



### RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) / PRIVACY ACT (PA) REQUEST

99-377,00-219,00-257

3

RESPONSE TYPE  FINAL  PARTIAL

REQUESTER

Ms. Kimberly Boggatto

DATE

JUL 18 2000

#### PART I. - INFORMATION RELEASED

- No additional agency records subject to the request have been located.
- Requested records are available through another public distribution program. See Comments section.
- APPENDICES**  
**E** Agency records subject to the request that are identified in the listed appendices are already available for public inspection and copying at the NRC Public Document Room.
- APPENDICES** Agency records subject to the request that are identified in the listed appendices are being made available for public inspection and copying at the NRC Public Document Room.
- Enclosed is information on how you may obtain access to and the charges for copying records located at the NRC Public Document Room, 2120 L Street, NW, Washington, DC.
- APPENDICES** Agency records subject to the request are enclosed.
- Records subject to the request that contain information originated by or of interest to another Federal agency have been referred to that agency (see comments section) for a disclosure determination and direct response to you.
- We are continuing to process your request.
- See Comments.

#### PART I.A - FEES

AMOUNT \*  
\$

- You will be billed by NRC for the amount listed.
- None. Minimum fee threshold not met.
- You will receive a refund for the amount listed.
- Fees waived.

\* See comments for details

#### PART I.B - INFORMATION NOT LOCATED OR WITHHELD FROM DISCLOSURE

- No agency records subject to the request have been located.
- Certain information in the requested records is being withheld from disclosure pursuant to the exemptions described in and for the reasons stated in Part II.
- This determination may be appealed within 30 days by writing to the FOIA/PA Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Clearly state on the envelope and in the letter that it is a "FOIA/PA Appeal."

#### PART I.C COMMENTS (Use attached Comments continuation page if required)

As you are aware, the NRC does not provide copies of records that have already been made publicly available at NRC's Public Document Room, (PDR). Copies of Appendix E records one through 11 may be obtained by contacting the PDR directly. The records identified on Appendix E with a ML accession number are publicly available in the NRC's Public Electronic Reading Room at <http://www.nrc.gov/NRC/ADAMS/index.html>. If you need assistance in obtaining these records, please contact the PDR at (202)634-3273, or 1-800-397-4209, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

Carol Ann Reed

**RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) / PRIVACY ACT (PA) REQUEST**

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**JUL 18 2000**

**PART II.A – APPLICABLE EXEMPTIONS**

APPENDICES  
**F**

Records subject to the request that are described in the enclosed Appendices are being withheld in their entirety or in part under the Exemption No.(s) of the PA and/or the FOIA as indicated below (5 U.S.C. 552a and/or 5 U.S.C. 552(b)).

- Exemption 1: The withheld information is properly classified pursuant to Executive Order 12958.
- Exemption 2: The withheld information relates solely to the internal personnel rules and procedures of NRC.
- Exemption 3: The withheld information is specifically exempted from public disclosure by statute indicated.
  - Sections 141-145 of the Atomic Energy Act, which prohibits the disclosure of Restricted Data or Formerly Restricted Data (42 U.S.C. 2161-2165).
  - Section 147 of the Atomic Energy Act, which prohibits the disclosure of Unclassified Safeguards Information (42 U.S.C. 2167).
  - 41 U.S.C., Section 253(b), subsection (m)(1), prohibits the disclosure of contractor proposals in the possession and control of an executive agency to any person under section 552 of Title 5, U.S.C. (the FOIA), except when incorporated into the contract between the agency and the submitter of the proposal.
- Exemption 4: The withheld information is a trade secret or commercial or financial information that is being withheld for the reason(s) indicated.
  - The information is considered to be confidential business (proprietary) information.
  - The information is considered to be proprietary because it concerns a licensee's or applicant's physical protection or material control and accounting program for special nuclear material pursuant to 10 CFR 2.790(d)(1).
  - The information was submitted by a foreign source and received in confidence pursuant to 10 CFR 2.790(d)(2).
- Exemption 5: The withheld information consists of interagency or intraagency records that are not available through discovery during litigation. Applicable privileges:
  - Deliberative process: Disclosure of predecisional information would tend to inhibit the open and frank exchange of ideas essential to the deliberative process. Where records are withheld in their entirety, the facts are inextricably intertwined with the predecisional information. There also are no reasonably segregable factual portions because the release of the facts would permit an indirect inquiry into the predecisional process of the agency.
  - Attorney work-product privilege. (Documents prepared by an attorney in contemplation of litigation)
  - Attorney-client privilege. (Confidential communications between an attorney and his/her client)
- Exemption 6: The withheld information is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy.
- Exemption 7: The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated.
  - (A) Disclosure could reasonably be expected to interfere with an enforcement proceeding (e.g., it would reveal the scope, direction; and focus of enforcement efforts, and thus could possibly allow recipients to take action to shield potential wrongdoing or a violation of NRC requirements from investigators).
  - (C) Disclosure would constitute an unwarranted invasion of personal privacy.
  - (D) The information consists of names of individuals and other information the disclosure of which could reasonably be expected to reveal identities of confidential sources.
  - (E) Disclosure would reveal techniques and procedures for law enforcement investigations or prosecutions, or guidelines that could reasonably be expected to risk circumvention of the law.
  - (F) Disclosure could reasonably be expected to endanger the life or physical safety of an individual.
- OTHER (Specify)

**PART II.B – DENYING OFFICIALS**

Pursuant to 10 CFR 9.25(g), 9.25(h), and/or 9.65(b) of the U.S. Nuclear Regulatory Commission 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 are those officials identified below as denying officials and the FOIA/PA Officer for any denials that may be appealed to the Executive Director for Operations (EDO).

DENYING OFFICIAL	TITLE/OFFICE	RECORDS DENIED	APPELLATE OFFICIAL		
			EDO	SECY	IG
Joseph R. Gray	Associate General Counsel for Licensing and Regulations	App. F		✓	

Appeal must be made in writing within 30 days of receipt of this response. Appeals should be mailed to the FOIA/Privacy Act Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, for action by the appropriate appellate official(s). You should clearly state on the envelope and letter that it is a "FOIA/PA Appeal."

**APPENDIX E**  
**RECORDS ALREADY AVAILABLE IN THE PDR**

<b><u>NO.</u></b>	<b><u>DATE</u></b>	<b><u>ACCESSION NUMBER</u></b>	<b><u>DESCRIPTION/(PAGE COUNT)</u></b>
1.	12/18/97	9801080076	Ltr fm to Blubaugh to Holonich on Annual Surety Review. (9 pages).
2.	11/16/98	9812030013	Ltr fm Blubaugh to McUsic on Secretary Babbitt's planned visit to Atlas Site. (2 pages).
3.	02/16/99	9903030022	Ltr fm Blubaugh to Stablein on reclamation costs and funding sources. (2 pages).
4.	02/18/99	9906030176	Ltr fm Shafter to Chairman Jackson on Atlas proposed reclamation plan for its Moab, Utah uranium mill site. (4 pages).
5.	02/26/99	9903120175	Notice of Pursuant to Local Rule 202 of Atlas Corporation's Amended Motion for Order Abandoning Moab Uranium Tailings. (5 pages).
6.	04/08/99	9904140213	Ltr fm Paperiello to Blubaugh on Atlas Invoice Objection and Request for Explanation. (5 pages).
7.	04/15/99	9905060107	Ltr fm Blubaugh to Stablein on amending the License for completion of reclamation for Atlas. (2 pages).
8.	04/23/99	9904290245	Ltr fm Byassee to Stablein on Appeal of Title X Claim. (200 pages).
9.	04/29/99	9905050311	Ltr fm Byassee to Stablein on Appeal to Department of Energy. (2 pages).
10.	04/29/99	9905060178	Notice Pursuant to Local Rule 202 and Federal Rule of Bankruptcy Procedures 3007 of Atlas Corporations's Motion for Approval of Moab Uranium Millsite Transfer Agreement. (3 pages).

11. 07/22/99 9907290152 Notice of Hearing on Adequacy of Disclosure Statement. (2 pages).
12. 11/18/99 ML993360415 Retained by Atlas Corp to assist in obtaining payment regarding Title X claim submitted on number of occasions. (2 pages)
13. 12/01/99 ML003687933 Moab Mill Reclamation Trust Fund Agreement. (14 pages).
14. 12/01/99 ML993630323 Order Confirming Second Amended Plan of Reorganization of Atlas Corp. (8 pages).
15. 12/23/99 ML003675671 Ltr fm Essig to Clark enclosing a Release to the ACSTAR Insurance Company relative to the Atlas Reclamation Trust. (6 pages).
16. 02/28/00 ML003688015 Ltr fm Phillips to Essig enclosing the Environment Effluent and Monitoring Program Second Half of 1999 Report. (43 pages).
17. 03/02/00 ML003687780 Ltr fm Greeves to Morganweck on Status of Implementation of the Biological Opinion for the Atlas Tailing Reclamation. (4 pages).
18. 05/01/00 ML003712383 Ltr fm Lashway to Moore enclosing a Memorandum Decision addressing NRC's Motion to Dismiss. (18 pages).
19. 05/16/2000 ML003716659 Ltr fm Greeves to Essig on Moab Reclamation Trust: Opposition to Request for Reinitiation of Consultation Under the Endangered Species Act. (9 pages).
20. 05/25/2000 ML003716876 Ltr fm Greeves to Morgenweck on Fish and Wildlife Service Request to Reinitiate Consultation. (6 pages).

**APPENDIX F**  
**RECORDS BEING WITHHELD IN THEIR ENTIRETY**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	Undated	Atlas - Outline of Alternative courses of Events related to Bankruptcy and Effect upon NRC Regulation. (2 pages). <b>Exemption 5 -Attorney- Client.</b>
2.	03/03/98	Memorandum from Treby to Holonich on Annual Surety Review for Atlas Corporation. (7 pages). <b>Exemption 5 - Attorney- Client.</b>
3.	02/26/99	Talking Points for CEQ 2/26/99 Meeting. (2 pages). <b>Exemption 5 - Attorney-Client.</b>
4.	03/01/99	Note to File from Burns on Summary of Interagency Meeting on Atlas Corporations Moab Tailing Pile. (2 pages). <b>Exemption 5 - Attorney-Client.</b>
5.	03/03/99	Notes from Burns on Atlas Options. (2 pages). <b>Exemption 5 - Attorney-Client.</b>
6.	03/03/99	Notes from Schwartz on Teleconference with Federal Agencies. (9 pages). <b>Exemption 5 -Attorney-Client .</b>
7.	03/05/99	Notes from Burns on Atlas Update. (3 pages). <b>Exemption 5 - Attorney-Client .</b>
8.	03/08/99	Notes from Schwartz on Meeting. (1 page). <b>Exemption 5 - Attorney-Client.</b>
9.	03/15/99	Memorandum from Cyr to the Commission on Atlas-Moab Bankruptcy Reorganization Agreement. (2 pages). <b>Exemption 5 - Attorney-Client.</b>
10.	04/29/99	Email from Holonich to Atlas group on Atlas Settlement Agreement. (1 page). <b>Exemption 5 - Attorney-Client.</b>
11.	03/10/99	Email from Holonich to Gray and Burns on Trustee for Atlas. (1 page). <b>Exemption 5 - Attorney-Client.</b>
12.	05/19/99	Email from Uttal to Burns on ASLBP Order admitting Fields to Atlas Proceeding. (1 page). <b>Exemption 5 - Attorney-Client.</b>
13.	05/17/99	Email from Burns to Holonich on Earthjustice Petition on Atlas. (1 page). <b>Exemption 5 - Attorney-Client.</b>

14. 05/17/99 Email from Holonich to Burns on Earthjustice Petition on Atlas. (1 page). **Exemption 5 - Attorney-Client.**
15. 05/17/99 Email from Young to Fliegel on Atlas MLA-4. (1 page). **Exemption 5 - Attorney-Client.**
16. 05/18/99 Email from Fliegel to Gray on Atlas License Amendment. (1 page). **Exemption 5 - Attorney-Client.**
17. 05/17/99 Email from Martz to Gray, Schwartz, Burns on Atlas. (1 page). **Exemption 5 - Attorney-Client.**
18. 05/19/99 Email from Holonich to Gray and Fliegel on Atlas License Amendment. (1 page). **Exemption 5 - Attorney-Client.**
19. 05/19/99 Email from Gray to Holonich and Fliegel on Atlas License Amendment. (1 page). **Exemption 5 - Attorney-Client.**
20. 05/20/99 Email from Gray to Holonich and Fliegel on Atlas License Amendment. (2 pages). **Exemption 5 - Attorney-Client.**
21. 05/20/99 Email from Fliegel to Gray and Holonich on Atlas License Amendment. (2 pages). **Exemption 5 - Attorney-Client.**
22. 05/20/99 Email from Fliegel to Gray and Holonich on Atlas License Amendment. (2 pages). **Exemption 5 - Attorney-Client.**
23. 05/20/99 Email from Gray to Holonich and Fliegel on Atlas License Amendment. (2 pages). **Exemption 5 - Attorney-Client.**
24. 05/20/99 Email from Gray to Holonich and Fliegel on Atlas License Amendment. (2 pages). **Exemption 5 - Attorney-Client.**
25. 05/24/99 Email from Fliegel to Schwartz on Atlas License. (1 page). **Exemption 5 - Attorney-Client.**
26. 05/25/00 Email from Fliegel to Schwartz on Atlas License. (1 page). **Exemption 5 - Attorney-Client.**
27. 07/08/99 Email from Fliegel to Schwartz and Martz on Atlas. (1 page). **Exemption 5 - Attorney-Client.**
28. 07/22/99 Email from Holonich to Atlas Group on Meeting with Assistant to Secretary of Energy. (1 page). **Exemption 5 - Attorney-Client.**
29. 08/05/99 Email from Holonich to Gray, Schwartz and Fliegel on Atlas Trust Language. (2 pages). **Exemption 5 - Attorney-Client.**

30. 11/09/99 Email from Gray to Burns on Meeting with Pricewaterhouse. (2 pages). **Exemption 5 - Attorney-Client.**
31. 11/15/99 Email from Schwartz to Burns on PricewaterhouseCooper LLP as trustee. (1 page). **Exemption 5 - Attorney-Client.**
32. 11/16/99 Email from Fliegel to Surmeier, Gray and Holonich on time Estimates II. (1 page). **Exemption 5 - Attorney-Client.**
33. 11/16/99 Email from Martz to Gray, Schwartz and Burns on LLP. (1 page). **Exemption 5 - Attorney-Client.**
34. 11/23/99 Email from Schwartz to Holonich and Fliegel on Atlas - Negotiating fees with PWC. (1 page). **Exemption 5 - Attorney-Client.**
35. 11/23/99 Email from Schwartz to Gray on Atlas Hearing. (1 page). **Exemption 5 - Attorney-Client.**
36. 11/24/99 Email from Fliegel to Gray, Schwartz and Martz on New Language. (1 page). **Exemption 5 - Attorney-Client.**
37. 11/30/99 Email from Schwartz to Burns attaching an email from Schwartz to Fliegel on Atlas Trustee. (3 pages). **Exemption 5 - Attorney-Client.**
38. 11/30/99 Email from Schwartz to Gray, Fliegel and Martz on Atlas Trust. (2 pages). **Exemption 5 - Attorney-Client.**
39. 12/08/99 Email from Schwartz to Burns on Atlas and fees. (1 page). **Exemption 5 - Attorney-Client.**
40. 12/08/99 Email from Schwartz to Gray, Martz and Burns on Atlas Trustee update attaching an email from Fliegel to Schwartz and draft Order. (11 pages). **Exemption 5 - Attorney-Client.**
41. 12/14/99 Email from Schwartz to Gray and Burns on Atlas. (1 page). **Exemption 5 - Attorney-Client.**
42. 12/14/99 Email from Gray to Cordes, Schwartz and Nordlinger on Atlas. 91 page). **Exemption 5 - Attorney-Client.**
43. 01/04/00 Email from Schwartz to Kildee on Fees. (1 page). **Exemption 5 - Attorney-Client.**
44. 01/07/00 Email from Gray to Schwartz and Burns on Atlas and PWC. (1 page). **Exemption 5 - Attorney-Client.**

45. 02/22/00 Email from Cordes to Gray, Clark, Schwartz on Moab Reclamation. (1 page). **Exemption 5 - Attorney-Client.**
46. 02/24/00 Email from Cordes to Gray and Burns on Conference Call with FWS and DOJ.. (1 page). **Exemption 5 - Attorney-Client.**
47. 02/29/00 Email from Cordes to Slaggie and Nordlinger on Atlas. (1 page). **Exemption 5 - Attorney-Client.**
48. 03/03/00 Email from Cordes to Holonich on Moab Letter. (2 pages). **Exemption 5 - Attorney-Client.**
49. 03/03/00 Email from Cordes to Schwartz on Revised letter for comment. (1 page). **Exemption 5 - Attorney-Client.**
50. 03/03/00 Email from Cordes to Fliegel on Moab Letter. (1 page). **Exemption 5 - Attorney-Client.**
51. 03/14/00 Email from Cordes to Slaggie, Gray, Holonich on Grand Canyon Trust court case (Moab Mill Tailing Site) (2 pages). **Exemption 5 - Attorney-Client.**
52. 03/14/00 Email from Cordes to Slaggie, Gray and Holonich on Grand Canyon Trust Court Case. (1 page). **Exemption 5 - Attorney-Client.**
53. 03/14/00 Email from Cordes to Burns on Grand Canyon Trust Court Case. (1 page). **Exemption 5 - Attorney-Client.**
54. 03/15/00 Email from Cordes to Holonich and Fliegel on Grand Canyon Court Case. (5 pages). **Exemption 5 - Attorney-Client.**
55. 03/15/00 Email from Cordes to Holonich on Grand Canyon Court Case. (4 pages). **Exemption 5 - Attorney-Client.**
56. 03/27/00 Email from Cordes to Jones, Rathbun, Schleuter on LR-008: Moving Moab. (1 page). **Exemption 5 - Attorney-Client.**
57. 03/27/00 Email from Crockett to Jones, Rathbun, Schlueter on LR-00-8: Moving Moab. (1 page). **Exemption 5 - Attorney-Client.**
58. 03/27/00 Email from Nordlinger to Cordes on Atlas Update. (1 page). **Exemption 5 - Attorney-Client.**
59. 03/31/00 Email from Gray to Burns attaching an email from Cordes to Greeves, Gray, Holonich on Telcon with FWS on Atlas. (2 pages). **Exemption 5 - Attorney-Client.**

60. 04/03/00 Email from Gray to Burns attaching an email from Holonich to Greeves and Gray on Atlas and FWS. (2 pages). **Exemption 5 - Attorney-Client.**
61. 04/03/00 Email from Cordes to Fliegel on Letter to FWS on Atlas Reconsultation. (1 page). **Exemption 5 - Attorney-Client.**
62. 04/04/00 Email from Cordes to Greeves, Gray and Holonich on Atlas Newspaper Article. (1 page). **Exemption 5 - Attorney-Client.**
63. 04/05/00 Email from Cordes to Greeves, Gray and Holonich on Atlas Newspaper Article. (2 pages). **Exemption 5 - Attorney-Client.**
64. 04/05/00 Email from Holonich to Cordes, Greeves, Gray on Atlas Newspaper Article. (1 page). **Exemption 5 - Attorney-Client.**
65. 04/05/00 Email from Holonich to Cordes on Atlas Newspaper Article. (2 pages). **Exemption 5 - Attorney-Client.**
66. 04/05/00 Email from Fliegel to Cordes, Greeves, Gray on Atlas Newspaper Article. (2 pages). **Exemption 5 - Attorney-Client.**
67. 04/06/00 Email from Cordes to Paperiello and Holonich on Telcon with Atlas Trustee. (2 pages). **Exemption 5 - Attorney-Client.**
68. 04/06/00 Email from Holonich to Paperiello and Cordes on Telcon with Atlas Trustee. (2 pages). **Exemption 5 - Attorney-Client.**
69. 04/06/00 Email from Cordes to Euchner on Telcon with Atlas Trustee. (1 page). **Exemption 5 - Attorney-Client.**
70. 04/06/00 Email from Cordes to Holonich on Telcon with Atlas Trustee. (3 pages). **Exemption 5 - Attorney-Client.**
71. 04/07/00 Email from Cordes to Jones, Winsberg and Doane on Moab-Atlas Litigation. (1 page). **Exemption 5 - Attorney-Client.**
72. 04/07/00 Email from Cordes to Boudreaux on Grand Canyon Trust "settlement letter". (1 page). **Exemption 5 - Attorney-Client.**
73. 04/10/00 Email from Gray to Burns attaching an email from Cordes to Holonich, Fliegel and Essig on More Moab Difficulties. (5 pages). **Exemption 5 - Attorney-Client.**

74. 04/11/00 Email from Burns to Greeves, Holonich and Essig on Telcon with trustee on USGS draft report. (1 page). **Exemption 5 - Attorney-Client.**
75. 04/11/00 Email from Cordes to Greeves, Holonich and Burns on Telcon with Trustee on USGS draft report. (1 page). **Exemption 5 - Attorney-Client.**
76. 04/14/00 Email from Cordes to Slaggie, Gray, Holonich on Moab. (4 pages). **Exemption 5 - Attorney-Client.**
77. 04/14/00 Email from Cordes to Slaggie, Gray, Holonich on still more on Moab. (1 page). **Exemption 5 - Attorney-Client.**
78. 04/15/00 Email from Holonich to Slaggie, Cordes, Gray, Clark on still more on Moab. (2 pages). **Exemption 5 - Attorney-Client.**
79. 04/15/00 Email from Burns to Slaggie, Cordes, Gray and Holonich on still more on Moab. (1 page). **Exemption 5 - Attorney-Client.**
80. 04/15/00 Email from Holonich to Slaggie, Cordes, Gray and Clark on still more on Moab. (1 page). **Exemption 5 - Attorney-Client.**
81. 04/17/00 Email from Cordes to Holonich on still more on Moab (2 pages). **Exemption 5 - Attorney-Client.**
82. 04/17/00 Email from Holonich to Slaggie, Cordes, Gray and Clark on still more on Moab. (5 pages). **Exemption 5 - Attorney-Client.**
83. 04/17/00 Email from Cordes to Slaggie, Gray, Holonich and Clark on Still More on Moab. (2 pages). **Exemption 5 - Attorney-Client.**
84. 04/17/00 Email from Holonich to Slaggie, Cordes, Gray and Clark on Still more on Moab. (3 pages). **Exemption 5 - Attorney-Client.**
85. 04/18/00 Email from Cordes to Slaggie, Cordes, Gray, Holonich and Clark on still more on Moab. (4 pages). **Exemption 5 - Attorney-Client.**
86. 04/19/00 Email from Cordes to Boudreaux on Grand Canyon Case. (1 page). **Exemption 5 - Attorney-Client.**
87. 04/21/00 Email from Cordes to Nordlinger on Atlas - Moab Matter. (1 page). **Exemption 5 - Attorney-Client.**
88. 04/24/00 Email from Nordlinger to Slaggie and Cordes on Moab Meeting. (1 page). **Exemption 5 - Attorney-Client.**

89. 05/05/00 Email from Gray to Cordes on Atlas Tailing Legislation. (1 page).  
**Exemption 5 - Attorney-Client.**
90. 05/05/00 Email from Essig to Cordes, Greeves, Holonich on Atlas Tailing  
Legislation. (1 page). **Exemption 5 - Attorney-Client.**
91. 05/22/00 Email from Cordes to Fliegel on Letter to FWS on Reconsultation..  
(1 page). **Exemption 5 - Attorney-Client.**
92. 05/22/00 Email from Fliegel to Schwartz on letter to FWS on reconsultation.  
(6 pages). **Exemption 5 - Attorney-Client.**
93. 06/20/00 Fax cover page from Boudreaux to Nordlinger and Guy on Atlas.  
(6 pages). **Exemption 5 - Attorney-Client.**