

N4DOCS

FOIA -- 95-262



RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

RESPONSE TYPE

FINAL

PARTIAL #6

DATE NOV 22 1995

DOCKET NUMBER(S) (If applicable)

REQUESTER

Scott J. Patterson

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.

Agency records subject to the request that are identified in Appendix(es) J 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.

Agency records subject to the request are enclosed.

Records subject to the request have been referred to another Federal agency(ies) for review and direct response to you.

Fees

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 NRC is continuing to review records subject to your request. We will notify you upon completion of the review.

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

Samuel A. Ravel

9512040188 951122
PDR FOIA
PATTERS95-262 PDR

**RESPONSE TO FREEDOM OF
INFORMATION ACT (FOIA) REQUEST
(CONTINUATION)**

FOIA NUMBER(S)
FOIA — 95-262

DATE
NOV 22 1995

PART II. B — APPLICABLE EXEMPTIONS

Records subject to the request that are described in the enclosed Appendix(es) K are being withheld in their entirety or in part under the Exemption No.(s) and for the reason(s) given below pursuant to 5 U.S.C. 552(b) and 10 CFR 9.17(a) of NRC regulations.

1. The withheld information is properly classified pursuant to Executive Order. (Exemption 1)

2. The withheld information relates solely to the internal personnel rules and procedures of NRC. (Exemption 2)

3. The withheld information is specifically exempted from public disclosure by statute indicated. (Exemption 3)

Sections 141-145 of the Atomic Energy Act, which prohibits the disclosure of Restricted Data or Formerly Restricted Data (42 U.S.C. 2161-2165).

Section 147 of the Atomic Energy Act, which prohibits the disclosure of Unclassified Safeguards Information (42 U.S.C. 2167).

4. The withheld information is a trade secret or commercial or financial information that is being withheld for the reason(s) indicated. (Exemption 4)

The information is considered to be confidential business (proprietary) information.

The information is considered to be proprietary information pursuant to 10 CFR 2.790(d)(1).

The information was submitted and received in confidence pursuant to 10 CFR 2.790(d)(2).

5. The withheld information consists of interagency or intraagency records that are not available through discovery during litigation. (Exemption 5). Applicable Privilege:

Deliberative Process: Disclosure of predecisional information would tend to inhibit the open and frank exchange of ideas essential to the deliberative process. Where records are withheld in their entirety, the facts are inextricably intertwined with the predecisional information. There also are no reasonably segregable factual portions because the release of the facts would permit an indirect inquiry into the predecisional process of the agency.

Attorney work-product privilege. (Documents prepared by an attorney in contemplation of litigation.)

Attorney-client privilege. (Confidential communications between an attorney and his/her client.)

6. The withheld information is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy. (Exemption 6)

7. The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated. (Exemption 7)

Disclosure could reasonably be expected to interfere with an enforcement proceeding because it could reveal the scope, direction, and focus of enforcement efforts, and thus could possibly allow recipients to take action to shield potential wrongdoing or a violation of NRC requirements from investigators. (Exemption 7 (A))

Disclosure would constitute an unwarranted invasion of personal privacy. (Exemption 7(C))

The information consists of names of individuals and other information the disclosure of which could reasonably be expected to reveal identities of confidential sources. (Exemption 7 (D))

OTHER

PART II. C — DENYING OFFICIALS

Pursuant to 10 CFR 9.25(b) and/or 9.25(c) of the U.S. Nuclear Regulatory Commission 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 the denial are those officials identified below as denying officials and the Director, Division of Freedom of Information and Publications Services, Office of Administration, for any denials that may be appealed to the Executive Director for Operations (EDO).

DENYING OFFICIAL	TITLE/OFFICE	RECORDS DENIED	APPELLATE OFFICIAL		
			EDO	SECRETARY	IG
James Lieberman	Director, Office of Enforcement	Appendix K	<input checked="" type="checkbox"/>		

PART II. D — APPEAL RIGHTS

The denial by each denying official identified in Part II.C may be appealed to the Appellate Official identified there. Any such appeal must be made in writing within 30 days of receipt of this response. Appeals must be addressed, as appropriate, to the Executive Director for Operations, to the Secretary of the Commission, or to the Inspector General, 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."

APPENDIX J
DOCUMENTS BEING PLACED IN THE PDR

NUMBER	DATE	DESCRIPTION
1.	06/01/93	Memorandum, 1 page with attachment, from J. Milhoan to J. Lieberman Recommending Enforcement Action Against Nebraska Public Power District Concerning EA 93-030 (10 pages)
	Undated	Attachment 1: Draft Enforcement Action Against Nebraska Public Power District Concerning EA 93-030 (9 pages)
2.	11/10/94	Letter from Gray concerning Demand for Information (1 page)
3.	12/09/94	Letter from Gardner to Lieberman concerning Demand for Information (5 pages)
4.	12/09/94	Letter from Flaherty to Lieberman concerning Demand for Information (4 pages)
5.	12/09/94	Letter from Young to Lieberman concerning Demand for Information (4 pages)
6.	12/09/94	Letter from Moeller to Lieberman concerning Demand for Information (5 pages)
7.	12/09/94	Letter from Jantzen to Lieberman concerning Demand for Information (2 pages)
8.	12/09/94	Letter from Smith to Lieberman concerning Demand for Information (3 pages)
9.	12/09/94	Letter from Ballinger to Lieberman concerning Demand for Information (4 pages)
10.	12/09/94	Letter from Brungardt to Lieberman concerning Demand for Information (4 pages)

APPENDIX J
DOCUMENTS BEING PLACED IN THE PDR

NUMBER	DATE	DESCRIPTION
11.	12/09/94	Letter from Sayer to Lieberman concerning Demand for Information (4 pages)
12.	12/09/94	Letter from Mace to Lieberman concerning Demand for Information (5 pages)
13.	12/12/94	Letter from Meacham to Lieberman concerning Demand for Information (20 pages)
14.	12/12/94	Letter (44 pages) from Horn to Lieberman with attachments (210 pages total)
	Undated	Attachment A: Pages 165, 166, 180 of Amendment 152 to Technical Specifications (41 pages) PDR Accession No. 9203230359
	03/08/93	Attachment B: NPPD Temporary Procedure Change Notice 7.4.4 (1 page)
	03/09/93	Attachment C: NPPD Procedure Change Notice 7.4.4 (3 pages)
	03/11/93	Attachment D: NPPD Minutes of SORC Meeting S93-026 on 03/09/93 (2 pages)
	03/28/88	Attachment E: Memorandum from Long to CNS Docket File (6 pages) PDR Accession No. 8804010210
	10/09/81	Attachment F (1): NPPD Response to NUREG-0612 (33 pages) PDR Accession No. 8110200320
	05/14/82	Attachment F (2): NPPD Response to NUREG-0612 (8 pages) PDR Accession No. 8205240285 (8 pages)
	12/03/82	Attachment F (3): NPPD Response to NUREG-0612 (2 pages) PDR Accession No. 8212100171

APPENDIX J
DOCUMENTS BEING PLACED IN THE PDR

NUMBER	DATE	DESCRIPTION
	07/25/83	Attachment F (4): NPPD Response to NUREG-0612 (2 pages) PDR Accession No. 8308010372
	09/16/83	Attachment F (5): NPPD Responder to NUREG-0612 (1 page) PDR Accession No. 9309270446
	05/11/88	Attachment G: Selected pages from NRC Inspection Report (2 pages) PDR Accession No. 8805190044
	10/17/88	Attachment H: Letter from Brager to Horn (3 pages)
	12/07/88	Attachment I: NPPD Memorandum from Foust to Ballinger (3 pages)
	09/07/90	Attachment J: NPPD Procedure Change Notice (3 pages)
	10/10/91	Attachment K: CNS TS Amendment 147 and NRC transmittal letter (19 pages) PDR Accession Nos. 9110220119 and 9110220109
	03/09/93	Attachment L: NPPD Record of Telecon with General Electric (1 page)
	07/18/91	Attachment M: NPPD Proposed Change No. 68 to CNS TS (10 pages) PDR Accession No. 9107260209
	07/19/91	Attachment N: NPPD Proposed Change No. 95 to CNS TS (9 pages) PDR Accession No. 9107260215
	12/31/91	Attachment O: Correction to CNS TS Amendment 150 and NRC transmittal letter (9201080291 and 9201080165) and CNS TS Amendment 150, Safety Evaluation Report, and NRC transmittal letter (9112110122, 9112060358, and 9112060353) (17 pages)

**APPENDIX K
DOCUMENTS BEING RELEASED IN PART**

NUMBER	DATE	DESCRIPTION
1.	09/15/94	Memorandum, 2 pages with 4 attachments, from L. Callan to J. Lieberman, Recommending Enforcement Action Against Nebraska Public Power District Concerning EA 94-177 (48 pages)
	Undated	Attachment 1: Draft Enforcement Action Against Nebraska Public Power District Concerning EA 94-177 (10 pages) Exemption 5
	06/07/93	Attachment 2: Letter transmitting Inspection Report 50-298/93-201. This document is available in the PDR (9306180316) (28 pages)
	Undated	Attachment 3, (1): 2 pages from the Cooper Nuclear Station Technical Specifications
	Undated	Attachment 3, (2): 1 page from the Federal Register published 11/25/85
	08/25/94	Attachment 4: Letter from J. Callan to G. Horn Discussing NRC Concerns on the licensee SORC. This document is available in the PDR (9408310065) (5 pages)
2.	12/12/94	Letter concerning Demand for Information (4 pages) Exemption 6
3.	01/27/95	Memorandum, 1 page with 3 attachments, from J. Callan to J. Lieberman Recommending Enforcement Action Against Nebraska Public Power District Concerning EA 95-012 (33 pages)
	Undated	Attachment 1: Draft Enforcement Action Against Nebraska Public Power District Concerning EA 95-012 (6 pages) Exemption 5

APPENDIX K
DOCUMENTS BEING RELEASED IN PART

NUMBER	DATE	DESCRIPTION
	Undated	Attachment 2: Draft Enforcement Action Against Nebraska Public Power District Concerning EA 95-012 (6 pages) Exemption 5
	12/23/94	Attachment 3: Letter transmitting information regarding the NRC concerns associated with the SORC. This document is available in the PDR (9505190180) (20 pages)

MORGAN, LEWIS & BOCKIUS

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LONDON
FRANKFURT
TOKYO

June 9, 1995

FREEDOM OF INFORMATION
ACT REQUEST

FOIA-95-262
Rec'd 6-12-95

Carlton Kammerer
Director, Division of Freedom of
Information & Publications Services
U.S. Nuclear Regulatory Commission
Office of Administration
Mail Stop T6E4
Washington, D.C. 20555

Re: Freedom of Information Act Request

Dear Mr. Kammerer:

Pursuant to 5 U.S.C. § 552(a)(3) and 10 CFR § 9.23(b), I request copies of any NRC documents to include, but not limited to, notes, meeting minutes, transcripts, recordings, summaries, electronic messages (E-mail), drafts, reports, and memoranda that contain factual information that formed the basis of, or relate to, the following reports or other documents regarding Nebraska Public Power District's ("NPPD") Cooper Nuclear Power Station (Docket No. 50-298):

- (1) NRC Systematic Assessment of Licensee Performance ("SALP") report issued to NPPD in June 1993 for the period January 19, 1992 to April 24, 1993;
- (2) Notice of Violation and Proposed Imposition of Civil Penalties, dated March 30, 1993, regarding licensee letter of December 1, 1992 to NRC that was inaccurate and incomplete in material respects;
- (3) Notice of Violation and Proposed Imposition of Civil Penalties, and Inspection Report No. 50-298/93-17, dated October 12, 1993;
- (4) NRC Operational Safety Team Inspection ("OSTI") Report No. 50-298/93-202, dated December 28, 1993;
- (5) Letter from NRC to NPPD, dated January 25, 1994, regarding declining trend in Cooper's performance;

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- (6) Confirmatory Action Letter ("CAL") issued to NPPD on May 27, 1994;
- (7) Confirmatory Action Letter issued to NPPD on June 16, 1994;
- (8) Letter from the NRC to NPPD, dated June 21, 1994, regarding declining trend in Cooper's performance;
- (9) Confirmatory Action Letter issued to NPPD on July 1, 1994;
- (10) Letter from the NRC to NPPD, dated July 29, 1994, formalizing plans to conduct a special evaluation of Cooper Nuclear Station;
- (11) Confirmatory Action Letter issued to NPPD on August 3, 1994;
- (12) NRC Inspection Report 50-298/94-14, dated September 2, 1994;
- (13) NRC Inspection Report 50-298/94-19, dated September 9, 1994;
- (14) NRC Inspection Report 50-298/94-16, dated September 12, 1994;
- (15) NRC Inspection Report 50-298/94-18, dated September 14, 1994;
- (16) Letter from the NRC to NPPD, dated November 29, 1994, and the Special Evaluation Team ("SET") report regarding interviews and inspections performed from May to September 1994;
- (17) Notice of Violation and Proposed Imposition of Civil Penalties, dated December 12, 1994; and
- (18) NRC letter to NPPD regarding declining trend in Cooper's performance, dated February 1, 1995.

In addition, please provide any documents that contain factual information that formed the basis of, or relate to, statements made to NPPD officials during discussions between NRC officials and NPPD on the following dates (a brief description of the discussions and persons believed to be involved are indicated in parentheses):

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- (1) February 18, 1994 (Ronald W. Watkins, NPPD President and CEO, and Leonard J. Callan, NRC Region IV Administrator);
- (2) June 23, 1994 (Guy R. Horn, NPPD Vice President nuclear, and Leonard J. Callan, NRC Region IV Administrator);
- (3) Week ending July 29, 1994 (NRC Headquarters meeting with NPPD attended by Region IV representatives, including Leonard J. Callan, NRC Region IV Administrator);
- (4) September 1, 1994 (Public meeting of NPPD Board of Directors attended by the Cooper Special Evaluation Team Manager);
- (5) November 8, 1994 (NRC public meeting held at the Cooper Nuclear Station to discuss NPPD's work to resolve issues necessary for restart of the Cooper plant);
- (6) November 17, 1994 (NRC public exit meeting at which SET results were presented by Ellis W. Merschoff, NRC SET Manager, and the Executive Director For Operations, James M. Taylor);
- (7) Any enforcement conferences held between NPPD and the NRC between January 1, 1992 and February 21, 1995; and
- (8) All NRC restart panel meetings regarding Cooper.

Finally, I request any NRC documents that contain factual information relating to the following NPPD documents, or any versions of these documents:

- (1) The Cooper Nuclear Station Near Term Integrated Enhancement Program, dated May 20, 1994.
- (2) NPPD draft Business Plan dated May 21, 1994;
- (3) NPPD's internal Diagnostic Self-Assessment Team report dated September 1, 1994;
- (4) The Cooper Nuclear Station Startup Plan, Revision 1, dated September 15, 1994; and
- (5) Cooper Nuclear Station Performance Improvement Plan, Phase 1, Revision 2, dated October 6, 1994;

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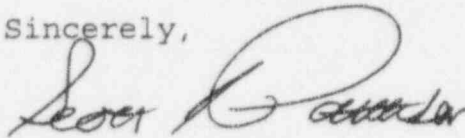
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- (6) Cooper Nuclear Station Performance Improvement Plan, Phase 2/3, Revision 1, dated December 9, 1994; and
- (7) Cooper Nuclear Station Startup and Power Ascension Plan, Revision 3, dated January 31, 1995.

To the extent that the requested information is included in documents or records that contain the advice, opinions or recommendations of NRC staff, please produce all factual information that can be reasonably segregated, in accordance with 10 CFR § 9.19(b).

I agree in advance to pay any fees associated with this request up to \$ 500.00. I request that you notify me if the costs will be more than \$ 500.00. I can be reached by telephone at (202) 467-7541. Thank you in advance for your assistance.

Sincerely,



Scott J. Patterson
Legal Assistant

sjp