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

AUG 01 1985

Ms. Nina Bell
Assistant Director
Nuclear Information and Resource Service
1346 Connecticut Avenue, NW, 4th Floor
Washington, DC 20036

IN RESPONSE REFER
TO FOIA-85-357

Dear Ms. Bell:

This is in further response to your letter dated May 8, 1985, in which you requested, pursuant to the Freedom of Information Act (FOIA), documents produced by or for the NRC regarding an article published in the New Orleans newspaper Gambit concerning the Department of Energy's Task Force on Commercial Nuclear Power and its involvement in NRC's licensing of nuclear plants.

The documents listed on enclosed Appendix A are being placed in the NRC Public Document Room (PDR) located at 1717 H Street, NW, Washington, DC, in file folder FOIA-85-357 under your name.

Enclosed Appendix B is a list of documents subject to your request that are available in other PDR files.

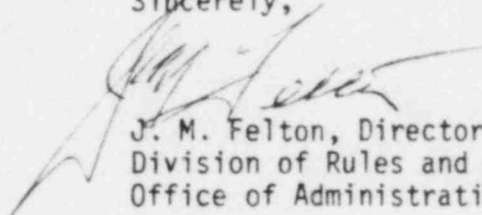
Document 1 of enclosed Appendix C is a summary of selected issues raised in the GAMBIT article prepared as part of an audit by the NRC's Office of Inspector and Auditor (OIA) which is currently in progress. The document is exempt from mandatory disclosure pursuant to Exemption (5) of the FOIA, 5 U.S.C. 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. There are no reasonably segregable factual portions of this document that are not already in the public record. Further, releasing the factual portions of this document would reveal a predecisional evaluation of which facts are important. (See Russell v. Department of the Air Force, 2 GDS §81,123 (D.D.C. 1981), aff'd., 682 F.2d 1045 (D.C. Cir. 1982)). Such "selective" facts are, therefore, entitled to the same protection as that afforded to purely deliberative materials as their release would "permit indirect inquiry into the mental processes," Williams v. Department of Justice, 556 F. Supp. 63, 65 (D.D.C. 1982), and so "expose" predecisional agency deliberations. Montrose Chemical Corp. v. Train, 491 F.2d 63 (D.C. Cir. 1974). The document is being withheld in its entirety.

Documents 2 through 5 of Appendix C are summaries of four interviews with NRC employees prepared as part of the ongoing OIA audit. These 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 these predecisional, working documents would tend to inhibit the open and frank exchange of ideas essential to the deliberative process, and they 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 denial of the information is Ms. Sharon R. Connelly, Director, OIA.

This denial 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

1. 4/18/85 Letter from Markey to Palladino regarding DOE Task Force (2 pages)
2. 4/29/85 Letter from Palladino to Markey regarding OIA review of NRC relationship with DOE (1 page)
3. 4/29/85 Memorandum from Palladino to Connelly regarding NRC review of relationship with DOE (1 page)
4. 5/20/85 Memorandum from Connelly to Palladino regarding Congressman Markey's 4/18/85 request for NRC review of relationship with DOE (1 page)

APPENDIX B

<u>DATE</u>	<u>DOCUMENT DESCRIPTION</u>	<u>ACCESSION NUMBER</u>
1. 4/11/85	LILCO Response to Intervenor's Motion for Investigation of DOE Influence on Shoreham	8504120448

APPENDIX C

<u>DATE</u>	<u>DOCUMENT DESCRIPTION</u>
1. Undated	Summary of selected issues from 3/30/85 <u>Gambit</u> article
2. 5/29/85	Interview of NRC employee
3. 6/5/85	Interview of NRC employee
4. 6/12/85	Interview of NRC employee
5. 6/14/85	Interview of NRC employee



Nuclear Information and Resource Service

1346 Connecticut Avenue NW, 4th Floor, Washington, D.C. 20036 (202) 296-7552

May 8, 1985

James M. Felton, Director
Division of Rules and Records
Office of Administration
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

FREEDOM OF INFORMATION
ACT REQUEST

FOIA-85-357

rec'd 5/16/85

FREEDOM OF INFORMATION ACT REQUEST

Dear Mr. Felton:

Pursuant to the Freedom of Information Act, 5 U.S.C. 522, as amended, the Nuclear Information and Resource Service requests any documents produced by or for the NRC regarding an article that appeared in the New Orleans newspaper, Gambit, on March 30, 1985. This article is attached. Please consider "documents" to include reports, correspondence, memoranda, meeting notes, meeting minutes, working papers, graphs, charts, diagrams, notes and summaries of conversations and interviews, and any other forms of written communication, including internal NRC Staff and Commissioners' memoranda.

In our opinion, it is appropriate in this case for you to waive search charges, pursuant to 5 U.S.C. 552(a)(4)(A) "because furnishing the information can be considered as primarily benefiting the general public." The Nuclear Information and Resource Service is a non-profit organization serving local organizations concerned about nuclear power and providing information to the general public. Information required by 10 CFR 9.14a was provided by letter dated August 3, 1984. The article referred to in this request concerns the Department of Energy Task Force on Commercial Nuclear Power and its involvement in NRC's licensing of nuclear plants. NIRS will provide the documents made available pursuant to this request to the news media and to intervenors in NRC's licensing proceedings.

Sincerely,

Nina Bell
Assistant Director

cc: File

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