

FOIA - 88-198

RESPONSE TYPE

FINAL

PARTIAL

DATE

DEC 1 1988

DOCKET NUMBER(S) (// applicable)

50/293

REQUESTOR

George E. Johnson, Esquire

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 on Appendixes) \_\_\_\_\_ are already available for public inspection and copying in the NRC Public Document Room, 2021 L Street, N.W., Washington, DC, 20555.

Agency records subject to the request that are identified on Appendixes) \_\_\_\_\_ are being made available for public inspection and copying in the NRC Public Document Room, 2021 L 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 2021 L Street, N.W., Washington, DC, in a folder under this FOIA number and requester name.

Agency records subject to the request that are identified on Appendixes) \_\_\_\_\_ 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 placed in the NRC Public Document Room, 2021 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.

You will be billed by the NRC for fees totaling \$ \_\_\_\_\_.

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, 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, 2021 L Street, N.W., Washington, DC, in a folder under this FOIA number and requester name.

COMMENTS

8812070010 881201  
PDR FOIA  
JOHNSON88-198 PDR

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

*Diane H. Kinsley*

PART II B — APPLICABLE EXEMPTIONS

Records subject to the request that are described on the enclosed Appendix(es) R are being withheld in their entirety or in part under the Exemptions and for the reasons set forth 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 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 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 Public Affairs Services, Office of Administration and Resources Management, for any denials that may be appealed to the Executive Director for Operations (EDO).

DENYING OFFICIAL	TITLE/OFFICE	RECORDS DENIED	APPELLATE OFFICIAL	
			SECRETARY	EDO
William T. Russell	Regional Administrator Region I	Appendix R		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 RRECORDS PARTIALLY WITHHELD - EXEMPTION 4

<u>NUMBER</u>	<u>DATE</u>	<u>ORIGINATOR</u>	<u>RECIPIENT</u>	<u>DESCRIPTION</u>
1.	9/5/86	E. Ziemianski, BECo	A. Pederson, BECo	Office Memo Subject: Security Program Improvements Status Report #8 (9 Pages)
2.	10/14/86	E. Ziemianski, BECo	A. Pederson, BECo	Office Memo Subject: Security Program Improvements Status Report #9 (9 Pages)
3.	1/12/86	E. Ziemianski, BECo	A. Pederson, BECo	Office Memo Subject: Security Program Improvements Status Report #10 (10 Pages)
4.	2/12/87	C. Higgins, BECo	A. Oxsen, BECo	Office Memo Subject: Security Program Improvements Status Report #11 (10 Pages)
5.	3/9/87	C. Higgins, BECo	A. Oxsen, BECo	Office Memo Subject: Security Program Improvements - Closed Items Status Report #12 (5 Pages)
6.	3/9/87	C. Higgins, BECo	A. Oxsen, BECo	Office Memo Subject: Security Program Improvements - Open Items Status Report #12 (8 Pages)
7.	4/10/87	C. Higgins, BECo	R. Bird, BECo	Office Memo Subject: Security Program Improvements - Open Items Status Report #13 (8 Pages)
8.	5/5/87	C. Higgins, BECo	R. Bird, BECo	Office Memo Subject: Security Program Improvements - Open Items Status Report #14 (7 Pages)
9.	6/1/87	C. Higgins, BECo	R. Bird, BECo	Office Memo Subject: Security Program Improvements - Open Items Status Report #15 (7 Pages)

APPENDIX RRECORDS PARTIALLY WITHHELD - EXEMPTION 4

<u>NUMBER</u>	<u>DATE</u>			<u>DESCRIPTION &amp; EXEMPTION</u>
10.	7/3/87	C. Higgins, BECo	R. Bird, BECo	Office Memo Subject: Security Program Improvements - Open Items Status Report #16 (6 Pages)
11.	8/10/87	C. Higgins, BECo	R. Bird, BECo	Office Memo Subject: Security Program Improvements - Open Items Status Report #17 (5 Pages)
12.	9/15/87	C. Higgins, BECo	R. Bird, BECo	Office Memo Subject: Security Program Improvements - Open Items Status Report #18 (5 Pages)
13.	10/9/87	C. Higgins, BECo	R. Bird, BECo	Office Memo Subject: Security Program Improvements - Open Items Status Report #19 (5 Pages)
14.	11/17/87	C. Higgins, BECo	R. Bird, BECo	Office Memo Subject: Security Program Improvements - Open Items Status Report #20 (5 Pages)
15.	1/19/88	D. Long, BECo	E. Kraft, BECo	Office Memo Subject: Security Program Improvements - Open Items Status Report #22 (4 Pages)
16.	6/2/88	D. Long, BECo	E. Kraft, BECo	Office Memo Subject: Security Program Improvements - Open Items Status Report #26 (3 Pages)
17.	11/11/87	C. Ader	P. Gwynn	Information Concerning Stop Work Order at Pilgrim (10 Pages)

SWIDLER & BERLIN

CHARTERED  
400 K STREET N.W.  
SUITE 100  
WASHINGTON, D.C. 20007-1841  
(202) 944-4300

March 25, 1988

Director  
Office of Administration  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

TELEX 91131

TELECOPIER 202-944-4796

FREEDOM OF INFORMATION  
ACT REQUEST

FOIA 88-198  
Rec'd 3-31-88

In re: Freedom of Information Act Request  
No. 88-\_\_\_, Concerning Pilgrim Nuclear Power  
Station

Dear Sir:

In accordance with the provisions of the Freedom of Information Act, 5 U.S.C. §552 and Part 9, Subpart A of 10 C.F.R., it is requested that the records identified below be made available for inspection and copying:

1. Records of any votes taken by the Commission, and records or transcripts of Commission meetings, with respect to the shutdown of the Pilgrim Nuclear Power Station, or the restart thereof, on or after April 12, 1986.
2. All SECY papers, attachments thereto, records and other materials supporting or forming the basis for positions taken therein on the subject of the Pilgrim Nuclear Power Station, prepared on or after January 1, 1980.
3. All records prepared or dated on or after January 1, 1980 (but excluding documents included on Docket No. 50-293 accession listings available from the Public Document Room) of NRC Region I, the Office of the Executive Director for Operations, the Office of Inspection and Enforcement, the Office of Investigations, the Office of Nuclear Reactor Regulation, the Office of Nuclear Materials Safety and Safeguards, the Advisory Committee for Reactor Safeguards, the Office for Evaluation of Operational Data, and the NRC Emergency Operations Center which discuss, refer to, take positions on, or form the basis for decisions concerning, the performance of the Pilgrim Nuclear Power Station in the following areas:

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- A. Management
  - B. Staffing
  - C. Organization and Organizational Structure
  - D. Radiation Protection
  - E. Quality Assurance
  - F. Surveillance
  - G. Maintenance
  - H. Offsite Emergency Planning
  - I. Fire Protection
  - J. Security
  - K. Management Response to NRC Regulatory Activities
4. All records of Region I, the Office of Nuclear Reactor Regulation, the Commission, the Office of Inspection and Enforcement, or other Staff or Commission offices relating to, discussing or forming the basis or support for, the Director's Decision (DD-87-14) dated August 21, 1987.
  5. All records (other than those categories of documents excluded from Item 3) of any office referred to in Item 4, above, discussing, describing, assessing, evaluating, or otherwise relating to actions by the NRC staff, FEMA, the ACRS, or other NRC or Commission offices, to follow-up or monitor actions by Boston Edison Company, the Commonwealth of Massachusetts, other jurisdictions within the 10-mile emergency planning zone for Pilgrim Nuclear Power Station, to address issues raised in the Director's Decision (DD-87-14) dated August 21, 1987.
  6. All records of the NRC offices referred to in Item 4 discussing, describing, assessing or evaluating, or otherwise relating to actions of the NRC staff to evaluate the July 1987 Restart Plan, and other actions by Boston Edison Company, its agents or contractors, relating to the restart of the Pilgrim Nuclear Power Station.
  7. All records of communications (whether written or oral and occurring from April 12, 1986 to the present) between any office of the NRC Staff, or of the Commission or offices reporting directly to it, and Boston Edison Company, concerning the status or startup of the Pilgrim Nuclear Power Station.
  8. All records of communications (whether written or oral, and occurring from April 12, 1986 to the present) between any office of the NRC Staff or of the Commission or offices reporting directly to it, and FEMA, other Federal or State agencies or governmental entities, or persons concerning the status, startup, or issues relating to startup, of the Pilgrim Nuclear Power Station.

9. All records in the possession of any NRC Staff or Commission office pertaining to (a) the evaluation by FEMA, NRC, or any other entity or agency, of the adequacy of offsite emergency plans for the Pilgrim Nuclear Power Station, and (b) the conduct and/or evaluation of drills, full scale/full participation or partial scale/partial participation exercises conducted or planned for the Pilgrim Nuclear Power Station.

For purposes of this request, "record" or "document" is defined to include, but not be limited to, notes, memoranda, reports, meeting minutes, logs, transcripts, letters, position or policy papers, interpretations of requirements, and guidance documents, and refers to drafts as well as any final version of any record or document requested.

Sincerely,

  
George E. Johnson, Esq.  
(202)944-4383

GEJ/veg