



U. S. NUCLEAR REGULATORY COMMISSION

RESPONSE TO FREEDOM OF
INFORMATION ACT (FOIA) REQUESTPDR
OK

NRC FOIA REQUEST NUMBER(S) FOIA-84-743	
RESPONSE TYPE	
FINAL	<input checked="" type="checkbox"/> PARTIAL 5 TH
DATE	SEP 16 1987
DOCKET NUMBER(S) (if applicable)	

REQUESTER
Mr. Devine and Ms. Dixon

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 **K** 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 **L** 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

The staff has informed us that these records are also responsive to your separate requests FOIA-84-744 and FOIA-84-776.

8709180459 870916
PDR FOIA
DEVINE84-743 PDR

SIGNATURE, DIRECTOR, DIVISION OF RULES AND RECORDS

Linda Robinson for Donnie Brinsley

FREEDOM OF INFORMATION ACT RESPONSE

FOIA NUMBER(S):

FOIA-84-743

DATE: SEP 16 1987

PART II B - APPLICABLE FOIA EXEMPTIONS

Records subject to the request that are described in the enclosed Appendices M 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
John D. Martin	Regional Administrator Region 5	Appendix M		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 K

RECORDS MAINTAINED AMONG PDR FILES

<u>DATE</u>	<u>DESCRIPTION</u>	<u>PDR NUMBER</u>
1. 11/17/83	Memo for John B. Martin from William J. Dircks, subject: Review of Allegations Outstanding On Diablo Canyon Nuclear Power Plant. (2 pages)	8503200200
2. 3/29/84	Memo for Richard C. DeYoung and Harold R. Denton from William J. Dircks, subject: Diablo Canyon Small and Large Bore Piping Issues. (2 pages)	8404130466
3. 5/23/84	Ltr to Palladino from Morris K. Udall. (1 page) Hearing on Diablo Canyon. (1 page)	8406210050
4. 7/6/84	Note to Harold R. Denton and Richard C. DeYoung, subject: Diablo Canyon - Appeal Board Decisions on Motions to Reopen and On Staff/Applicant Appeal of Initial Decision. (2 pages)	8610100166
5. 9/5/84	Memo for Palladino, Roberts, Asselstine, Bernthal and Zech, from Carlton Kammerer, subject: Diablo Canyon Congressional Field Hearings. (3 pages)	8706100505

APPENDIX L

RECORDS MAINTAINED IN THE PDR UNDER THE ABOVE REQUEST NUMBER

1. Undated Personal notes of names of persons at meeting with Congressional Staff. (1 page)
2. 1/25/84 Attendance list at 1/25/84 meeting with Congressional Staff. (1 page)
3. 8/21/84 Memo for Tom Rehm from Carlton Kammerer, subject: Energy and the Environment

APPENDIX M

RECORDS TOTALLY WITHHELD - EXEMPTION 7(D)

1. 8/83 Deficient Condition Notice. (10 pages)
2. 1983 Alleger's Allegation Summary. (10 pages)
3. 1/13/84 Pullman Power's Discrepancy Report. (2 pages)
4. 1983 Alleger's Allegation Summary. (97 pages)
5. 1983 Howard Foley Co.'s Nonconformance Report. (5 pages)
6. 1984 Pullman Power's Discrepancy Report. (2 pages)
7. 1984 Pullman Power's Discrepancy Report. (21 pages)

GOVERNMENT ACCOUNTABILITY PROJECT

Institute for Policy Studies

1901 Que Street, N.W., Washington, D.C. 20009

(202) 234-9382

September 13, 1984

Director
Office of Administration
U.S. Nuclear Regulatory Commission
Washington DC 20555

FREEDOM OF INFORMATION
ACT REQUEST

FOIA-84-743
Rec'd 9-17-84

To Whom It May Concern:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. §552, the Government Accountability Project (GAP) request copies of any and all agency records and information, including but not limited to notes, letters, memoranda, drafts, minutes, diaries, logs, calendars, tapes, transcripts, summaries, interview reports, procedures; instructions, files, graphs, engineering analyses, charts, maps, photographs, agreements, handwritten notes, studies, data sheets, notebooks, books, telephone messages, computations, voice recordings, any other data compilations, interim and/or final reports, status reports, and any other records relevant to and/or generated in connection with the Safety Evaluation Report related to the operation of the Diablo Canyon Nuclear Power Plant, Unit 1 and 2, NUREG-0675, Supplement No. 26, which provided the NRC Staff's further findings on whistleblower charges. We request that each responsive document be identified by the allegation number(s) to which it may relate.

If any of the materials covered by this request have been destroyed and/or removed, please provide all surrounding documentation, including but not limited to a description of the action(s) taken, relevant date(s), and justification(s) for the action(s).

GAP request that fees be waived, because "findings information can be considered as primarily benefitting the general public," 5 U.S.C. §552(a)(4)(A). GAP is a non-profit, non-partisan public interest organization concerned with honest and open government. Through legal representation, advice, national conferences, films, publications and public outreach, the project promotes whistleblowers as agents of government accountability. We are requesting the above information as part of an ongoing monitoring project on the adequacy of the NRC's efforts to protect public safety and health at nuclear power plants.

For any documents or portions that you deny due to a specific FOIA exemption, please provide an index itemizing and describing the documents or portion of documents withheld. The index should provide a detailed justification of your grounds for claiming each exemption, explaining why each exemption is relevant to the document or portion of the document withheld. This index is required under Vaughn v. Rosen(I), 484 F.2d. 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1974).

We look forward to your response to this request within ten days.

Yours truly,

Thomas Devine

Thomas Devine

Legal Director, GAP

Crystal Dixon

Crystal Dixon

Legal Intern

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