N400(5)

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

JUL 15 1992

Mr. David J. Bardin
Arent Fox Kintner Plotkin & Kahn
1050 Connecticut Avenue, NW
Washington, DC 20036-5339

IN RESPONSE REFER
TO FOIA-92-A-6
(FOIA-92-199)

Dear Mr. Bardin:

I am responding to your letter dated June 5, 1992, in which you appealed Mr. Donnie Grimsley's response dated May 19, 1992. Mr. Grimsley's response denied the records, identified on the enclosed appendix, subject to your Freedom of Information Act (FOIA) request for a copy of the Special Review Group report and related documents regarding allegations at Northeast Utilities.

Acting on your appeal, I have carefully reviewed the records in this case and have determined that the previously withheld information will continue to be withheld from public disclosure pursuant to Exemption 7(A) of the FOIA (5 U.S.C. 552(b)(7)(A)) and 10 CFR 9.17(a)(7)(i) of the Commission's regulations. Your appeal is, therefore, denied.

The subject records, which are now under review by the NRC Office of Investigations, were compiled for law enforcement purposes, the release of which could reasonably be expected to interfere with an ongoing enforcement action. Release of this information could allow those being investigated to learn the scope, direction, and focus of investigatory efforts, and thus could possibly allow them to take action to shield potential wrongdoing or a violation of NRC requirements from investigators.

This is a final agency action. As set forth in the FOIA (5 U.S.C 552(a)(4)(B)), judicial review of this decision is available in a district court of the United States in the district in which you reside or have your principal place of business or in the District of Columbia.

Sincerely,

Hugh L. Thompson, Jr.
Deputy Executive Director for
Nuclear Materials Safety, Safeguards
and Operations Support

Enclosure:
Appendix

9301070196 920715
PDR FOIA
BARDIN92-A-6 PDR

U.S. NUCLEAR REGULATORY COMMISSION

RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

NRC FOIA REQUEST NUMBER(S): FOIA — 92-199

RESPONSE TYPE: [X] FINAL [ ] PARTIAL

DATE: MAY 19 1992

DOCKET NUMBER(S) (If applicable)

REQUESTER: Mr. David J. Bardin

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) _____ 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.
- [ ] 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

- [X] 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

9211200097

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

Donna H. Chiroldy

RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST (CONTINUATION)	FOIA NUMBER(S) FOIA — 92-199	DATE MAY 19 1992

PART II.B – APPLICABLE EXEMPTIONS

Records subject to the request that are described in the enclosed Appendix(es) A 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 141-145 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)
X	7. The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated. (Exemption 7)
X	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
Leo J. Norton	Assistant Inspector General for Investigations	Appendix A			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 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

Re: FOIA-92-199

APPENDIX A

RECORDS TOTALLY WITHHELD

NUMBER	DATE	DESCRIPTION & EXEMPTION
1.		Table of Contents, entire text, appendices, attachments, documents incorporated, and supplements to the SRG report issued 3/31/92 EX. 7A

Arent Fox Kintner Plotkin & Kahn

David J. Bardin
202/857-6089

April 17, 1992

FREEDOM OF INFORMATION
ACT REQUEST
FOIA-92-199
Rec'd 4-22-92

Don Grimsley
Director
Freedom of Information Act and
Publication Services
Nuclear Regulatory Commission
Washington, D.C. 20555

Re: Freedom of Information Act (FOIA) Request

Dear Mr. Grimsley:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the implementing regulations of the Nuclear Regulatory Commission (NRC), 10 C.F.R. § 9.11 *et seq.*, we request that the following documents be produced and made available for inspection and copying:

Identification: By letter dated April 6, 1992, James M. Taylor, NRC Executive Director for Operations, transmitted to William B. Ellis, Chairman, President, and Chief Executive Officer, an Executive Summary of a report issued March 31, 1992, by a Special Review Group (SRG) appointed by Mr. Taylor under the leadership of James Milhoan, Deputy Regional Administrator, Region II. A copy of that letter is attached for your convenience.

1. Please produce and make available a copy of the table of contents of the complete SRG report issued March 31, 1992.

2. Please produce and make available a copy of the entire text of the complete SRG report issued March 31, 1992.

3. Please produce and make available a copy of each appendix, attachment or supplement to, or other document incorporated in, the complete SRG report issued March 31, 1992.

4. Please produce and make available a copy of each supplement to the SRG report added since March 31, 1992.

Please notify the undersigned not later than ten days following receipt of this letter when and where the requested documents can be inspected and copied. We agree to pay all reasonable costs incurred in connection with the processing of this

1050 Connecticut Avenue, NW
Washington, DC 20036-5339

Telephone 202/857-6000
Cable ARFOX
Telex WU 892672
ITT 440266
Facsimile 202/857-6395

8000 Towers Crescent Drive
Vienna, Virginia 22182-2733

7475 Wisconsin Avenue
Bethesda, Maryland 20814-3413

45 Rockefeller Plaza
New York, New York 10111

Arent/Fox Europe
Budapest, Hungary

9211200031

request as provided by the Freedom of Information Act. (Please contact the undersigned pursuant to 10 C.F.R. § 9.40 if the cost is expected to exceed $100.)

If review of the above-requested documentation leads you to determine that certain documents or portions of documents are considered exempt from disclosure under the Freedom of Information Act or for any other reason, and such documents or portions of documents are, in fact, withheld from production pursuant to this request, the undersigned additionally requests that the NRC provide access to any segregable, non-exempt portions of any such withheld documents along with a brief description of the withheld portions of such documents and a statement of the grounds upon which each such portion is withheld. This request is without prejudice to the right to appeal any NRC decision to withhold documents or delete information.

Your prompt attention to this matter is greatly appreciated. If you have any questions or if I can be of any assistance in aiding in the prompt reply to this request, please do not hesitate to contact me at (202) 857-6089.

Faithfully,

David J. Bardin

David J. Bardin

Attachment

cc: George E. Leary

April 6, 1992

Mr. William B. Ellis
Chairman, President, and Chief
Executive Officer
Northeast Utilities
P. O. Box 270
Hartford, Connecticut 06141

Dear Mr. Ellis:

In response to allegations of harassment and intimidation at Northeast Utilities, and associated NRC staff inspection and investigation efforts, I established a Special Review Group (SRG) to review pertinent written documentation in the possession of the NRC subsequent to August 1, 1985. The purpose of that review was to determine whether an atmosphere existed such that employees were encouraged to raise safety concerns, or instead had a "chilling effect" on their willingness to come forward. Enclosed, for your information, is the Executive Summary of the Special Review Group's report, issued on March 30, 1992, as well as its charter and two attachments that outline the attributes used by the SRG in evaluating the significance of the documents reviewed in the context of its charter. The SRG did not undertake any independent inspections or investigations.

Consistent with the charter of the SRG, its report contains recommendations for the staff to consider. The report is being carefully reviewed by the staff to determine what NRC action is warranted. The resulting NRC actions may differ from the SRG recommendations. You will be informed of what actions Northeast Utilities will need to take.

Further, although not part of the SRG charter, the report covers broader Northeast Utilities management issues which emerged during the review, such as some specific weaknesses in management. These issues may be the subject of further actions by the NRC, independent of the SRG recommendations.

Sincerely,

Original Signed By:
James M. Taylor

James M. Taylor
Executive Director
for Operations

Enclosures:
1. Executive Summary
2. SRG Charter
3. Attachment 1 to the Plan of Review, dtd 12/24/91
4. Attachment 2 to the Plan of Review, dtd 12/24/91

Distribution:
JMTaylor
JHSniezek
WLThompson
JBlaha
TEMurley
TMartin (RI)
JLieberman
BHayes
EDO rf
PDR

EDO
JMTaylor
4/6/92

9205280113

RE: FOIA-92-A-6
(FOIA-92-199)

APPENDIX

1. 3/31/92 Table of Contents, entire text, appendices, attachments, documents incorporated, and supplements to the Special Review Group Report. Ex. 7(A)