

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

February 15, 1983

MEMORANDUM FOR: Thomas A. Rehm  
Assistant for Operations

THRU: *f* Patricia G. Norry, Director  
Office of Administration

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

SUBJECT: "INADVERTENT" RELEASES UNDER THE FOIA

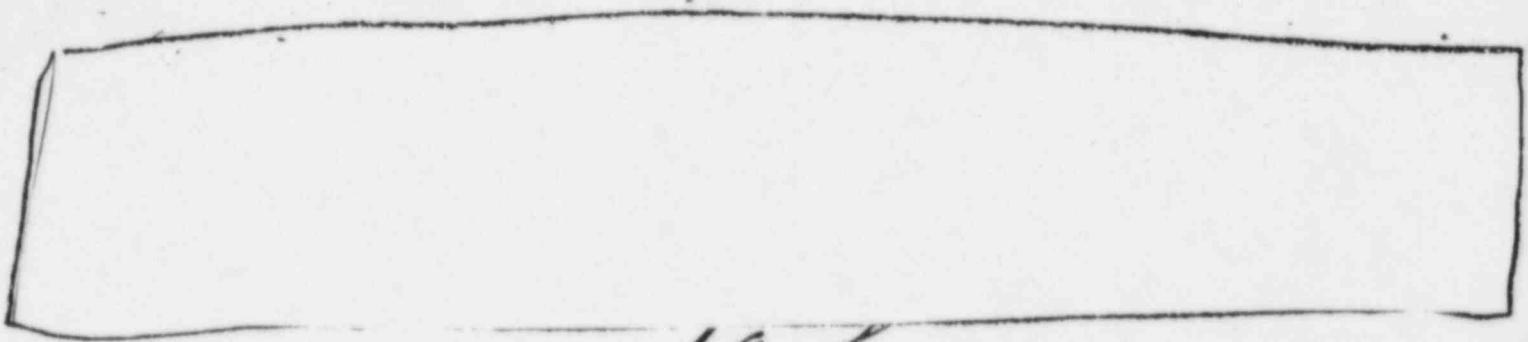
In response to your note of January 28, 1983, we have checked with the staff of the FOIA/PA Branch, DRR, OELD, OGC, and SECY. The only "inadvertent" releases we are aware of since 1975 are the five instances discussed in the enclosure. During that same period, we processed approximately 3,600 FOIA requests.

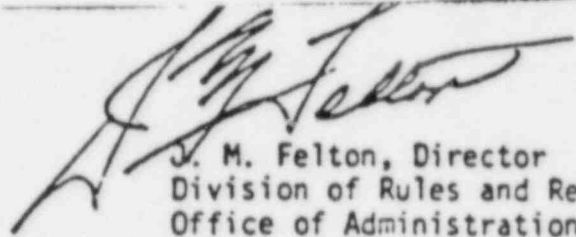
WITHHOLD

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Thomas A. Rehm

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

Enclosure: As stated

1. FOIA-82-426 (FOIA Appeal 82-A-24). Request by Diane Curran on behalf of Union of Concerned Scientists for all documents considered in connection with the environmental qualification rulemaking.

The Office of the General Counsel in SECY-83-18 advised the Commission in its review of the Curran FOIA Appeal that two "inadvertent" disclosures were made in response to the initial FOIA request. These are discussed in items (a) and (b) below.

- (a) In an October 14, 1982 letter from J. M. Felton, the NRC responded to the Curran FOIA request and released as Document 26 a memorandum dated November 18, 1981 from S. Chilk to W. Dircks. Also released was an attached memorandum from Commissioner Ahearne to W. Dircks dated November 17, 1981, asking a number of questions. The attached memorandum was not an enclosure to the original document and was not identified separately on the appendix as an enclosure to Document 26. However, the same response letter did list a December 2, 1981 memorandum from W. Dircks to Commissioner Ahearne separately as Document 29 on the appendix, and indicated it was still pending review. Subsequently, in a response by letter dated November 8, 1982, Document 29 was withheld. It was not until the review of the documents on appeal that it was recognized that having released the attachments to Document 26 (Commissioner Ahearne's questions), there was no further point in withholding Document 29 (the response to the questions).

Following normal procedures, the documents subject to the October 14 and November 8 responses were cleared with Commissioner Offices by SECY and, because of the pending court suit by Curran, also reviewed and concurred in by OGC.

- (b) By letter dated November 8, 1982, from J. M. Felton, Document 34, a December 14, 1981 memorandum from Commissioner Ahearne to W. Dircks asking questions, was withheld. Document 45, a January 20, 1982 memorandum from W. Dircks to Commissioner Ahearne responding to his December 14, 1981 memorandum, was released in the November 8, 1982 response. Although Document 45 repeated the substance of Commissioner Ahearne's questions listed in Document 34, the DRR, OGC, and SECY staffs failed to connect the two documents. The staff recommended the release of Document 45, and it was cleared by OGC and SECY following normal procedures.

2. FOIA-82-117. Request by Warren Liebold for documents relating to the Hayward Tyler Pump Company investigation.

A response letter dated April 12, 1982 from J. M. Felton to the requester addressed 31 documents. Among these was a document containing the name of a confidential source which should have been

withheld. When the error was discovered a few days later, all parties, including the confidential source, were notified of the error. The documents were returned to DRR, and clean copies were subsequently made available. This disclosure was discussed in a memorandum dated May 10, 1982 from P. Norry to the Commissioners.

WITHHOLD

4. Request for documents relating to 10 CFR Part 73.

A Commission paper related to subject request was inadvertently released as an unclassified document when it should have been withheld because it was classified.

A report of inquiry, which also addressed this release, was conducted by SEC, and the EDO provided this information to the Commission by classified correspondence dated January 5, 1983.