



Department of Energy
Washington, DC 20585

QA: N/A

AUG 17 2007

CERTIFIED MAIL 7000 1670 0005 4673 2327

Charles J. Fitzpatrick
Egan, Fitzpatrick & Malsch, PLLC
1777 N. E Loop 410, Suite 600
San Antonio, TX 78217

Dear Mr. Fitzpatrick:

This is in response to your April 26, 2007, Freedom of Information Act (FOIA) request for various documents itemized below. Please refer to F2007-00276 in any future correspondence regarding this matter.

Our responses to the individual items of your FOIA request are itemized as follows:

1. The documents **and** CD-ROMs transmitted to Ms. **Claudia Newbury** in accordance with the correspondence attached to this request as **Exhibit A** (March 28, 2000) from Mr. Eric Zwahlen, including:
 - a. **Simplified Total System Performance Assessment (STSPA)** (on CD-ROM); and
 - b. **All** instructions on how to install, browse, **and** execute the **model**.

In response to this item of your request, enclosed is a CD-ROM identified as MOL.20010614.0182.

2. Any and all transmittal correspondence from any [U.S. Department of Energy] DOE employee or representative to any employee or representative of the Nuclear Waste Technical Review Board or any other third party or entity, providing such third party with any information pertaining, in whole or in part, to the STSPA.
 - a. Letter, S. Brocoum to W. D. Bamard, dated April 7, 2000, with Enclosure 1. Enclosure 2 is the same item identified in response to Item 1.a. above. We cannot determine what map was sent with this letter, therefore, this enclosure is not provided. Enclosure 4 is an Analysis



Model Report (AMR) that was provided to you in response to FOIA request F2006-00506 and is not provided at this time.
(MOL.20000605.0290; 68 pages)

- b. Letter, S. Brocoum to W. D. Barnard, dated January 24, 2002, with enclosure. The enclosure is the same as that identified in Item 1.a. above.
(MOL.20020501.0459; 2 pages)
3. The **STSPA** model referred to by presenter Abe **VanLuik** at slide #25 of his presentation on "Yucca Mountain project Total System Performance Assessment Approach" (cover page and **slide #25** attached to this FOIA request as Exhibit B).
4. The TSPA-SR multimedia CD referenced to by presenter Abe **VanLuik** at slide #15 of the same presentation (slide #15 is attached as Exhibit C).

In response to these items of your request, enclosed is a CD-ROM identified as the *Total System Performance Assessment for the Site Recommendation - Summary - Yucca Mountain Project* (TSPA-SR).

5. In a February 2005 white paper on the GoldSim **website** (entitled "Radioactive and Hazardous Waste Management Applications Using **GoldSim**"), **GoldSim** states at page 1, "at the request of the U.S. Department of Energy, starting in 1990, we began to develop a new simulation **tool** to specifically address these problems. . . . The result of this development effort is a Windows-based graphical simulation tool called GoldSim." (The cover page of **GoldSim's** white paper and page 1 are attached to this FOIA request as Exhibit D.) Please provide a copy of DOE's relevant request for proposal for this work, if any, and its contract with GoldSim relating to **GoldSim's** development of this new simulation **tool** starting in 1990.

In response to this item of your request, enclosed is a copy of the following documents:

1. Contract DE-ACOI-96RW00312, Subcontractor Task Assignment Authorization, Number 98-04D, dated June 1998 (1 page)
2. Contract DE-AC01-96RW00312, Subcontractor Task Assignment Authorization, Number 98-04D, dated August/September 1998 (1 page)
3. Contract DE-AC01-96RW00312, Subcontractor Task Assignment Authorization, Number 98-04D, dated November/December 1998 (1 page)
4. Task Assignment Modification YMP98-04D Additional Project, undated (3 pages)
5. Letter, B. Hamilton-Ray to C.F. Metzger, dated May 4, 1998 (4 pages)

Exemption 4 of the FOIA provides that U.S. government agencies need not make available records that have been determined to be business proprietary. We have determined that the labor categories and wage rates are business proprietary and, therefore, withheld from public disclosure under Exemption 4 of the FOIA. The balancing test to determine whether this information meets the criteria of business confidential information is "if disclosure of the information is likely to have either of the following effects: (1) to impair the government's ability to obtain necessary information in the future, or (2) to cause substantial harm to the competitive position of the person from whom the information was obtained." We have determined that releasing the labor rates to you would constitute an unfair competitive advantage over another individual or company wishing to submit an unsolicited proposal or compete for a similar contract with DOE. It has been determined that identification of these costs meet the two criteria, therefore, the labor category and wage rates contained in document number 5 listed are being withheld from disclosure.

Our contact at Golder Associates, Inc. has requested documents from their archived records center. Upon receipt of these documents, they will be reviewed and a determination will be made if any of them are responsive to your FOIA request. Therefore, additional documents will be provided to you if they are determined to be responsive to your FOIA request.

6. **Information on GoldSim's website regarding the Yucca Mountain project (attached to this FOIA request as Exhibit E) states: "The Yucca Mountain project has designed a highly interactive GoldSim interface specifically for the public that provides an easy-to-understand summary of the entire project," after which statement is depicted a screen shot of the "simplified Total System Performance Assessment model." Please provide a copy of the DOE contract or contract amendment under which GoldSim prepared the simplified Total System Performance Assessment model.**

There are no documents responsive to your request for a copy of a request for proposal or contract between DOE and GoldSim. However, DOE issued to the Management and Technical Support Services (MTS) contractor a task order to develop a multi-media communication package to help explain to the general technical community how DOE expects the repository system to perform. The MTS then contracted with Golder to develop the requested communication package. Golder, in turn, developed the GoldSim software for the STSPA model. In response to this item of your request, enclosed are the following documents:

1. Letter, R. R. James to R. L. Toft, dated September 27, 2000, with enclosure.
(5 pages)

2. Letter, E. Zwahlen to S. Brocoum, dated April 30, 2001, with enclosure. (MOL.20010614.0181; 7 pages)

7. **Any later version or updated version of the STSPA model or instructions on how to install, browse, or execute the model prepared by or on behalf of DOE at any time after March 28, 2000, (the date of the transmittal to Ms. Newbury referred to in Request No. 1, above).**

There were two versions of the STSPA (phase I and phase II). The first phase was done under MTS task order (see our response to item 6 of your request). According to discussions with a Golder employee who worked on this matter, this phase was a work in progress demonstrated to the Nuclear Waste Technical Review Board in accordance with the Board's statutory oversight role, as referenced in the letter dated March 28, 2000, from Eric Zwahlen to Claudia Newbury. The second phase was a simplification of the TSPA-SR model, also developed under a MTS task assignment. This simplified model was ultimately incorporated into the TSPA CD-ROM provided in response to item 1 of your FOIA request.

8. **Any correspondence or other Documentary Material relating in any way to, or discussing, any DOE decision to discontinue, or terminate, the use of the STSPA or any decision not to update it.**

A search of the Office of Civilian Radioactive Waste Management's records was conducted and no responsive documents could be located. Therefore, there are no documents responsive to this item of your request.

I am the individual responsible for withholding the labor category and labor rates in item 5 of your FOIA request.

Our decision to withhold the labor category and labor rates in item 5 of your FOIA request may be appealed, in writing, within 30 days after your receipt of this letter, to the Director, Office of Hearings and Appeals, HG-1, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, DC 20585. The written appeal must contain all other elements required by 10 C.F.R. § 1004.8. Judicial review will thereafter be available to you in the district where you reside, where you have your principal place of business, where DOE's records are situated, or in the District of Columbia.

In your April 26, 2007, letter you stated your willingness to pay fees, in an amount not to exceed \$1000, for the search, duplication and review of this request. The fees assessed to process this FOIA request are itemized as follows:

Charles J. Fitzpatrick

AUG 17 2007

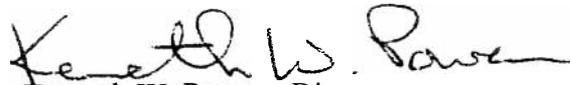
FOIA Officer GS 13/10 - \$46.98/hr

18 hours @ \$46.98=	\$845.64
Plus 16%	<u>135.30</u>
Subtotal	\$980.94
Duplication	
92 pages @ \$.05/page	<u>4.60</u>
Total	\$985.54

Upon receipt of the responsive documents and CD-ROMs, please send your check in the amount of \$985.54, made payable to the U.S. Department of Energy, to: U.S. Department of Energy, Attn: Diane Quenell, 1551 Hillshire Drive, Las Vegas, NV 89134-6321.

If you have questions regarding our response to your request, please contact Diane Quenell at (702) 794-5004 or at diane.quenell@yrnp.gov for assistance. This completes our interim response to your FOIA request, pending the findings of Golder Associates, Inc., for additional responsive documents.

Sincerely,



Kenneth W. Powers, Director
Office of Project Management
and Procurement

Enclosures:
As stated

EXHIBIT F

**SUMMARY OF THE
U.S. NUCLEAR REGULATORY COMMISSION / U.S. DEPARTMENT OF ENERGY
QUARTERLY MANAGEMENT MEETING
ROCKVILLE, MARYLAND
March 27, 2007**

Introduction

The U.S. Nuclear Regulatory Commission (NRC) and U.S. Department of Energy (DOE) held a public Quarterly Management Meeting on March 27, 2007. The purpose of this meeting was to discuss the overall progress of the Yucca Mountain Project (YMP) on the proposed geologic repository site at Yucca Mountain, Nevada. The meeting was held at NRC Headquarters in Rockville, Maryland, with video conferencing to the Center for Nuclear Waste Regulatory Analyses (CNWRA) in San Antonio, Texas; NRC Region IV in Dallas, Texas; and the NRC's Atomic Safety and Licensing Board hearing facility in Las Vegas, Nevada. Teleconferencing was also made available to interested stakeholders. Other participants included the Nuclear Energy Institute, State of Nevada, Nye County, Clark County, Pine County, the Nuclear Waste Technical Review Board, and members of the public.

Opening Remarks

The NRC thanked everyone for attending and emphasized that the Quarterly Management Meeting gives the NRC a chance to reflect on the items that were completed in the last quarter, express any concerns publicly to DOE. The NRC provided the DOE and the public with some insight on the way the NRC will operate once the license application (LA) is tendered. For instance, meetings held after the LA is submitted will follow the same NRC public meeting procedures as any other applicant. The NRC stated that it expects a high quality LA from DOE, that is complete and accurate in all material respects.

Jack Strosnider's retirement was announced. Michael Weber and Eric Leeds were introduced as the new Director and Deputy Director of the NRC's Office of Nuclear Material Safety and Safeguards.

NRC Program Update

NRC's understanding of DOE's methods and approaches continues to grow. The NRC anticipates that it will make a docketing decision within approximately 6 months after receipt of the LA. The purpose of this initial review for docketing is to determine whether the LA contains sufficient information to begin a regulatory review in accordance with our regulations in 10 CFR Part 63 and other applicable requirements. This determination does not reflect the technical adequacy of the information, but a judgment that the NRC can begin the review to determine technical adequacy for a decision. Since Part 63 is a performance-based and risk-informed regulation, DOE has latitude in presenting its case for compliance with the NRC's Part 63 regulations. The review for docketing will have to consider how DOE intends to make its compliance demonstration.