

February 23, 1985

APPEAL FROM AN INITIAL FOIA DECISION FOIA-85-5

Executive Director for Operations
US Nuclear Regulatory Commission
Washington, DC 20555

APPEAL OF INITIAL FOIA DECISION

Dear Mr. Director:

B5-A-7E (85-5)
rec'd 03/01/85

SUBJECT: FOIA REQUEST (FOIA-85-5)

This is to acknowledge that the Initial FOIA Decision of January 23, 1985 has been received on January 26, 1985. The response was incomplete. My request for compliance of the decision with 10 CFR, 9.2-11 was received by Mr. Felton on January 31, 1985. I have received no response in violation of same paragraph of 10 CFR.

The Initial Decision is in non-compliance for the following reasons:

1. A complete list of all the pertinent documents is missing.
2. Pages 1 and 2 contain deleted lines and no explanation is given for this. Although 10 CFR, 9.6 specifies that some information may be withheld by the NRC, it requires to clearly state a ground for withholding.
3. Pages 7-16 of the Attachment 2 are missing with no explanation.
4. Lines 5-7 from the bottom on P. 2 suggest that a technical evaluation of my proposal has been done by the NRC (it was found "below average in 'acceptability'"). The SUMMARY EVALUATION on P. 17 states that there was no technical discussion of my proposal on the SEP panel. Obviously, the technical evaluation or an in lieu document was prepared by the NRC Staff or by NRC consultants. This was confirmed by Mr. Edgeworth. Records of movement (memorandi) of my proposal within the NRC or outside the NRC are missing. The technical evaluation of my proposal or responses to Mr. Edgeworth memorandi in lieu of a technical evaluation, are missing.
- 5) Explanation of the Appeal procedure is missing.

To comply with the FOIA, please, provide the following information:

- 1) The list of all the pertinent documents.
- 2) Full pages 1 and 2 and 7-16
- 3) Copies of memorandi from and to Mr. Edgeworth, containing any information regarding the proposal.
- 4) Explanation of the Appeal procedure.

I shall expect to hear from you within twenty (20) days as provided by law.

Sincerely,

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