

ENVIRONMENTAL POLICY INSTITUTE

September 26, 1984

Mr. William Dircks
Executive Director for Operations
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

APPEAL OF INITIAL FOIA DECISION

84-A-72E(84-709)
Rec'd 10-1-84

APPEAL FROM DENIAL OF FOIA REQUEST

Dear Mr. Dircks:

This is an appeal pursuant to subsection (a)(6) of the Freedom of Information Act as amended (5 U.S.C. 552), and 10 CFR 9.9(e) for failure of the Commission to respond to my FOIA request within the 10 working day limit provided in 10 CFR 9.8.

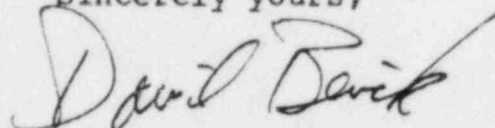
On August 29, 1984, I mailed to the Commission a FOIA request for 9 categories of documents. I have learned that my letter was received by the Commission on August 31st, and the limit of 10 working days was reached on September 17, 1984. It is now 10 days since that deadline passed and I still have not received any response from the Commission.

As you know, FOIA requires that an agency make an initial determination to grant or deny a FOIA request within ten working days of its receipt. In unusual circumstances, an additional 10 working days may be allowed, but 10 CFR 9.13(a) requires that I receive written notice of such an extension, including the reasons for that extension and the date on which a final determination on my request will be sent. To date I have not received such notice.

Because I have allowed more than a reasonable amount of time for the Commission to comply with these requirements of FOIA and the Commission's own regulations, I must treat your failure to respond to my request as a denial. Therefore, this letter is a formal appeal of that denial.

I am enclosing a copy of my initial letter so that you can see exactly the categories of documents which are covered by my request. As provided in 10 CFR 9.11(b), I will expect to receive your reply to this appeal within twenty working days.

Sincerely yours,



David Berick, Director
Nuclear Waste & Safety Project

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PDR FOIA
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Enclosure

ENVIRONMENTAL POLICY INSTITUTE

August 29, 1984

Director
Office of Administration
U.S. Nuclear Regulatory Commission
Washington, DC 20555

FREEDOM OF INFORMATION
ACT REQUEST

FOIA-84-709

Rec'd 8-31-84

Freedom of Information Act Request

Dear Director,

This is a Freedom of Information Act request by the Environmental Policy Institute pursuant to 5 U.S.C. 552.

The Environmental Policy Institute requests the following information and documents:

- 1) All vote sheets, instructions to staff, policy and implementation statements, decision documents, corrections, editorial changes, substantive revisions, and all other documentation considered or approved or transmitted by any Commissioner in his consideration of, or by the Commission in its consideration of, SECY-83-523/523A--"Proposed Amendments to Uranium Mill Tailings Regulations and Advance Notice of Proposed Rulemaking" and/or the proposed rules.
- 2) All memoranda, directions to staff, revisions, editorial or other corrections transmitted by any Commissioner, the Commission, or any Office of the Commission including the Office of the Secretary and the Office of General Counsel to the NRC staff related to, or requesting revision of SECY-83-523/523A or the proposed revisions to the Commission's uranium mill tailings regulations discussed in SECY-83-523/523A.
- 3) The July 10, 1984 memorandum from Samuel J. Chilk to William J. Dircks transmitting the Commission's approved course of action regarding SECY-83-523/523A and revision of the Commission's uranium mill tailings regulations, and all subsequent communications from any Commissioner or any Office of the Commission including the Office of General Counsel and the Office of the Secretary related to, or modifying, or amending, this memorandum and the approved course of action described in the memorandum.
- 4) Any and all revisions of the proposed uranium mill tailings regulations and policy and implementation statements related thereto developed in response to the approved course of action described in the July 10, 1984 memorandum or subsequent directive from the Commission or any Commissioner prepared by the NRC staff or any Office of the Commission including the Office of General Counsel related to the revision of the Commission's

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uranium mill tailings regulations and related policy and implementation statements.

5) All communications, invoices, manifests from the Nuclear Regulatory Commission transmitting the proposed revisions of the Commission's uranium mill tailings regulations and related policy and implementation statements to the Office of the Federal Register for subsequent publication including all notices and letters to the public, interested parties, and members of congress announcing this action.

6) All communications, invoices, manifests from the Nuclear Regulatory Commission to the Office of the Federal Register requesting suspension of publication of the Commission's proposed revisions of its uranium mill tailings regulations and related policy and implementation statements and any communications from the Commission or any Office of the Commission announcing this action.

7) All communications from the Commission, the Chairman, or any other Commissioner or Office of the Commission including the Office of General Counsel concerning the decision to suspend publication of the proposed revisions of the Commission's uranium mill tailings regulations and related policy and implementation statements.

8) All meeting minutes and communications from the Commission, the Chairman, the Office of General Counsel, the Office of the Secretary or from any Commissioner concerning revision, modification, continued suspension, reconsideration and any other action related to the suspended revisions of the Commission's uranium mill tailings regulations and related policy and implementation statements including minutes from the August 1, 1984 meeting of Commissioners Bernthal, Palladino, and Asselstine. These communications should include the August 3, 1984 memo from Chairman Palladino to the other Commissioners explaining his vote and understanding of the Commission's course of action taken upon consideration of SECY-83-523/523A.

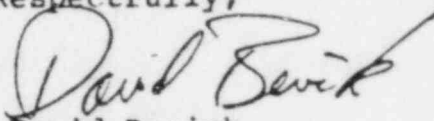
9) All entries in phone logs, meeting logs, correspondence logs, and visitor logs of the Commission or any Commissioner related to the Commission's consideration of SECY-83-523/523A and the proposed revisions of the Commission's uranium mill tailings regulations, the subsequent decision to publish the proposed revisions and related policy and implementation statements entries, and the subsequent decision to suspend publication including contacts from congressional staff and members of congress.

The Environmental Policy Institute is a non-profit, tax exempt public interest organization located in the District of Columbia. The Institute has monitored and participated in the Commission's development of uranium mill tailings regulations and implementation of the Uranium Mill Tailings Radiation Control Act of 1978 and subsequent amendments since 1978.

The information the Institute hereby requests will be used exclusively in the public interest to assure that the Commission complies with P.L. 95-604 and P.L. 97-415 requiring it to promulgate regulations to protect public health and safety and the environment from the hazards of uranium mill tailings in a timely manner.

The Institute therefore requests a waiver of fees under 5 U.S.C. 552(a)(4)(A).

Respectfully,

A handwritten signature in cursive script, appearing to read "David Berick".

David Berick
Director, Nuclear Waste and
Safety Project