



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

PDR-016

JUN 24 1985

Docket No. 50-322

Robert R. Belair, Esquire
Kirkpatrick & Lockhart
1900 M Street, NW
Washington, DC 20036

IN RESPONSE REFER
TO FOIA-85-190 and
85-A-14 (85-190)

Dear Mr. Belair:

This is in final response to your letter dated March 19, 1985, in which you requested, pursuant to the Freedom of Information Act (FOIA), copies of documents related to radiological emergency plans for the Shoreham Nuclear Power Plant since January 1984, and copies of correspondence between NRC and the Long Island Lighting Company since January, 1984.

The document identified on enclosed Appendix H is being placed in the NRC Public Document Room (PDR) located at 1717 H Street, NW, Washington, DC 20555, in file folder FOIA-85-190 in your name.

The documents identified on enclosed Appendix I contain the predecisional analyses, opinions and recommendations of the Commissioners, and between the Commissioners and their staffs, on emergency planning issues. Because the documents reflect the predecisional process among the Commissioners, and between the Commissioners and their staffs, the documents are 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 documents would tend to inhibit the open and frank exchange of ideas essential to the deliberative process. There are no reasonably segregable factual portions. The documents are being withheld in their entirety.

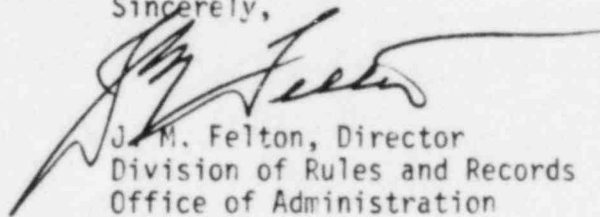
Pursuant to 10 CFR 9.15 of the Commission's regulations, it has been determined that the information withheld is exempt from production or disclosure and that its production or disclosure is contrary to the public interest. The person responsible for the denial of the documents on Appendix I is John C. Hoyle, Assistant Secretary of the Commission.

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."

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PDR FOIA
BELAIR85-A-14 PDR

On April 24, 1985, we received your letter dated April 12, 1985, appealing our lack of response to this request. On April 15, 1985, May 6, 1985, and June 10, 1985, this office provided you with partial responses. Since you were given appeal rights in my June 10, 1985, letter and in this letter, no further action will be taken on your letter of April 12, 1985.

Sincerely,

A handwritten signature in black ink, appearing to read "J. M. Felton", with a long horizontal flourish extending to the right.

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

Enclosures: As stated

Re: FOIA-85-190

APPENDIX H

Document Being ~~Placed~~ in the PDR

1. 05/14/84 Memorandum from James Asselstine to the Commission, subject:
May 4, 1984 Markey Letter. (1 page)

APPENDIX I
Documents Being Withheld

1. 05/01/84 Note from L. Stoloff to F. Bernthal, "New York Times Article on Shoreham" (1 page)
2. 05/16/84 Point paper prepared by L. Stoloff for F. Bernthal, "Status of Shoreham Emergency Planning." (1 page)
3. 08/01/84 Note from L. Stoloff to F. Bernthal, "Emergency Planning Issues." (3 pages)
4. 09/17/84 Internal office recommendation to Cmr. Zech regarding review of ALAB-780. (1 page)
5. 01/08/85 Talking points prepared by L. Stoloff for F. Bernthal, "Emergency Preparedness at NTOLs." (1 page)
6. 01/08/85 Memo from T.M. Roberts to Cmr. "Scheduling of Emergency Plan Drill for Shoreham," (1 page)
7. 01/10/85 Response from J.A. Asselstine to T.M. Roberts on 1/8/85 memo from T.M. Roberts to Cmr. "Scheduling of Emergency Plan Drill for Shoreham." (1 page)
8. 01/10/85 Internal office note to Cmr. Zech regarding 1/8/85 memo from T.M. Roberts to Cmr. "Scheduling of Emergency Plan Drill for Shoreham." (1 page)
9. 01/25/85 Memo from F. Bernthal to Cmr., COMFB-85-1, "Procedure for Commission Consideration of New Source Term Information (Reference: SECY-85-17)." (1 page)
10. 01/29/85 Note from L. Stoloff to F. Bernthal, "Emergency Planning Issues." (1 page)
11. 02/08/85 Note from L. Stoloff to F. Bernthal, CR-85-2. (2 pages)
12. 02/19/85 Memo from T.M. Roberts to Cmr., COMTR-85-5, "Scheduling of Emergency Plan Exercise for Shoreham." (1 page)
13. Undated Draft comments of J.K. Asselstine on proposed letter to Senators Simpson and Johnson.
14. Undated Talking Points prepared by L. Stoloff for F. Bernthal, "Shoreham Emergency Planning." (1 page)



OFFICE OF THE
COMMISSIONER

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

May 14, 1984

MEMORANDUM FOR: Chairman Palladino
Commissioner Gilinsky
Commissioner Roberts
Commissioner Bernthal

FROM: James K. Asselstine *[Signature]*

SUBJECT: MAY 4, 1984 MARKEY LETTER

In his May 4, 1984 letter to the Commission, Congressman Markey requested an accounting of any communications with the Executive Branch relating to emergency planning or the Shoreham proceeding.

I have the following to report:

On March 7, 1984, while in Florida to observe the full-scale federal field exercise at the St. Lucie plant, I had breakfast with Samuel W. Speck, FEMA's Associate Director for State and Local Programs and Support. Although we did not discuss the emergency planning situation at Shoreham, we did discuss the proposed legislation offered by Senator Simpson, which would provide for federal implementation of an emergency plan in the event that state and local governments refuse to participate. I told Mr. Speck that based on what I had observed of the federal participation in the St. Lucie drill, I suspected that it would be very difficult, if not impossible, for the federal government to manage an effective emergency response without having a large cadre of federal employees on site at all times. I told Mr. Speck that I thought the federal response at St. Lucie was impressive, but because it was limited to a support function to the state and local response authorities, the St. Lucie federal response exercise did not demonstrate a federal capability to manage an emergency response at a commercial nuclear powerplant. I also expressed the view that legislation granting a federal management role could well serve as an incentive to a number of state and local governments not to participate in the implementation of radiological emergency response plans, thereby undermining our emergency response capability.

cc: OGC
OPE
SECY
CCA

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March 19, 1985

WRITER'S DIRECT DIAL NUMBER
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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.

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KIRKPATRICK & LOCKHART

Director, Office of Administration
March 19, 1985
Page 2

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.

KIRKPATRICK & LOCKHART

Director, Office of Administration
March 19, 1985
Page 3

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