



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

2004-0234

8

RESPONSE TYPE FINAL PARTIAL

REQUESTER

Matthew S. Hammel

DATE

NOV 30 2005

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 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 **U, V** 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, 11555 Rockville Pike, Rockville, MD 20852-2738.
- APPENDICES **U, V** 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)

The incoming FOIA/PA request is located in ADAMS at ML041314167.

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

Russell A. Nichols

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

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PART II.A – APPLICABLE EXEMPTIONS

APPENDICES
V

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 253b, 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)
Ex. 4: Disclosure will harm and identifiable private or governmental interest.

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
Jack Strosnider	Director, Office of Nuclear Material Safety and Safeguards	Appendix V	✓		

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 U
RECORDS BEING RELEASED IN THEIR ENTIRETY
(If copyrighted identify with *)**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1.	09/13/89	Memo from C. Bechhoefer, administrative judge to E. Julian, regarding private citizen who wishes to intervene personally for the Environment. (11 pages)

**APPENDIX V
RECORDS BEING WITHHELD IN PART**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	03/03/64	Letter from L. J. Swallow, UNC, to E. R. Price (D. Nussbaumer), AEC, re: Application for source and special nuclear material licenses for UNC's scrap plant facilities at Wood River Junction, Rhode Island (4 pgs) [Ex. 6]
2.	03/05/64	Memorandum from R. L. Layfield, to Files, (AEC), re: UNC, Wood River Junction, Rhode Island, Docket 70-820 (9 pgs) [Ex. 6]
3.	07/31/64	Memorandum from H. L. Price, to Chairman Seaborg, Commissioners Bunting, Palfrey, Ramey, and Tape, (AEC), re: Criticality Accident at UNC's Recovery Facility (18 pgs) [Ex. 6]
4.	08/26/64	Letter from J. R. Sapirie, Oak Ridge Operations, to W. Thompson, notification of action to forward request for information to AEC Headquarters (1 pg) [Ex. 6]
5.	10/01/64	Letter from L. D. Low, to H. J. Kouts, Chairman, Technical Review Committee, (AEC), confirmation of transmittal of memoranda re: Compliance Investigation of the United Nuclear Corporation Accident (4 pgs released) [Ex. 6]
	attach.:	09/29/64 Memorandum from L. D. Low, AEC, to Compliance Files, United Nuclear Corporation, Wood River Junction, Rhode Island, Type A Incident, Criticality, July 24, 1964 (1 pg released)
	attach.:	09/29/64 Memorandum from R. B. Chitwood, to L. D. Low, (AEC), United Nuclear Corporation, Wood River Junction, Rhode Island, Type A Incident, Criticality, July 24, 1964 (2 pgs released)
6.	10/04/64	Letter from L. D. Low, AEC, to W. Thompson, response to request for information on river safety and precautions being taken (2 pgs released) [Ex. 6]

**APPENDIX V - continued
RECORDS BEING WITHHELD IN PART**

NO.	DATE	DESCRIPTION/(PAGE COUNT)/EXEMPTIONS
7.	10/05/64	Memorandum from H. M. Roth, Oak Ridge Operations, to R. W. Kirkman, AEC, ORNL Report on Chromosome Aberration Analysis of Individuals Involved in the UNC Accident in Rhode Island, July 24, 1964 (1 pg released) attach.: 09/29/64 Memorandum from P. C. Gooch, to A. Hollaender, (ORNL), Leukocyte chromosome aberration analysis of individuals involved in the United Nuclear Corporation criticality accident of July 24, 1964 (4 pgs released) [Ex. 6] attach.: 10/01/64 Memorandum from P. C. Gooch, to A. Hollaender, (ORNL), Addendum to memo of September 29, 1964 (1 pg released) [Ex. 6]
8.	10/08/68	Letter from L.J. Swallow, United Nuclear Corp., to D.A. Nussbaumer, AEC, re Fabrication of Uranium-Aluminum Ceramic Cores - SNM-777, Section 6A (9 pgs released; 4 pgs withheld in entirety) [Ex. 4]
9.	10/14/64	Letter from W. L. Allison, United Nuclear Corporation, to L. E. Johnson, AEC, re: Experimental Program at United Nuclear's Fuels Recovery Plant (2 pgs released) attach.: 10/12/64 Experimental Program for Resolution of Impurity Problem (18 pgs released; 10 pgs withheld in entirety) [Ex. 4]
10.	10/19/64	Letter from D. F. Cronin, United Nuclear Corporation, to D. A. Nussbaumer, AEC, re: Application for Amendment to License SNM-777, dated 9/15/64; and Letter to J. Lindberg, DML-RDS 70-820 (16 pgs) [Ex. 6]
11.	02/10/65	Letter from D. F. Cronin, United Nuclear Corporation, to D. A. Nussbaumer, AEC, notification of appointment of F. G. Stengel to the position of Chemical Operations Manager (3 pgs) [Ex. 6]
12.	04/14/65	Letter from D. F. Cronin, United Nuclear Corporation, to D. A. Nussbaumer, AEC, notification of appointment of R. E. Kropp to the position of Nuclear Safety Specialist (2 pgs) [Ex. 6]
13.	11/11/69	Letter from L.J. Swallow, United Nuclear Corp., to D.A. Nussbaumer, AEC, re Special Nuclear Material License SNM-777 dated November 25, 1964, as Amended, requests amendment to include second boat calciner furnace (2 pgs released; 14 pgs withheld in entirety) [Ex. 4]

**APPENDIX V - continued
RECORDS BEING WITHHELD IN PART**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
14.	06/29/71	Letter from D. F. Shaw, UNC, to R. F. Cunningham, AEC, re transfer and amendment of licenses SNM-33, SNM-777, SNM-871, SNB-293, and 24,12988-01 to Gulf United Nuclear Fuels Corporation (GUNFC) (9 pgs) [Ex. 6]
15.	08/07/73	Letter from S. H. Smiley, AEC, to E. J. Bauser, Joint Committee on Atomic Energy, provides response to 07/26/73 letter (1 pg) [Ex. 4]
16.	07/30/79	Renewal Application for Byproduct Material License, License No. 24-16206-01 (7 pgs) [Ex. 6]
17.	02/21/83	Letter from H. E. Eskridge, CE Power Systems, CE, to W. T. Crow, NRC, re revised pages to application renewal of SNM-33 and Byproduct Material License No. 24-16206-01 be cancelled and transferred to SNM-33 (50 pgs) [Ex. 4 & 6]
18.	07/16/96	Letter from R. W. Sharkey, ABB Combustion Engineering Nuclear Fuel, to Document Control Desk, NRC, Subj: Reply to Notice of Violation (1 pg released) Attach: Proprietary - Reply to Notice of Violation, Inspection Report 70-36/96-201, Violation No. 96-201-01 (3 pgs withheld in entirety) [Ex. 4]
19.	11/22/96	Letter from P. Ting, NMSS, to ABB Combustion Engineering Inc., Subj: Inspection No. 70-36/96-203 (1 pg released) Attach: Summary of 10/21-25/96 inspection (1 pg released) Attach: Proprietary - Report of Details, Inspection No. 70-36/96-203 (6 pgs withheld in entirety) [Ex. 4]