



my docs

RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

FOIA -96-330

RESPONSE TYPE
FINAL ☒ PARTIAL (2nd) ☐

DATE
SEP 18 1996

DOCKET NUMBER(S) (if applicable)

REQUESTER
Darl L. Calandra

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) B 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 re _____ 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

☒ 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

*Copies of the records identified on Appendix B and the releasable portions of the records identified on Appendix C are enclosed.

FOIA
0/1

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

9610030005 960918
PDR FOIA
CALANDR96-330 PDR

**RESPONSE TO FREEDOM OF
INFORMATION ACT (FOIA) REQUEST
(CONTINUATION)**

FOIA NUMBER(S)

FOIA — 96-330

DATE

SEP 18 1996**PART II.B — APPLICABLE EXEMPTIONS**

Records subject to the request that are described in the enclosed Appendix(es) C 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)

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))

X 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
Mr. Guy P. Caputo	Director, Office of Investigations	Appendix C	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 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."

APPENDIX B
(RECORDS RELEASED)

1. 5/24/94 Report of Investigation 2-94-036: Crystal River Nuclear Plant: Possible Deliberate Violation of Plant Design Basis (26 pages)
2. 12/1/94 Exhibit 10 to OI ROI 2-94-036, Investigative Interview of Individual (14 pages)
3. 12/1/94 Exhibit 12 to OI ROI 2-94-036, Investigative Interview of Individual (16 pages)
4. 12/14/94 Exhibit 13 to OI ROI 2-94-036, Investigative Interview of Individual (10 pages)
5. 12/14/94 Exhibit 14 to OI ROI 2-94-036, Investigative Interview of Individual (47 pages)
6. 2/13/96 Report of Investigation 2-94-036S: Crystal River Nuclear Plant: Alleged Violation of Plant Design Basis (17 pages)

APPENDIX C
(RECORDS WITHHELD IN PART)

1. Exhibit 2 to ROI 2-94-036S, Investigative Interview of 7(C), portions Individual, dated 08/08/95, (28 pp)
2. Exhibit 3 to ROI 2-94-036S, Investigative Interview of 7(C), portions Individual, dated 08/08/95, (35 pp)
3. Exhibit 4 to ROI 2-94-036S, Investigative Interview of 7(C), portions Individual, dated 08/08/95, (55 pp)

WINSTON & STRAWN

35 WEST WACKER DRIVE
CHICAGO, ILLINOIS 60601-9703

200 PARK AVENUE
NEW YORK, NY 10166-4193

1400 L STREET, N.W.
WASHINGTON, D.C. 20005-3502

(202) 371-5700

FACSIMILE (202) 371-5950

6, RUE DU CIRQUE
75008 PARIS, FRANCE

SULAYMANIYAH CENTER
RIYADH 11495, SAUDI ARABIA

43, RUE DU RHONE
1204 GENEVA, SWITZERLAND

WRITER'S DIRECT DIAL NUMBER

FREEDOM OF INFORMATION
ACT REQUEST

(202) 371-5905

August 16, 1996

Mr. Russell Powell
Chief, FOIA/LPDR Branch
United States Nuclear Regulatory Commission
Mail Stop T6D8
Washington, DC 20555

FILED-96-330

Re: Freedom of Information Act Request

Dear Mr. Powell:

On behalf of Florida Power Corporation and Pursuant to the Freedom of Information Act (5 U.S.C. § 552), I hereby request copies of the following documents:

- Investigation Report Nos. 2-94-036 and 2-94-036S, prepared by the Office of Investigations (relating to investigations completed on May 24, 1995 and February 13, 1996, respectively.)
- Transcripts of all interviews conducted by the Office of Investigations of the licensed operators involved in the unauthorized tests performed on the makeup system at Crystal River 3 on September 4 and 5, 1994.
- Reports of any reviews performed by the NRC's Office of Inspector General regarding the unauthorized testing incidents at Crystal River 3 on September 4 and 5, 1994.

For each and any requested item (or portion thereof) that you withhold pursuant to a Freedom of Information Act exemption, please provide an index itemizing and describing the items withheld and individually disclosing the specific basis for the withholding. Whatever expenses may be associated with this request will be acceptable, up to a maximum of \$1000.00 and for any fees or expenses incurred pursuant to this request, please forward the charges, along with the requested records and information, to my attention at the above address. In order to

ELG WINS
ELG FPC

58-302Q

961001-0190 2PP

WINSTON & STRAWN

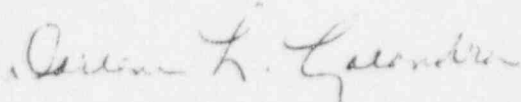
Mr. Russell Powell

August 16, 1996

Page 2

accelerate this process, please use the enclosed prepaid Federal Express manifest and send the requested documents to us via Federal Express Priority Overnight Service. If you have any questions, please contact me at the number indicated above.

Sincerely,

A handwritten signature in cursive script, appearing to read "Darlene L. Calandra".

Darlene L. Calandra
Legal Assistant