

FOIA/PA REQUEST

Case No.: 2006-0010A
Date Rec'd: 8-9-06
Specialist: Rambling *blaw*
Related Case: 2006-0195

Russell A. Nichols
FOIA/PA Officer
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

RE: APPEAL OF EXEMPTED INFORMATION FROM FOIA/PA 2006-0195

Dear Mr. Nichols:

On July 14, 2006 you signed Response 2 for FOIA/PA 2006-0195. The documents provided in this response were listed on Appendix C. All the documents listed in Appendix C had information redacted under Exemption 4, Exemption 6, and in one case Exemptions 4 and 6. Exemption 4 was defined on the FOIA Response form under "Other" as "*Disclosure will harm an identifiable private or governmental interest.*" Riverkeeper hereby appeals all of the redactions under Exemption 4 applied in FOIA/PA 2006-0195, Response No. 2. The response form indicates that the exemption determinations were made by the Regional Administrator in Region I, and that any appeal must be made in writing within thirty days. This letter constitutes our written appeal of those redactions.

The exempted information should not have been exempted, for the simple reason that the very same information exempted from some of the documents listed on Appendix C was **not exempted** from other documents on Appendix C. The same information was exempted from some documents and disclosed on others, all within the same FOIA response. This is clearly inconsistent, and calls into question the legitimacy of all the determinations made in this response.

For example, Document 2 of Appendix C is an e-mail dated March 20, 2006 from Donald Croulet of Entergy to several recipients (available on ADAMS at ML062000094). Under Exemption 4, the locations of Monitoring Wells 39,41,42,43,44,45 and 47 were withheld. It is impossible to understand from this document how the disclosure of the monitoring well locations could "*harm an identifiable private or governmental interest,*" since the locations of Monitoring Wells 40,46,48,49,50,51 and 52 are disclosed in the same document.

However, even if there were a valid reason to withhold some monitoring well locations and disclose others, this reasoning fails with the example of Document No. 5 of Appendix C. This document is an e-mail dated March 28, 2006 from J. Halcomb of Entergy to G. Bowman of NRC (available on ADAMS at ML062000112). Attached to

this e-mail is a map of the Indian Point site showing the locations of every monitoring well redacted in Document 2. For example, MW 39 is shown located east of the Unit 3 condensate storage tank. MW 41 is shown located east of the Unit 3 fuel handling building. MW 42 is shown located northeast of the Unit 1 containment building. Monitoring wells 43, 44, 45 and 47 are also shown on the map, their site locations clearly delineated.

Given these obvious inconsistencies, Riverkeeper questions all of the Exemption 4 determinations made on Response 2 to FOIA/PA 2006-0195. We appeal to the NRC to reexamine these determinations and issue unredacted versions of the corrected documents to the public.

Sincerely,

Phillip Musegaas
Policy Analyst
Riverkeeper, Inc.
828 South Broadway
Tarrytown, NY 10591
914-478-4501 x224

FOIA - FW: FOIA/PA Appeal of FOIA/PA-2006-0195

From: "phillip" <phillip@riverkeeper.org>
To: <FOIA@nrc.gov>
Date: 08/09/2006 1:08:47 PM
Subject: FW: FOIA/PA Appeal of FOIA/PA-2006-0195

My apologies, please find our appeal attached.

Thank you,

Phillip Musegaas
Policy Analyst
Riverkeeper, Inc.
828 South Broadway
Tarrytown, NY 10591
914-478-4501 x224

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-----Original Message-----

From: phillip [<mailto:phillip@riverkeeper.org>]
Sent: Wednesday, August 09, 2006 1:05 PM
To: 'FOIA@nrc.gov'
Subject: FOIA/PA Appeal of FOIA/PA-2006-0195

Good Afternoon,

Please find attached Riverkeeper's appeal of FOIA/PA 2006-0195. A hard copy will follow by regular mail in the next few days.

Thank you,

Phillip Musegaas
Policy Analyst
Riverkeeper, Inc.
828 South Broadway
Tarrytown, NY 10591
914-478-4501 x224

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