



44 DOCS

RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

NRC FOIA REQUEST NUMBER(S)

FOIA - 97-375

RESPONSE TYPE

FINAL

PARTIAL *3*

DATE

DEC 01 1997

DOCKET NUMBER(S) (if applicable)

REQUESTER

Ms Ophelia H Williams

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) *H* 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. *Appendices H + F*

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

FOIA 10/1

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

Amel R. Dwyer



9710-030054 971201
PDR FOIA
WILLIAM97-375 PDR

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

FOIA NUMBER(S)

FOIA - 97-375

DATE

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PART II B - APPLICABLE EXEMPTIONS

Records subject to the request that are described in the enclosed Appendix(es) E+J 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 141-146 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
<i>J. Ziskerman</i>	<i>Director, DE</i>	<i>Appendix E+J</i>	<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 H
RECORDS BEING RELEASED IN THEIR ENTIRETY

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1.	12/20/96	Letter from Nicholas S. Reynolds to James Lieberman (1 page)
2.	09/24/97	E-Mail from James Lieberman to A. Thadani, SUBJECT: Response to Nine Mile Point on Blow Out Panels (1 page)

APPENDIX I
RECORDS BEING WITHHELD IN PART

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	07/07/97	E-Mail from Betty Summers to C. Hehl, et al., SUBJECT: Nine Mile ltr for concurrence, EA 96-079 (1 page) Released with attached draft notice of violation and exercise of enforcement discretion (6 pages) EX. 5
2.	08/20/97	E-Mail from D. Hood to M. Satorius, SUBJECT: EA 96-079 low safety significance position with handwritten note by D. Hood (1 page) EX. 5 with attached memo from B. Boger to C. Hehl, SUBJECT: Technical Assistance Request Regarding Reactor and Turbine Building Relief Panel Deficiency, Nine Mile Point Nuclear Station, Unit No. 1 (TAC NO. M94858) (11 pages) Released

APPENDIX J
RECORDS BEING WITHHELD IN THEIR ENTIRETY

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	08/20/97	E-Mail from Darl Hood to Mark Satorius, SUBJECT: EA 96-089 low safety significance position (1 page) EX. 5
2.	Undated	Annotated draft letter from Edward L. Jordan to Ralph Sylvia (2 pages) EX. 5

Freedom of Information Act
Case No. 97-375
Date Recd. 9-29-97
Action Recd. Reed

J/R/A ASSOCIATES
Regulatory Information & Support Systems
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September 23, 1997
OGW-97-153

Mr. Russell A. Powell, Chief
Freedom of Information/Local Public Document
Room Branch
M/S 16D8
U.S. NUCLEAR REGULATORY COMMISSION
Washington, DC 20555

SUBJECT: FREEDOM OF INFORMATION ACT REQUEST

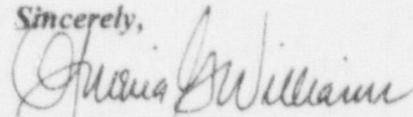
Dear Mr. Powell:

Pursuant to the Freedom of Information Act, 5 USC Paragraph 552, and to the Nuclear Regulatory Commission's regulations, I hereby request copies of all documents related to the following correspondence:

On September 12, 1997, the NRC Staff issued a letter in connection with EA 96-079 to Mr. B. Ralph Sylvia, Niagara Mohawk Power Corporation (Ashok C. Thadani to B. Ralph Sylvia, EA 96-079, September 12, 1997).

I am requesting all NRC documents prepared in connection with the development of the position discussed in the NRC letter and all NRC documents related to the preparation of the letter. This includes, but is not limited to, position papers, guidance memoranda, drafts, dissenting opinions, etc.

I would appreciate your prompt response within ten working days of the receipt of this request, as provided by the Code and NRC's policies. I agree to pay such fees as required under 10CFR Paragraph 9.33 *et seq.* without further authorization, however, please call if the fees exceed \$50.00. In addition, please send the response to me only, rather than to the NRC's Public Document Room. Please call if you have questions. Thank you for your services.

Sincerely,

Ophelia G. Williams

97H210180