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ROBERT R. BELAIR  
(202) 452-7023

April 12, 1985

Executive Director for Operations  
U. S. Nuclear Regulatory Commission  
7735 Old Georgetown Road  
Bethesda, Maryland 20814

**APPEAL OF INITIAL FOIA DECISION**  
**FOIA-85-A-14EC(85-190)**  
**rec'd 4/24/85**

Re: Appeal from Initial FOIA Decision No. FOIA 85-190

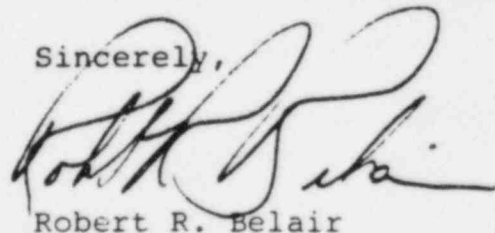
Dear Sir:

This is an appeal pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552(a)(6), and the Nuclear Regulatory Commission's ("NRC") regulations thereunder, 10 C.F.R. § 9.11. On behalf of our client, Suffolk County, we submitted an FOIA request dated March 19, 1985 seeking any written materials in the possession or control of the NRC which were dated January 2, 1984 or later, or which were created after January 1, 1984 relating to radiological emergency planning and preparedness concerning the Shoreham Nuclear Power Plant. The request excepted those materials which had been served on all parties in the Shoreham proceeding (Docket No. 50-322-OL). The request was hand-delivered to the NRC's offices at 7735 Old Georgetown Road, Bethesda, Maryland, and a copy has been marked "Received" as of March 21, 1985.

The NRC's regulations at 10 C.F.R. § 9.9 require the NRC to respond to an FOIA request within ten working days. That ten-day period has expired and as yet we have not received a response from the NRC. Furthermore, the NRC has not sent us a written notice advising us of an extension of the ten-day response, as permitted under the FOIA and the NRC's regulations, 10 C.F.R. § 9.13.

Under the FOIA and the NRC's regulations at 10 C.F.R. § 9.9(e), we are entitled to treat this failure to make a timely response as a denial of our request and to immediately appeal to the NRC's Executive Director for Operations. Accordingly, by this letter we hereby appeal the denial of the above-referenced FOIA request.

Sincerely,

  
Robert R. Belair

bcc/Tip Letsche

B507270086 B50412  
PDR FOIA  
BELAIR85-A-14 PDR

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March 19, 1985

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FREEDOM OF INFORMATION  
ACT REQUEST

FOIA-85-190  
rec'd 3/21/85

## HAND DELIVER

Director, Office of Administration  
U.S. Nuclear Regulatory Commission  
1717 H Street, N.W.  
Washington, D.C. 20555

Re: Freedom of Information Act Request

Dear Sir:

On behalf of our client, Suffolk County, we request, pursuant to the Freedom of Information Act, as amended, 5 U.S.C. § 552, ("FOIA") and the rules of the Nuclear Regulatory Commission ("Commission") issued thereunder, 10 C.F.R. Part 9, copies of all written materials which are dated January 2, 1984 or later, or, if undated, which were created after January 1, 1984 in the possession or control of the Commission relating to radiological emergency planning and preparedness concerning the Shoreham Nuclear Power Plant in Suffolk County, New York, except for those materials which have been served on all the parties in the Shoreham proceeding (Docket No. 50-322-OL).

Without limiting the scope of this request, but merely to assist the Commission in its search, the written materials that we are requesting may include the following:

1. All materials since January 1984 concerning the implementation by the Long Island Lighting Company of radiological emergency plans for the Shoreham Nuclear Power Plant.
2. All materials since January 1984 re: implementation by the Federal Government, or any Federal departments, agencies, instrumentalities, or contractors, of radiological plans for the Shoreham Nuclear Power Plant.

~~85-625-2293~~  
3pp.

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Director, Office of Administration  
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3. All materials since January 1984 concerning an exercise of radiological emergency plans for the Shoreham Nuclear Power Plant, including materials related to participation by or observation of such an exercise by any Federal department, agency, instrumentality, or contractor.

In addition, we request copies of all correspondence, memoranda and any other written materials between the Commission and the Long Island Lighting Company and/or its employees, agents or representatives, occurring after January 1, 1984.

In the event that access is denied to any part of the requested materials, please supply the following information:

- a. Identify the withheld or deleted material and specify your reasons for believing that an exemption applies, as required by 10 C.F.R. § 9.10(b).
- b. Segregate the nonexempt from the allegedly exempt portions of all materials and release the former, as required by 10 C.F.R. § 9.10(a).
- c. Supply a detailed statement of the content of the withheld or deleted material, along with the date on which the material was written; its section heading or title; its author; the author's title, and an identification of any persons or entities who have received copies of such material, as required by applicable case law. Vaughn v. Rosen, 484 F.2d 820, 826-827 (D.C. Cir. 1973).
- d. Separately state your reason(s) for not invoking your discretionary power to release the allegedly exempt materials.

The undersigned is willing to inspect the requested material prior to its reproduction in order to identify specific material for reproduction.

The undersigned will pay charges for search time and copying fees, as provided by Commission regulations, 10 C.F.R. § 9.14. If search and copying fees to be incurred by the undersigned will exceed \$100.00, please notify the undersigned before this sum is exceeded.

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We expect to receive your response to this FOIA request within ten (10) working days of your receipt of this request, as required under the FOIA and as set out at 10 C.F.R. § 9.8(c).

Sincerely,

*Robert R. Belair (LZ)*

Robert R. Belair