



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

PDR  
016

Ms. Lynn Cunningham  
The Times-Picayune Publishing  
Corporation  
3800 Howard Avenue  
New Orleans, LA 70140-1097

JUL 01 1985

IN RESPONSE REFER  
TO FOIA-85-191

Dear Ms. Cunningham:

This is in response to your letter dated March 18, 1985, in which you requested, pursuant to the Freedom of Information Act (FOIA), copies of documents regarding the March 15, 1985, closed Commission meeting on the Waterford 3 nuclear power plant.

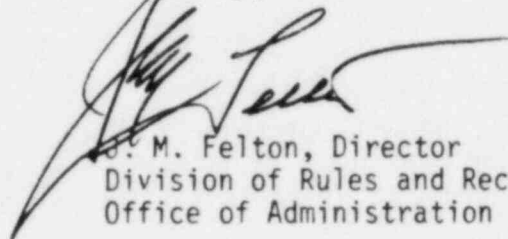
The search has been completed by the NRC staff, and seven documents have been identified as being subject to your request. The three documents identified on enclosed Appendix A are being placed in the NRC Public Document Room (PDR) located at 1717 H Street, NW, Washington, DC 20555, in file folder FOIA-85-191 in your name. The two documents identified on enclosed Appendix B are already in the PDR. I have indicated the file location beside each document description.

The two documents identified on enclosed Appendix C are being withheld. Document 1, the Commission meeting transcript, pertains to a briefing on the investigation of the allegations and possible enforcement actions regarding the Waterford facility. The transcript is being withheld in its entirety pursuant to Exemptions (5) and (7) of the Government in the Sunshine Act (5 U.S.C. 552b(c)(5) and (7)). Document 2 identified on Appendix C consists of the handwritten notes of an Office of the General Counsel (OGC) attorney attending the March 15, 1985, closed Commission meeting. The notes were prepared in anticipation of litigation. This document contains the predecisional legal analyses, opinions and recommendations between the attorneys in OGC. The notes are protected by the attorney work-product privilege. Additionally, this document reflects the predecisional process between OGC attorneys. The document is exempt from mandatory disclosure pursuant to Exemption 5 of the FOIA, 5 U.S.C. 552(b)(5), and the Commission's regulations, 10 CFR 9.5(a)(5). Release of the document would tend to inhibit the open and frank exchange of ideas essential to the deliberative process. The document does not contain any reasonably segregable factual portions and is being withheld in its entirety.

Pursuant to 10 CFR 9.15 of the Commission's 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 person responsible for the denial of Document 1 on Appendix C is John C. Hoyle, Assistant Secretary of the Commission. The person responsible for the denial of Document 2 on Appendix C is James A. Fitzgerald, Assistant General Counsel.

These denials may be appealed to the Commission within 30 days from the receipt of this letter. Any such appeal must be in writing, addressed to the Secretary of the Commission, 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."

Sincerely,



J. M. Felton, Director  
Division of Rules and Records  
Office of Administration

Enclosures: As stated

APPENDIX A

Documents Being Placed in the PDR

1. 02/21/85 Memo from Dircks to the Commission, subject: Consideration of Full Power Licensing of Waterford 3 (2 pages)
2. 03/14/85 Memo from Dircks to the Commission, subject: Waterford Emergency Medical Services (2 pages)
3. 04/01/85 Memo from Hoyle to Palladino and Asselstine, subject: TMI-2 Operators at Waterford, attaching 4/1/85 memo from Hoyle to Dircks, Hayes and Plaine, subject: Staff Requirements - Discussion of Pending Investigation, 9:00 a.m., Continued at 1:30 p.m., Friday, March 15, 1985, Commissioner's Conference Room (closed--EX. 5 and 7)

APPENDIX B

Documents Already in the PDR

1. 03/08/85 Letter from Lynne Bernabei, GAP, to the Commission Re:  
Upcoming Commission meeting on Waterford 3 (2 pages)  
Accession No. 8503130002
2. 03/11/85 Letter from Lynne Bernabei to the Commission Re:  
Addendum to 3/8/85 letter (1 page) Accession No. 8503150407

APPENDIX C

Documents Being Withheld

1. 03/15/85 Transcript of closed Commission meeting entitled: "Discussion of Pending Investigations" (180 pages)
2. Undated Handwritten Notes by an OGC Attorney Re: Waterford (4 pages)