



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

AUG 01 1985

Ms. Sylvia Tognetti  
Christic Institute  
1324 N. Capitol Street  
Washington, DC 20002

IN RESPONSE REFER  
TO FOIA-85-456

Dear Ms. Tognetti:

This is in partial response to your letter dated June 21, 1985, in which you requested, pursuant to the Freedom of Information Act (FOIA), copies of 1) comments of the Commissioners in providing guidance to the staff on developing recommendations to Congress for legislative measures in response to the Supreme Court decision in Silkwood v. Kerr-McGee Corp., and the Commission staff comments in response to SECY-84-146A, and 2) recommendations and proposed legislation prepared by the Office of the General Counsel (OGC) for presentation to the 99th Congress in response to the Supreme Court Silkwood decision and on the subject of punitive damages.

The documents identified on enclosed Appendix A are subject to both categories of your request and are being withheld. The three draft documents contain the predecisional legal advice, analyses, and recommendations of OGC and clearly reflect the deliberative process of the agency. There are no reasonably segregable factual portions, and release of this information would tend to inhibit the open and frank exchange of ideas essential to the agency's decisionmaking process. None of the documents described above have been finalized or circulated outside OGC. The documents are being withheld under the deliberative process privilege of Exemption 5 of the FOIA, 5 U.S.C. 552(b)(5), and the Commission's regulations, 10 CFR 9.5(a)(5).

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 this denial is Mr. James A. Fitzgerald, Assistant General Counsel.

This denial may be appealed to the Secretary of 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."

The search for and review of documents that are subject to your request are continuing. We will notify you upon completion of the search and review.

Sincerely,

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

Enclosure: As stated

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PDR FOIA  
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APPENDIX A

DOCUMENTS BEING WITHHELD

1. Undated Draft memorandum to William J. Dircks, EDO, from Herzel Plaine, General Counsel. (1 page)
2. Undated Draft SECY paper which contains a proposed legislative package developed in response to the Commission's request (Staff Requirements Memo - S. Chilk, dated January 31, 1985). (4 pages)
3. Undated Draft letter to George Bush. (7 pages)