio's contention in that the DET demonstrates that HL&P allegedly was negligent in the operation of STP;

   c. Austin's and San Antonio's contention that the DET demonstrates that HL&P allegedly failed to operate STP with reasonable skill and care;

d. Austin's and San Antonio's contention that the DET demonstrates that HL&P allegedly violated the Atomic Energy Act;

e. Austin's and San Antonio's contention that the DET demonstrates that HL&P allegedly breached the Operating License;

f. Austin's and San Antonio's contention that the DET demonstrates that HL&P allegedly violated the Technical Specifications for operation of STP;

g. Austin's and San Antonio's contention that the DET demonstrates that HL&P allegedly breached its contractual obligations to STP's co-owners.

h. the reasons why the NRC decided to do a DET,

i. the manner in which the DET report was prepared

j. communications with HL&P employees during the DEI investigation;

k. communications with others during the DET investigation;

l. interim reports given to HL&P concerning the progress or outcome of the DET investigation;

m. variances, differences or changes between interim reports and the final DET report;

n. internal NRC discussions about interim drafts of the DET report;

o. internal NRC discussions about the final DET report;

p. internal NRC discussions about variances, differences or changes between interim reports and the final DET report;

q. the basis for each of the findings in the DET report;

r. Region IV's view of the necessity of a DET for STP;

s. internal Region IV communications with NRC about STP during the period 1988 to 1995;

t. Region IV's knowledge of issues raised in the DET report;

u. Region IV's knowledge of HL&P's plans to address issues raised in the DET;

v. Region IV's acquiescence in HL&P's plans to address issues raised in the DEI report before the DET inspection or report;

w. communications with the DET concerning Region IV's acquiescence in HL&P's plans to address issues raised in the DET report;

x. whether Region IV expressed any of the views in the DET report to HL&P;

y. communications between NRC and Region IV concerning consistencies or inconsistencies between the DET and prior Inspection Reports;

z. internal Region IV discussions concerning the findings and conclusions expressed in the DET Report;

aa. to the extent not covered by a previous request, all other documents regarding the DET Report concerning STP.

2. All documents concerning the NRC's placement of STP on the Watch List, especially including but not limited to:

a. Austin's and San Antonio's contention that placement on the Watch List demonstrates that HL&P allegedly operated STP in an unsafe manner;

b. Austin's and San Antonio's contention that placement on the Watch List demonstrates that HL&P allegedly was negligent in the operation of STP;

c. Austin's and San Antonio's contention that the DET demonstrates that HL&P allegedly failed to operate STP with reasonable skill and care;

d. Austin's and San Antonio's contention that the DET demonstrates that HL&P allegedly violated the Atomic Energy Act;

e. Austin's and San Antonio's contention that the DET demonstrates that HL&P allegedly breached the Operating License;

f. Austin's and San Antonio's contention that the DET demonstrates that HL&P allegedly violated the Technical Specifications for operation of STP;

g. Austin's and San Antonio's contention that the DET demonstrates that HL&P allegedly breached its contractual obligations to STP's co-owners;

h. the reason(s) why the NRC placed STP on the Watch List;

i. the manner and process by which the decision to place STP on the Watch List was made;

j. communications with HL&P or its employees about placing STP on the Watch List;

k. communications with others about placing STP on the Watch List;

l. communications with Region IV concerning placing STP on the Watch List;

m. internal communications concerning placing STP on the Watch List;

n. internal Region IV communications concerning placing STP on the Watch List;

o. the effect on operation and maintenance costs of placing STP on the Watch List;

p. the effect on operation and maintenance costs of placing any nuclear plant on the Watch List;

q. to the extent not already covered by a previous request, all other documents regarding STP's placement on the Watch List.

3. All documents concerning the NRC's confirmatory Action Letters of February 5, 1993; May 7, 1993; and October 15, 1993; including but not limited to:

a. communications with HL&P concerning the Confirmatory Action Letters;

b. communications with others concerning the Confirmatory Action Letters;

c. internal NRC discussions concerning the Confirmatory Action Letters;

d. non-final drafts of the Confirmatory Action Letters;

e. discussions wit Region IV concerning non-final drafts of the Confirmatory Action Letters;

f. discussions with Region IV concerning the final drafts of the Confirmatory Action Letters;

g. Region IV's knowledge of the issues raised in NRC's Confirmatory Action Letters;

h. Region IV's knowledge of HL&P's plans to address issues raised in the NRC's Confirmatory Action Letters.

4. All documents concerning, reflecting or evidencing an NRC position on lawsuits between nuclear plant co-owners concerning plant operations or construction;

5. All documents concerning, reflecting or evidencing an NRC position on the obligations of non-operating co-owners of nuclear plants under the AEA, etc.;

6. All documents concerning, reflecting or evidencing an NRC position on performance standards for nuclear plants, including but not limited to STP;

7. All documents concerning communications with the City of Austin;

8. All documents concerning communications with the City of San Antonio;

9. All documents concerning communications with CP&L;

10. All documents concerning communications with Susman Godfrey, L.L.P.;

11. All documents concerning communications with Egan & Associates;

12. All documents concerning communications with Miller, Canfield, Paddock and Stone;

13. All documents concerning communications with Matthews & Branscomb;

14. All documents concerning communications with current or former STP employees;

15. To the extent not covered by a previous request, all documents concerning HL&P's management and operation of STP, excluding correspondence or other documents stored in the NRC's public document room pursuant to the Atomic Energy Act and/or NRC regulation.