



016

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

AUG 21 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 further response to your letter dated June 21, 1985, in which you requested, pursuant to the Freedom of Information Act (FOIA), copies of (a) 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 (b) 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 that are identified on the enclosed appendices are subject to category (a) of your request, and are all predecisional documents. However, the documents on Appendix B are being released at the discretion of both Commissioners Roberts and Asselstine. The Appendix B documents are being placed in the NRC Public Document Room (PDR) located at 1717 H Street, NW, Washington, DC 20555, in file folder FOIA-85-456 in your name.

The three documents identified on enclosed Appendix C are being withheld. The documents contain the predecisional analyses, opinions, and recommendations of the Commissioners. 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 deliberative process. 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). 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 this denial is Mr. John C. Hoyle, Assistant Secretary of the Commission.

8509030410 850821
PDR FOIA
TOGNETT85-456 PDR

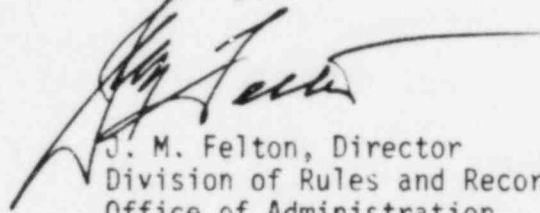
Ms. Sylvia Tognetti

-2-

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."

This completes NRC's action on your request.

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

APPENDIX B

Documents Being Placed in the PDR

1. 09/26/84 Commissioner Roberts' vote sheet for SECY-84-146A. (1 page)
2. 10/30/84 Commissioner Asselstine's vote sheet for SECY-84-146A.
(1 page)

APPENDIX C

Documents Being Withheld

1. 09/28/84 Commissioner Zech's vote sheet for SECY-84-146A. (1 page)
2. 10/16/84 Commissioner Bernthal's vote sheet for SECY-84-146A. (1 page)
3. 10/19/84 Chairman Palladino's vote sheet for SECY-84-146A. (1 page)

Subj

June 21, 1985

Nuclear Regulatory Commission
Washington, DC

FREEDOM OF INFORMATION
ACT REQUEST

FOIA REQUEST

FOIA-85-456

rec'd 6/26/85

Dear Sirs;

This is a FOIA request for the following documents:

a) Comments of NRC Commissioners 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., as referred to in January 31, 1985 memorandum from Samuel Chilk to William J. Dircks and Herzel Plaine regarding "Staff requirements - SECY-84-146 A - Price Anderson and the Supreme Court Silkwood Decision" and Commission Staff Office comments in response to SECY-84-146 A.

b) Recommendations and proposed legislation pursuant to the above prepared by the OGC for presentation to the 99th Congress including drafts, position papers or supporting memoranda in response to the Supreme Court Silkwood decision and on the subject of punitive damages.

Please provide an estimate of copying fees. Waiver of fee is requested as this is a matter of broad public interest which will be publicized by our office to the public generally.

Sincerely,

Sylvia Tognetti

Sylvia Tognetti

850819015T 1p