



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

2006-0238

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RESPONSE TYPE FINAL PARTIAL

REQUESTER

Michele Driscoll

DATE

DEC 22 2006

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 **GG, HH** 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 **GG, HH** 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 *

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- 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)

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
GG, HH

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 2.390(d)(1).
 - The information was submitted by a foreign source and received in confidence pursuant to 10 CFR 2.390(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. 2: Disclosure would risk circumvention of a legal requirement

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
Samuel J. Collins	Regional Administrator, Region 1	Appendix HH	<input checked="" type="checkbox"/>		

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 GG
RECORDS BEING RELEASED IN ENTIRETY**

<u>NO.</u>	<u>DATE</u>	<u>DOCUMENT DESCRIPTION/PAGE COUNT</u>
1.	09/30/1963	Ltr from E. Price of USAEC to Commanding Officer, U.S. Army Electronics Research and Development Laboratory, regarding leak test (2 pages)
2.	10/09/1963	Division of Compliance, USAEC, Memo Route Slip, including ltr from T. Kirkman of USAEC to Department of the Army, regarding planned visit (5 pages)
3.	12/03/1965	USAEC Byproduct Material License No. 29-1022-6, Amendment No. 5 (3 pages)
4.	10/14/1966	USAEC Inspection Findings and Licensee Acknowledgment, License No. 29-01022-06 (16 pages)
5.	10/24/1966	Memorandum from C. Coner of USAEC to File, regarding Department of the Army, License No. 29-01022-06 (1 page)
6.	12/30/1968	Memorandum from L. Higginbotham of USAEC to File, regarding Department of the Army, License No. 29-01022-06 (6 pages)
7.	09/09/1969	USAEC Byproduct Material License No. 29-01022-06, Amendment Nos. 8 and 10. (6 page)
8.	12/11/1972	USAEC Byproduct Material License No. 29-01022-06, Amendment No. 12 (1 page)
9.	12/11/92	USAEC Byproduct Material License No. 29-01022-06, Amendment 13. 1 page)
10.	06/20/1973	Ltr from P. Baldino of Department of the Army to USAEC, regarding application to renew and amend USAEC Byproduct Material License No. 29-01022-06 (14 pages)
11.	09/04/1973	USAEC Byproduct Material License No. 29-01022-06, Amendment No. 15 (3 pages)
12.	04/12/1976	Inspection Field Notes, Inspection No. 76-01; Facility - U.S. Army, Fort Monmouth, NJ (10 pages)
13.	04/27/1976	USNRC Materials License No. 29-01022-06, Amendment No. 18 (4 pages)

**APPENDIX GG
RECORDS BEING RELEASED IN ENTIRETY**

<u>NO.</u>	<u>DATE</u>	<u>DOCUMENT DESCRIPTION/PAGE COUNT</u>
14.	06/03/1976	USNRC Materials License No. 29-01022-06, Amendment No. 18 (4 pages)
15.	12/09/1977	Inspection Field Notes, Inspection No. 77-01, License No. 29-1022-06 (9 pages)
16.	01/19/1982	Handwritten notes regarding Fort Monmouth, NJ, CECOM, located - Charles Wood Area, including summary of current licenses attached (6 pages)
17.	03/16/1982	Inspection Report 82-01, License No. 29-01022-06 (10 pages)
18.	06/04/1982	USNRC Materials License No. 29-01022-06, Amendment No. 21 (4 pages)
19.	06/28/1982	USNRC Materials License No. 29-01022-06, Amendment No. 21 (4 pages)

**APPENDIX HH
RECORDS BEING WITHHELD IN PART**

License No. 29-01022-06

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	06/30/1961	Memorandum from USAEC regarding Transmittal fo License Compliance Inspection Report - 10 CFR 30 (19 pages) / Exemption 6
2.	11/30/1967	Ltr from N. Bassin of USAEC to Commanding Officer, U.S. Army Electronics Command, regarding application for renewal of License No. 29-01022-06 (253 pages) / Exemption 6
3.	09/03/1969	Ltr from C. Haas of Department of the Army to USAEC, regarding application for amendment of BML No. 29-01022-06, (8 pages) / Exemption 6
4.	12/09/1971	Ltr from P. Nelson of USAEC to W. Roy of the Department of the Army, regarding licensee's handling of the situation (7 pages) / Exemption 6
5.	02/28/1972	Ltr from E. Epstein of Department of the Army to P. Nelson of USAEC, regarding inspection performed February 16, 1972 (12 pages) / Exemption 6
6.	08/11/1972	Ltr from P. Nelson of USAEC to W. Roy of Department of the Army, regarding Licensee report of March 8, 1972 to Director of Materials Licensing (4 pages) / Exemption 6
7.	02/13/1975	Ltr from D. Taras of Department of the Army to USAEC, regarding changes in membership of USArmy Electronics Command Ionizing Radiation Control Committee (8 pages) / Exemption 6
8.	11/03/1975	Ltr from D. Taras of Department of the Army to USNRC, regarding application to renew and amend Byproduct Material License No. 29-01022-06 (117 pages) / Exemption 6
9.	02/09/1976	Ltr from W. Queen of Department of the Army to USNRC, regarding additional information requested (22 pages) / Exemption 6
10.	07/07/1981	Ltr from D. Taras of Department of the Army to USNRC, regarding application for renewal of Byproduct Material License Number 29-01022-06 (86 pages) / Exemption 6
11.	09/19/1984	Materials Radiological Protection Licensee Event Report, Licensee - Department of the Army (10 pages) / Exemption 6
12.	03/16/1987	Application for Material License for U.S. Army Communications - Electronics Cmd (57 pages) / Exemption 6.
13.	10/05/1987	Ltr from P. Elker of Department of the Army to USNRC, regarding

- record of telephone conversation (9 pages) / Exemption 6
14. 08/27/1993 Inspection Report, 93-001, License No. 29-01022-06 (30 pages) / Exemption 2
 15. 10/14/1997 Inspection Report, 97-001, License No. 29-01022-06 (33 pages) / Exemption 2
 16. 12/05/1997 Ltr from S. Horne of Department of the Army to USNRC, regarding Inspection No. 030-05248-97-001 (5 pages) / Exemption 2
 17. 12/14/1999 Materials licensing package for amendments 49 & 18 to licenses 29-01022-06 & 29-01022-14 .Control numbers 127060 & 127061. (100 pages) / Exemption 2
 18. 04/13/2000 Dept. of the Army application for amendment to license 29-01022-06. Amendment authorizes Americum-241, sealed sources, special form, AEA technology Model AMM; two sources of 4 microcuries each per device. (42 pages) / Exemption 2
 19. 05/05/2000 Dept. of the Army-Ft. Monmouth, Amend. 50 issued 05/05/2000. (8 pages) / Exemption 2
 20. 08/10/2000 Dept. of the Army, Issuance of Lic. Amend. #51, Control No. 128237, cvr. ltr. dtd. 08/10/00. (7 pages) / Exemption 2
 21. 10/16/2000 Department of the Army, Lic. Amend. #52(29-01022-06) & #19(29-01022-14) issued 10/16/00, Control Nos. 128043 & 128044. (9 pages) / Exemption 2
 22. 12/12/2000 Inspection 03005248/2000002 Department of the Army US Army Communications-Electronics Command, Fort Monmouth NJ 591 Insp Record (15 pages) / Exemption 2
 23. 03/12/2001 Department of the Army, Issuance of License Amendments 53 (29-01022-06), 31 (29-01022-07) & 21 (29-01022-14), Control Nos. 129328, 129329 & 129330. (9 pages) / Exemption 2
 24. 03/30/2001 Department of the Army, Issuance of License Amendments 54 (-06 Lic.) and 22 (-14 Lic.), Control Nos. 129308 and 129309. (9 pages) / Exemption 2
 25. 08/23/2001 Army, Department of the, Issuance of License Amendment 55, Control No. 130151. (7 pages) / Exemption 2
 26. 02/14/2002 Army, Department of the, Issuance of License Amendments 56, 33 and 25 dated 02/14/2002, Control Nos. 130990, 130991 and 130992. (8 pages) / Exemption 2
 27. 07/29/2003 Department of the Army, Issuance of License Amendment No. 57, Control No. 133356. (7 pages) / Exemption 2
 28. 12/17/2003 Department of the Army, License Amendment No. 58, Control No. 134022. (8 pages) / Exemption 2
 29. 02/23/2005 Letter from Stephen LaPoint, Department of the Army submitting

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application for the renewal of license 29-01022-06, Docket 030-05248, with enclosures. (59 pages) / Exemption 2 and 6