



NWDOCS

RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

NRC FOIA REQUEST NUMBER(S)	
FOIA — 89-100	
RESPONSE TYPE	
<input checked="" type="checkbox"/> FINAL	<input type="checkbox"/> PARTIAL
DATE	
APR 17 1989	
DOCKET NUMBER(S) (If applicable)	

REQUESTER Robert R. Belair

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 Appendix(es) \_\_\_\_\_ are already available for public inspection and copying in the NRC Public Document Room, 2120 L Street, N.W., Washington, DC 20555.
- Agency records subject to the request that are identified on Appendix(es) **E\*** 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 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 2120 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 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 placed in the NRC Public Document Room, 2120 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. (FEMA)
- You will be billed by the NRC for fees totaling \$ 228.84
- 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, 2120 L Street, N.W., Washington, DC, in a folder under this FOIA number and requester name.

COMMENTS

890420022B 890417  
PDR FOIA  
BELAIR89-100 PDR

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

*Ronnie H. Chewley*

**PART II. B - APPLICABLE EXEMPTIONS**

Records subject to the request that are described on the enclosed Appendix(es) F 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).
- XX 5. The withheld information consists of interagency or intraagency records that are not available through discovery during litigation. (EXEMPTION 5). Applicable Privilege:
  - XX 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))

OTI:ER

**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 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, Reg. I	Appendix F		XX

**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."

Re: FOIA-89-100

APPENDIX E  
DOCUMENT BEING PLACED IN THE PDR

1. 2/1/89 Letter from E. Reis to W. Cumming, re: Shoreham. (3 pgs)

APPENDIX F  
DOCUMENTS WITHHELD IN PART PURSUANT TO  
EXEMPTION 5

1. 10/4/88 Memorandum from Edwin Fox to Ihor Husar, subject: Review of Shoreham Public Information Document, with enclosure: Specific Comments. (3 pages) [Portions of page 1 released]
2. 12/15/88 Memorandum from Edwin Fox to Ihor Husar, subject: Review of LILCO's Response to FEMA Post Exercise Assessment June 7-9, 1988 of the Local Offsite Radiological Emergency Response Plan; Response to RAC Review Comments for Revision 10 of This Plan; and LILCO's Ingestion Pathway Brochure. (6 pages) [Page 1 released]
3. 12/19/88 Facsimile Request from E. Fox to Paul Weberg, with enclosed comments on the Plan. (14 pages) [Page 1 being released] [Portions of this document have been referred to FEMA for disclosure determination and direct response to you.]

# KIRKPATRICK & LOCKHART

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(412) 355-6500

ROBERT R. BELAIR  
(202) 778-9023

March 2, 1989

## HAND DELIVERED

Director, Office of Administration  
Nuclear Regulatory Commission  
Room P378  
7920 Norfolk Avenue  
Bethesda, Maryland 20814

FREEDOM OF INFORMATION  
ACT REQUEST  
FOIA-89-100  
Rec'd 3-2-89

Re: Freedom of Information Act Request

Gentlemen:

On behalf of our client, Suffolk County, Long Island, New York, we request, pursuant to the Freedom of Information Act, as amended, 5 U.S.C. Section 552 ("FOIA"), and the rules of the Nuclear Regulatory Commission ("NRC") issued thereunder, 10 C.F.R. Part 9, copies of correspondence, memoranda, notes, reports, or other recorded materials regardless of physical form or characteristic ("records") in the possession or control of the NRC dated September 1988 or thereafter relating to the Long Island Lighting Company's emergency plan for the Shoreham Nuclear Power Station, including any review of that plan by the Federal Emergency Management Agency ("FEMA") or its Regional Assistance Committee or any members thereof.

In the event that access is denied to any of the records responsive to this request, please supply the following information:

- a. Identify the record of withheld portion of the record and specify the statutory basis for the denial, as well as your reason for believing that an exemption applies, as required by 10 C.F.R. Section 9.10(b).
- b. Segregate the nonexempt from the allegedly exempt portion of any withheld records and release the former, as required by 10 C.F.R. Section 9.5(b).

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Director, Office of Administration  
Nuclear Regulatory Commission  
March 2, 1989  
Page 2

b. Segregate the nonexempt from the allegedly exempt portion of any withheld records and release the former, as required by 10 C.F.R. Section 9.5(b).

c. Supply a detailed statement of the content of the withheld document or portion thereof, along with the date on which that document or portion thereof was written; its section heading or title; and an identification of any persons or entities who have received copies of such records or portions thereof, as required by applicable case law. Vaughn v. Rosen, 484 F.2d 820, 826-827 (D.C. Cir. 1973).

d. Separately state your reasons for not invoking your discretionary power to release the allegedly exempt records or portions thereof.

The undersigned will pay charges for search time and copying fees, as provided by NRC regulations, 10 C.F.R. Section 9.14. If search and copying fees to be incurred by the undersigned will exceed \$1000.00, please contact Rose Hlaing at (202) 778-9245 before this sum is exceeded. Any questions or comments concerning this request may also be directed to Ms. Hlaing.

We expect to receive your response to this FOIA request within ten (10) working days of your receipt of this request, as required by the FOIA, and as set forth at 10 C.F.R. Section 9.9(a).

Sincerely,



Robert R. Belair