



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

July 10, 2000

Ms. Patricia Bloomgren, Director
Division of Environmental Health
Minnesota Department of Health
121 East Seventh Place
St. Paul, Minnesota 55101

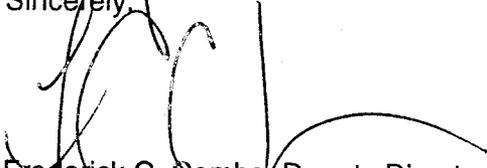
Dear Ms. Bloomgren:

This is in response to your letter of May 16, 2000 requesting a list of the Minnesota general licensees' names, address and devices. Your request has been reviewed by the NRC Office of the General Counsel (OGC). The results of their review are enclosed in the June 12, 2000 memorandum.

In the June 12 memorandum, we were advised that we cannot provide you the requested information before obtaining from you a signed protective Agreement. A copy of the protective Agreement is enclosed. Please sign the Agreement and return it to us. We will provide the requested list after receipt of the signed protective Agreement.

Thank you for your attention to this matter. If you have any questions, please contact me at 301-415-2325 or contact Ms. Cardelia Maupin at 301-415-2312.

Sincerely,



Frederick C. Combs, Deputy Director
Office of State and Tribal Programs

Enclosures:
As stated

cc w/encl: S. McClanahan, MN



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

June 12, 2000

OFFICE OF THE
GENERAL COUNSEL

MEMORANDUM TO: Frederick Combs, Deputy Director
Office of State and Tribal Programs

FROM: Mary Patricia Siemien, Attorney *Mary Pat Siemien*
Office of the General Counsel

SUBJECT: MINNESOTA REQUEST FOR GENERAL LICENSEE
INFORMATION

I have reviewed the May 16, 2000, request from the State of Minnesota Department of Health for the names of each general licensee, their address, and the licensed devices possessed by that licensee. The section in the *Minnesota Statutes* cited in the letter is not identical to the Federal Law protecting proprietary information, i.e., the Freedom of Information Act, however, Section 13.37 of the *Minnesota Statutes* appears to provide the State with the authority to withhold such information from the public. Minnesota Statute, Section 13.03, Access to government data, provides that all state government data "shall be public unless classified by . . . federal law, as nonpublic . . ." This section covers the information which we would be providing to the State of Minnesota. (A copy of this section of the statute is attached for your information).

Since the information the State is requesting is covered under NRC's regulation 10 CFR § 2.790, we must comply with the requirements of that section when releasing "proprietary" information. Section 2.790(b)(ii) states that the commission may require information which is "claimed to be a trade secret or privileged or confidential to be subject to inspection: (i) a protective agreement, by contractor personnel or government officials other than NRC officials." Therefore, prior to the NRC providing the State of Minnesota with the requested information, it must obtain a signed protective agreement from the state. I have a number of samples of protective agreements which can be revised for signature by the appropriate state official.

Provided a protective agreement is signed by the state, OGC has no legal to providing the State of Minnesota with the requested information.

Attachment as stated

cc: John W. Hickey

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OSP

MINNESOTA STATUTES ANNOTATED
DATA PRACTICES
CHAPTER 13. GOVERNMENT DATA PRACTICES
DATA MAINTAINED BY STATE AGENCIES AND POLITICAL SUBDIVISIONS
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13.37. General nonpublic data

Subdivision 1. Definitions. As used in this section, the following terms have the meanings given them.

(a) "Security information" means government data the disclosure of which would be likely to substantially jeopardize the security of information, possessions, individuals or property against theft, tampering, improper use, attempted escape, illegal disclosure, trespass, or physical injury. "Security information" includes crime prevention block maps and lists of volunteers who participate in community crime prevention programs and their home addresses and telephone numbers.

(b) "Trade secret information" means government data, including a formula, pattern, compilation, program, device, method, technique or process (1) that was supplied by the affected individual or organization, (2) that is

~~home addresses and telephone numbers.~~

~~(b) "Trade secret information" means government data, including a formula, pattern, compilation, program, device, method, technique or process (1) that was supplied by the affected individual or organization, (2) that is the subject of efforts by the individual or organization that are reasonable under the circumstances to maintain its secrecy, and (3) that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.~~

(c) "Labor relations information" means management positions on economic and noneconomic items that have not been presented during the collective bargaining process or interest arbitration, including information specifically collected or created to prepare the management position.

(d) "Parking space leasing data" means the following government data on an applicant for, or lessee of, a parking space: residence address, home telephone number, beginning and ending work hours, place of employment, work telephone number, and location of the parking space.

(e) "Internal competitive proposal" means a proposal to provide government services that is prepared by the staff of a political subdivision in competition with proposals solicited by the political subdivision from the private sector.

Subd. 2. Classification. The following government data is classified as nonpublic data with regard to data not on individuals, pursuant to section 13.02, subdivision 9, and as private data with regard to data on individuals, pursuant to section 13.02, subdivision 12: Security information; trade secret information; sealed absentee

MINNESOTA STATUTES ANNOTATED
DATA PRACTICES
CHAPTER 13. GOVERNMENT DATA PRACTICES
GENERAL REQUIREMENTS

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13.03. Access to government data

Subdivision 1. Public data. All government data collected, created, received, maintained or disseminated by a state agency, political subdivision, or statewide system shall be public unless classified by statute, or temporary classification pursuant to section 13.06, or federal law, as nonpublic or protected nonpublic, or with respect to data on individuals, as private or confidential. The responsible authority in every state agency, political subdivision and statewide system shall keep records containing government data in such an arrangement and condition as to make them easily accessible for convenient use. Photographic, photostatic, microphotographic, or microfilmed records shall be considered as accessible for convenient use regardless of the size of such records.

PROTECTIVE AGREEMENT FOR EXCHANGE OF INFORMATION

A. SCOPE

This Agreement governs the conveyance of proprietary information between the United States Nuclear Regulatory Commission (NRC) and the State of Minnesota Department of Health (MDOH). The proprietary information is the list of names of each State of Minnesota general licensee, their address, and the licensed devices possessed. All such information shall be transmitted and received in confidence by the parties to the Agreement. The employees of MDOH shall be bound by the provisions of this Agreement.

B. PROVISIONS FOR THE CONVEYANCE OF MINNESOTA GENERAL LICENSEES INFORMATION BETWEEN THE NRC AND MDOH

1. Pursuant to 10 CFR § 2.790 and 10 CFR § 9.17 of the NRC's regulations, the conveyed information is required to be withheld from public disclosure.
2. 10 CFR § 2.790(b)(6)(i) of the NRC's regulations permits the NRC to allow proprietary or trade secret information to be subject to inspection under a protective Agreement. The NRC's disclosure in confidence to MDOH of the list of names of each State of Minnesota general licensee, their address, and the licensed devices possessed is expressly not to be construed as a public disclosure of that document.
3. MDOH agrees to treat and safeguard the information as containing proprietary material and will not release it to any third party, copy, use, or reference the data in the document without the written authorization of the NRC.
4. MDOH intends to utilize the nonproprietary information only for performing State of Minnesota Official actions; and
5. MDOH agrees to accept and protect from public disclosure the materials provided by the NRC in confidence pursuant to 10 CFR § 2.790(b)(6)(i) of the NRC's regulations and pursuant to Minnesota Statutes, Section 13.37, General Nonpublic Data, Subdivision 1. paragraph (b), "Trade secret information." MDOH agrees to notify the NRC's Office State and Tribal Programs in the event that the information is inadvertently disclosed in contravention of the provisions of this Agreement.
6. The document identified above and provided to MDOH shall be stored in a locked cabinet to which access shall be restricted to no persons other than those with a need-to-know the contents of the documents in the performance of their duties.

C. CONTACTS

The principal NRC contact under this Agreement shall be Cardelia Maupin, Office of State and Tribal Programs. The principal MDOH contact shall be Patricia Bloomgren, Director, Division of Environmental Health (or other designee).

IN WITNESS WHEREOF (notary public with seal), Ms. Patricia Bloomgren (or other designee) has caused this Agreement to be effective as of the day and year signed below.

OFFICE OF MINNESOTA DEPARTMENT OF HEALTH

By: _____
Patricia Bloomgren

Title: _____
Director, Division of Environmental Health

Date: _____

July 10, 2000

Ms. Patricia Bloomgren, Director
Division of Environmental Health
Minnesota Department of Health
121 East Seventh Place
St. Paul, Minnesota 55101

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Sincerely,

/RA/

Frederick C. Combs, Deputy Director
Office of State and Tribal Programs

Enclosures:
As stated

cc w/encl: S. McClanahan, MN

Distribution:
DIR RF (0-129)
JLynch, RIII
Minnesota File

DCD (SP07) PDR (YES)

Response to Incoming Document: ML003717710

DOCUMENT NAME: G:\CHMMN AGREEMENT\GL REQUEST REPLY.WPD

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STP-NA-11