



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

AUG 02 1991

John C. Person, Esquire
Newman and Holtzinger, P.C.
1615 L Street, NW
Washington, DC 20036

IN RESPONSE REFER
TO FOIA-91-A-2
(FOIA-90-269)

Dear Mr. Person:

I am writing in response to your letter dated January 14, 1991, in which you appealed Mr. Donnie H. Grimsley's partial responses dated September 20, 1990, October 16, 1990, and December 13, 1990, regarding your initial request number FOIA-90-269. A separate response will be made to your appeal of records denied under number FOIA-90-270. Mr. Grimsley's partial responses denied in whole or in part records subject to your Freedom of Information Act (FOIA) request for copies of 11 categories of records related to specified inspections conducted during the construction of the Nine Mile Point 2 nuclear power plant. This response addresses the records identified at numbers D-1 of Mr. Grimsley's response dated September 20, 1990; G-1, 2, and 6 of Mr. Grimsley's response dated October 16, 1990; and K-1, 3 and 7 of Mr. Grimsley's response dated December 13, 1990. By letter dated February 13, 1991, Mr. Chilk responded to you regarding his portion of the appeal. You also appealed the adequacy of the search to locate records responsive to your initial request.

Acting on your appeal, I have carefully reviewed the record in this case and have determined that some additional information can now be made publicly available. Your appeal is, therefore, partially granted and partially denied.

The enclosed records identified on the enclosed Appendix A are inspection reports which you requested on Page 2 of your letter dated January 14, 1991. The staff did not locate any other records related to these inspection reports.

Also, in response to your concern about an overly restrictive definition of agency records, employees have searched their files again to be certain that all responsive agency records were considered for release, wherever they were maintained. No such additional records were found.

Certain additional portions of the records identified on the enclosed Appendix B can now be made publicly available and are enclosed. The remaining portions of the records identified on the enclosed Appendix B, and the record denied in its entirety identified on the enclosed Appendix C, will continue to be withheld from public disclosure pursuant to Exemption (5) of the FOIA (5 U.S.C. 552(b)(5)) and 10 CFR 9.17(a)(5) of the Commission's regulations.

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PDR FOIA
PERSON91-A-2 PDR

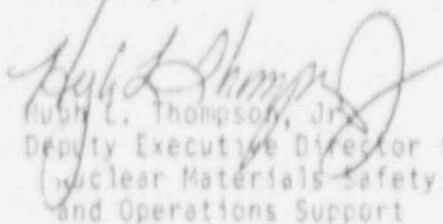
John C. Person, Esquire

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The predecisional information that continues to be withheld pursuant to Exemption (5) consists of preliminary advice, opinions and recommendations of the staff. Release of this information would tend to inhibit the open and frank expression of ideas essential to the deliberative process.

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

Sincerely,



Hugh L. Thompson, Jr.
Deputy Executive Director for
Nuclear Materials Safety, Safeguards
and Operations Support

Enclosures:

1. Appendices A, B and C
2. Released records

Re: FOIA-91-A-2
(FOIA-90-269)

APPENDIX A

RELEASED RECORDS

1. 5/29/81 Letter from Grier to Rhode, re: Meeting 50-410/81-04, with attached Inspection Report No. 50-410/81-04. PDR Accession No. 8106090382 and 8106090384
2. 6/18/82 Letter from Starostecki to Rhode, re: Management Meeting NRC Report No. 50-410/82-06, with attached Inspection Report No. 50-410/82-06. PDR Accession No. 820706009
3. 10/2/85 Letter from Starostecki to Hooten, re: Examination Report No. 50-410/85-15 (OL), with attached Examination Report No. 85-15 (OL). PDR Accession No. 8510170295
4. 4/1/86 Letter from Collins to Hooten, re: Examination Report No. 50-410/85-41 (OL), with attached Examination Report No. 85-41 (OL). PDR Accession No. 8604100183

APPENDIX B

INFORMATION RELEASED
AND PORTIONS CONTINUED TO BE WITHHELD

1. 10/28/83 Memo from Mary Haughey to Darrel Eisenhut, subject: NRR Input to SALP - Nine Mile Point 2 (3 pages) - additional portions being released. Remaining information continued to be withheld pursuant to Exemption 5.
2. 2/23/86 Memo from Mary Haughey to Richard Starostecki, subject: NRR SALP Input - Nine Mile Point Nuclear Station Unit 2 (12 pages) - additional portions being released. Remaining information continued to be withheld pursuant to Exemption 5.
3. 1/20/87 Memo from Thomas E. Murley to J. Taylor, subject: Proposed Enforcement Action - Nine Mile Point, Unit 2 (2 pages) - additional portions being released. Remaining information continued to be withheld pursuant to Exemption 5.

Attached draft letter (3 pages) - released in part. Portions continued to be withheld pursuant to Exemption 5.

Attached Notice of Violation (2 pages) - released in entirety.
4. Undated Post Inspection SALP Evaluation Worksheets for Inspection Report 84-10 (3 pages) - released in part. Portions continued to be withheld pursuant to Exemption 5.
5. Undated Post Inspection SALP Evaluation Worksheets for Inspection Report No. 85-48 (3 pages) - released in part. Portions continued to be withheld pursuant to Exemption 5.
6. Undated Program Office Comments on Regional Enforcement Recommendation, EA-84-04 (7 pages) - released in part. Portions continued to be withheld pursuant to Exemption 5.

APPENDIX C

RECORD CONTINUED TO BE DENIED IN ENTIRETY

1. 4/7/88 Memorandum from W. T. Russell to James Lieberman,
subject: Proposed Letter to Niagara Mohawk Power
Corporation (NMPC) Based on Findings of an OI
Investigation at Nine Mile Point, Unit 2. (1 page)
- Exemption 5



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION 1
831 PARK AVENUE
KING OF PRUSSIA, PENNSYLVANIA 19406

LD (1)

JAN 20 1987

MEMORANDUM FOR: James M. Taylor, Director, IE
FROM: Thomas E. Murley, Regional Administrator, RI
SUBJECT: PROPOSED ENFORCEMENT ACTION - NINE MILE POINT, UNIT 2

The first LCO violation involved an inoperable Source Range Monitor (SRM) for approximately five hours during initial fuel load of the reactor. The SRM was inoperable in that its scram function was bypassed during the performance of a surveillance test involving SRM functional tests, but was not returned to service following completion of the test. The ability of the SRM to provide count rate indication in the control room was unaffected. During the time the SRM's scram function was inoperable, 19 fuel bundles were loaded into the reactor in the quadrant in which the SRM was inoperable. This condition existed until identified during a routine control panel walkdown conducted during the first shift turnover following the surveillance test.

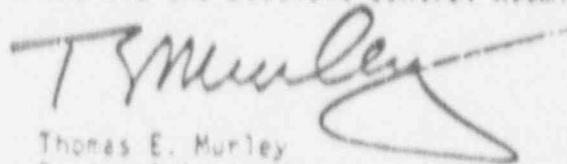
The second LCO violation involved the bypassing of all four SRM downscale rod block channels for approximately 2 1/2 hours while the reactor was in the refueling mode. There was no movement of fuel during this time. The four SRM rod block channels were bypassed by installing jumpers so that the reactor mode switch interlock surveillance test could be performed. This condition was contrary to the technical specifications which required that at least two rod block channels be operable. This violation is also considered to be of low safety significance because there was no movement of fuel or control rods during this time.

~~SECRET~~

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Please note that this memo and Enclosure 1 are being sent on this date to you, the Director of Enforcement, IE, and OGC via the 5520. Enclosure 2, the inspection report, was issued on December 17, 1986, and was previously sent to the Director of Enforcement, IE, and OGC via the Document Control Room.



Thomas E. Murley
Regional Administrator

Enclosures:

1. Letter and Notice of Violation
2. Inspection Report No. 50-410/86-56
3. Licensee Event Report 86-02
4. Licensee Event Report 86-05

cc w/encl:

Enforcement Directors, RII - RIII
Enforcement Officers, RIV - V
B. Beach, IE
J. Lieberman, OGC
K. Abraham, PAO