

**DEPARTMENT OF HEALTH SERVICES  
RADIOLOGIC HEALTH BRANCH**

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January 22, 2002

FOIA/PA REQUEST *Appeal*

Case No: 2002-004 A  
Date Rec'd: 1/24/02  
Action Off: Brown  
Related Case: 2001-0374

Ms. Carol Ann Reed  
FOIA/PA Officer  
U.S. Nuclear Regulatory Commission  
Mail Stop T-6 D8  
Washington, DC 20555-0001

**SUBJECT: FOIA/PA APPEAL 2001-3074**

Dear Ms. Reed:

Under the provisions of the Freedom of Information Act, I hereby appeal the withholding of portions of material as noted in your agency's response letter of December 21, 2001, received January 2, 2002. For your reference, my request was assigned the following identification number: 2001-0374.

Please review all the deletions, excisions, and withholdings of information covered by the relevant FOIA request, and either provide the information requested, or provide further explanation as to why the exemptions cited in your agency's response letter apply to the excised information.

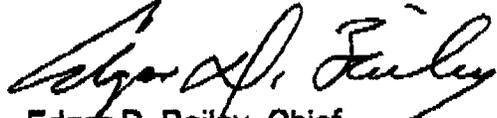
I am requesting an explanation of why the exemptions cited in your agency's response letter apply to the excised information because I note that "Attorney-Client Privilege" is the applicable exemption referenced on the pages containing withheld information. However, it appears that certain of the withheld information was previously communicated to licensees, which I believe excludes it from NRC attorney-client privilege on the basis that the information was shared with the public.

In responding to this appeal, please consider that I am attempting to manage the California Agreement State program in harmony with the NRC's program for regulating radioactive materials usage. The free exchange of information between the NRC and the California program is essential if California is to achieve a program harmonious with the NRC. The information requested is important to our understanding and implementation of NRC policy related to transfers of radioactive materials to persons exempt under 10 CFR 40.13(a).

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Thank you for your attention to this matter.

Sincerely,



Edgar D. Bailey, Chief  
Radiologic Health Branch  
California Department of Health Services

c: Sandy Joosten, Executive Assistant  
Office of the Secretary  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001