

FOIA-88-25

RESPONSE TYPE

FINAL

☒ PARTIAL 4TH

DATE

AUG 3 1988

DOCKET NUMBER(S) (if applicable)

REQUESTER

BOLEY, KENNETH

PART I - 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.☐ Agency records subject to the request that are identified in Appendix _____ are already available for public inspection and copying in the NRC Public Document Room, 1717 H Street, N.W., Washington, DC.☒ Agency records subject to the request that are identified in Appendix H are being made available for public inspection and copying in the NRC Public Document Room, 1717 H Street, N.W., Washington, DC, in a folder under this FOIA number and requester name.☐ 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, 1717 H Street, N.W., Washington, DC, in a folder under this FOIA number and requester name.☐ Enclosed is information on how you may obtain access to and the charges for copying records placed in the NRC Public Document Room, 1717 H Street, N.W., Washington, DC.☐ Agency records subject to the request are enclosed. Any applicable charge for copies of the records provided and payment procedures are noted in the comments section.☐ Records subject to the request have been referred to another Federal agency(ies) for review and direct response to you.☐ In view of NRC's response to this request, no further action is being taken on appeal letter dated _____.

PART II A - INFORMATION WITHHELD FROM PUBLIC DISCLOSURE

☒ Certain information in the requested records is being withheld from public disclosure pursuant to the FOIA exemptions described in and for the reasons stated in Part II, sections 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, 1717 H Street, N.W., Washington, DC, in a folder under this FOIA number and requester name.

Comments

8808240088 880803
PDR FOIA
BOLEY88-25 PDR

SIGNATURE, DIRECTOR, DIVISION OF RULES AND RECORDS

Dennis H. Chinsley

PART II B - APPLICABLE FOIA EXEMPTIONS

Records subject to the request that are described in the enclosed Appendices I are being withheld in their entirety or in part under FOIA Exemptions and for the reasons set forth below pursuant to 5 U.S.C. 552(b) and 10 CFR 9.5(a) of NRC Regulations.

1. The withheld information is properly classified pursuant to Executive Order 12356 (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)

Section 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 from a foreign source 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. 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. (EXEMPTION 5)

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 investigatory records compiled for law enforcement purposes and is being withheld for the reason(s) indicated: (EXEMPTION 7)

Disclosure would interfere with an enforcement proceeding because it could reveal the scope, direction, and focus of enforcement efforts, and thus could possibly allow them 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 would reveal identities of confidential sources. (EXEMPTION 7(D))

PART II C - DENYING OFFICIALS

Pursuant to 10 CFR 9.9 and/or 9.15 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 Rules and Records, 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	
			SECRETARY	EDO
Robert D. Martin	Regional Administrator, Appendix I Region IV			X

PART II D - APPEAL RIGHTS

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

APPENDIX H

FOIA 88-25
(Fourth Partial)

Release

1. 9/27/84 Allegation Data Form, Docket 05000382,
Waterford 3
(1 page)
2. 9/30/86 Allegation computerized form, 05000382,
Waterford 3, re drugs
(1 page)
3. 9/30/86 Allegation Review form, Waterford 3, subject:
Alleged cover up of drugs
(1 page)
4. 05/13/83 Conversation Record from J. Kelly, subject: Employee
Allegation about Marijuana Usage by Another Employee
(1 page)
5. 07/08/83 Memo to Glen Madsen thru W. A. Crossman from
G. L. Constable, subject: LP&L Investigation
Into Drug Use Allegation (2 pages)

APPENDIX I

FOIA 88-25
(Fourth Partial)

Withhold in Entirety
EXEMPTION 5

1. 8/19/86

Memorandum, Robert D. Martin, RIV, to
James M. Taylor, OIE, subject: Waterford-3
Steam Electric Station: Suspected Material
False Statements By LP&L Management
Personnel.
(2 pages)
attachment
Chronology
(2 pages)

2. Undated

Letter to J. M. Cain from Robert D. Martin re
Suspected False Statements (1 page) - DRAFT

PUBLIC CITIZEN

Buyers Up ☐ Congress Watch ☐ Critical Mass ☐ Health Research Group ☐ Litigation Group ☐ Tax Group

January 7, 1988

Don Grimsley, Director
Division of Rules and Records
Nuclear Regulatory Commission
MNBB 4210
Washington, DC 20555

FREEDOM OF INFORMATION
ACT REQUEST

FOIA-88-25

Rec'd 1-13-88

Attn: Freedom of Information Act Request

Dear Sir:

Pursuant to the federal Freedom of Information Act, as amended, 5 U.S.C. S 552, Public Citizen's Critical Mass Energy Project hereby requests copies of any and all records that provide:

- 1) Accounts of incidents involving licensed reactor operators and senior reactor operators in violation or possible violation of Fitness for Duty guidelines. This includes, but is not limited to, any and all Licensee Event Reports and Preliminary Notices of Occurrence or of Safeguards about incidents of a licensed operator having used drugs or having been under the influence of alcohol while on duty.
- 2) Information about the steps taken by the U.S. Nuclear Regulatory Commission or its licensees with regard to the licensed operators mentioned by Mr. J. Partlow of the Office of Nuclear Reactor Regulations at the "Briefing on Status of Implementation of Fitness for Duty Program" held in Washington, D.C. on Tuesday, December 1, 1987, as recorded by Marilyn M. Nations of Ann Riley & Associates, Ltd. On page 72 of the briefing transcript, Mr. Partlow mentioned these licensed operators as being involved in the only five cases of licensed operators being involved "in some sort of Fitness for Duty matter." This request includes, but is not limited to, records containing information about the present status of their licenses and the nature of their Fitness for Duty involvement. This request does not seek any information about any specific individual or records otherwise covered by Exemptions 6 or 7 of the Freedom of Information Act.

This request pertains to all records in the possession of the U.S. Nuclear Regulatory Commission, its contractors or licensees. In this request, "record" includes, but is not limited to, databases which contain the requested information or any other memoranda, reports, studies, reviews, letters, computer memories and printouts, audio and video tapes, movies and other forms of communication, in the possession of any individual or office in the U.S. Nuclear Regulatory Commission, whether generated by the U.S. Nuclear Regulatory Commission, its contractors, or any other source.

Public Citizen's Critical Mass Energy Project is a nationally known non-profit public interest organization founded in 1974. We will use these documents in a study we are presently researching and plan to issue on the adequacy of training programs presently in place for nuclear power plant workers. We plan to broadly disseminate the information contained therein to the press and the general public.

Our past publications have attracted attention in the local, national and trade media. Thousands of copies of the reports have been sold or distributed to members of the public, industry, and citizen groups. Since furnishing these documents "will significantly contribute to public understanding of government opinions or activities" we request a complete waiver of any processing or duplicating costs you might incur in providing these records to us. If you rule otherwise, please notify us before filling the request.

Nothing in this request should be considered a request for the private records of any specific individual. Hence, no provisions of the Privacy Act should be deemed applicable.

If all or any parts of this request are denied, please cite the specific exemptions on which you rely in refusing to release the documents.

Further, since the Freedom of Information Act provides that the remainder of a file must be released if only portions are exempt from disclosure, we request that we be provided with all non-exempt portions which are reasonably segregable. Of course, we reserve our right to appeal the withholding or deletion of any information.

As provided in the Freedom of Information Act, we will expect to receive the requested records or a final determination within ten working days. If your office is unable to fully respond to this request in that time, send us a written estimate of when the request will be completed.

If you have any questions about this request, please telephone me at 202-546-4996.

Thank you for your attention to this request.

Sincerely,



Kenneth Boley
Nuclear Safety Policy Analyst
Critical Mass Energy Project
of Public Citizen