

November 6, 2023

FOIA Officer
Mail Stop T-2 F43
U.S. Nuclear Regulatory Commission
Washington, DC 20555
BY EMAIL: foia.resources@nrc.gov

SUBJECT: *Freedom of Information Act Request*

To the FOIA Officer:

On behalf of the Beyond Nuclear, and pursuant to the Freedom of Information Act (“FOIA”) (5 U.S.C. § 552 et seq.) and U.S. Nuclear Regulatory Commission (“NRC”) FOIA regulations, I am writing to request NRC records related to statements made by NRC officials and officials of the Advisory Committee on Reactor Safeguards (ACRS) at a briefing on October 6, 2022. This FOIA request references a transcript of the briefing (hereinafter referred to as “Transcript”), available at <https://www.nrc.gov/docs/ML2229/ML22297A041.pdf>.

This FOIA request covers records in the possession of both the NRC and the ACRS.

Beyond Nuclear requests the following records:

1. The “report” referenced by Matthew W. Sunseri in the following statements on page 5 of the Transcript (emphasis added):

So my name's Matt Sunseri, I'm the ACRS lead member for the engineering section of our periodic review of the NRC Safety Research Program. We've asked staff to be here today with us to have an informational briefing updating us on activity since *our last periodic review*.

In that report, one of the items that we identified was that we asked staff to consider if there was any opportunity to add a quote, predictive modeling capability to aging management strategies, along with the current approach of establishing limits on life.

2. Records relating to the following statement by Robert Tregoning at pages 37-38 of the Transcript, as set forth in paragraphs (a), (b), and (c) below:

So this table was really developed, or we're developing it because it's a living table in conjunction with industry, try to not only identify, the plant, the characteristics of the plants and materials that are out there now so we understand their attributes, but also to make the plant owners aware, hey, this is the information that we want from a harvesting perspective, because I think what we found when they (particularly US domestic operators) go into decommissioning, a lot of times it's the documentation that's the first thing that's disposed of.”

- a) The “table” described by Mr. Tregoning;
 - b) The supporting documentation for the “table” described by Mr. Tregoning; and
 - c) Records related to the “dispos[al]” or other removal of “documentation” as described by Mr. Tregoning. Note that Mr. Tregoning subsequently clarified that documentation “becomes unavailable for a variety of reasons.” *Id.* at 41.
3. Records related to communications between the NRC and decommissioning companies regarding the availability or destruction of requested documentation and/or the willingness of decommissioning companies to provide the documentation, as discussed in the following exchange at page 40 of the Transcript:

CHAIR REMPE: How willing are the decommissioning companies to provide the information? Because you said that's one of the first things they destroy. Are they willing to share?

MR. TREGONING: It depends on the decommissioning company. And I think Matt talked earlier, this is not their prime business objective.

This request includes but is not limited to records of communications between NRC and Holtec International or its subsidiaries regarding documentation of reactor operating experience, aging conditions and/or environmental conditions following the permanent closure of the Pilgrim, Indian Point and Palisades nuclear power stations.

4. Records related to communications between the NRC and decommissioning companies and/or reactor licensees regarding the availability or destruction of requested documentation, as discussed in the following exchange at page 41 of the Transcript:

CHAIR REMPE: So when you said it's destroyed, my mind immediately thought that Holtec or some company like them would be the ones that would be first to destroy it. What you're saying is actually the plant before they sell to the decommissioning company might destroy it?

MR. TREGONING: And maybe destroy it. Let me amend my remarks. Maybe destroy is too strong a word there. It becomes unavailable for a variety of reasons.”

This request includes but is not limited to records of communications between NRC and Entergy Corporation or its subsidiaries regarding documentation of reactor operating experience, aging conditions and/or environmental conditions following the permanent closure of the Pilgrim, Indian Point and Palisades nuclear power stations.

If it is your position that records exist that are responsive to this request, but that those records (or portions of those records) are exempt from disclosure pursuant to the FOIA and NRC implementing regulations, please identify the records the records that are being withheld and

state the basis for the denial for each record being withheld. In addition, please provide the nonexempt portions of the records.

Definition of "Records"

The term "record" should be construed to mean any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone calls, meetings or other communications, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, voicemails, microfiche, microfilm, videotape, recordings and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, memory sticks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind of nature. A record bearing any notation not a part of the original text is to be considered a separate record. A draft of a non-identical copy is to be construed as a separate record.

The terms "relating" and "regarding" with respect to any given subject, should be construed to mean anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is in any manner whatsoever pertinent to that subject. The inclusion and description of particular records in this request should not be construed to eliminate other records that are not described in particular detail if they should exist in another format.

Request for Documents in Electronic Format

If possible, please provide the requested documents in electronic (pdf) format.

Request for Waiver of Fees

Pursuant to 10 C.F.R. § 9.41, Beyond Nuclear requests that any searching and copying fees incurred as a result of this search be waived. Beyond Nuclear satisfies all of the NRC's criteria in 10 C.F.R. § 9.41(b) for this FOIA request:

- 1) Purpose of request: The purpose of the request is to gather information on the past, existing or proposed collection of Operating Experience (OE) and other data by the NRC Office of

Research (RES) in order to target strategic harvesting and analysis of aged material samples taken from decommissioning nuclear reactors. The collection of this information is intended to inform the NRC's regulatory program for ensuring the operational safety and reliability of aged nuclear power generating stations seeking operating license extensions. Beyond Nuclear seeks a comprehensive understanding of the status of the program and challenges in obtaining needed information. However, the requested information is currently not publicly available through the agency's public document room.

- 2) Extent to which Beyond Nuclear will extract and analyze the substantive content of the records: The staff of Beyond Nuclear will thoroughly extract and analyze all of the substantive content of the requested records. Indeed, Beyond Nuclear has studied and publicized the NRC's program for collecting operating experience from decommissioning reactors for the past five or more years. Beyond Nuclear also has a working relationship with physicists, structural and nuclear engineers, federal policy analysts and other respected professionals who contribute to the full understanding of the NRC oversight and regulation of operational safety and reliability of nuclear power generating stations seeking operating license extensions.
- 3) Nature of the specific activity or research in which the records will be used and Beyond Nuclear qualifications to utilize the information for the intended use in such a way that it will contribute to public understanding: Beyond Nuclear seeks the requested information solely to contribute to and help shape the public policy debate on NRC oversight, regulation and licensing of nuclear power stations seeking Subsequent License Renewal. Beyond Nuclear intends to use the information to advance the concerns for public understanding of NRC oversight, research activities and enforcement of regulation regarding the operational safety of nuclear power generating stations seeking operating license extensions. To that end, Beyond Nuclear will participate in public forums, engage in correspondence with the NRC, and publish information in its newsletter and on its website.

Beyond Nuclear is highly qualified to make use of the requested information. Its staff has demonstrated the ability to interpret information and communicate that information in a form comprehensible to the general public. Beyond Nuclear is quoted in national and international media and has been cited as a reliable source of information on NRC oversight and enforcement of regulation regarding the operation of nuclear power generating stations and public safety in electronic and print media including newspapers including the New York Times and the Washington Post. Beyond Nuclear is recognized and utilized as a reliable source of information in the broadcast media of television, radio and the worldwide web.

- 4) Likely impact on the public understanding of the subject as compared to the level of understanding of the subject prior to disclosure: As discussed above, the NRC discloses few documents regarding the nature of its program for collecting operating experience from nuclear reactors. Therefore, Beyond Nuclear's analysis and publication of the requested information will greatly contribute to the public understanding of the issues regarding the NRC's program for evaluating the experience of operating nuclear reactors. The requested

information will also contribute to the public's understanding of the risks posed by "subsequent license renewal" of aging nuclear reactors.

- 5) Size and nature of the public to who's understanding a contribution will be made: Beyond Nuclear has a membership of 23,000 who periodically receive communications from Beyond Nuclear. Beyond Nuclear provides resource material to electronic and print media outlets with very broad outreach to a constituency and the interested public. Additionally, Beyond Nuclear maintains a web site at www.BeyondNuclear.org and www.BeyondNuclearInternational.org where postings on this issue will be made available.
- 6) Means of distribution of the requested information: Beyond Nuclear will use its publications and media contacts in both electronic and print media outlets to provide very broad outreach to the public on this issue. Beyond Nuclear will also share information with other interested parties concerned about NRC oversight, research activity and enforcement of public safety requirements. Additionally, Beyond Nuclear will post information on its web site(s).
- 7) Whether free access to information will be provided: Beyond Nuclear will provide the information without charge to all members of the public. Information from the FOIA requested will be prepared for printed material and electronically posted on the web site for downloading free of charge. Beyond Nuclear will provide a copy of information to all interested public without charge.
- 8) No commercial interest by Beyond Nuclear or any other party: Beyond Nuclear is a nonprofit charitable organization and therefore has no commercial interest in obtaining the requested information. This information is provided to all public requests without charge. The sole interest of Beyond Nuclear is to promote an open policy debate on the quality of NRC oversight, research activity, operational licensing and enforcement of requirements for the protection of public safety.

Thank you very much for your prompt attention to this request. We look forward to receiving your response within 20 working days, as required by 10 C.F.R. § 9.25(a). In the meantime, please call me at 240-393-9285 if you have any questions regarding this request.

Sincerely,



Diane Curran
Counsel to Beyond Nuclear