



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

2008-0006

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RESPONSE TYPE FINAL PARTIAL

REQUESTER

Amy Stattel

DATE

NOV 23 2008

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 **A** 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 **B & C** 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 **B & C** 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)

The records identified on enclosed Appendix A are already publicly available in the NRC Public Document Room (PDR). We have enclosed a notice which provides procedures for obtaining records from the PDR. You may contact the PDR on (301) 415-4737, or toll free on (800) 397-4209.

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

Russell A. Nichols

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

2008-0006

NOV 23 2007

PART II.A -- APPLICABLE EXEMPTIONS

APPENDICES
C

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)

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 C	✓		

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 A
RECORDS ALREADY PUBLICLY AVAILABLE**

<u>NO.</u>	<u>DATE</u>	<u>ACCESSION NUMBER</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1.	06/06/1964	9106210237	Ack receipt of 640414 ltr advising of appointment of CW Keller as nuclear accountability & licensing representative for Nuclear Div, Martin Co.. (1 page)
2.	04/01/1991	9106120324	Responds to FOIA request for documents re license numbers R-36, issued in 1958, license R-72 issued in Dec 1960 & license 19-01398-29. (13 pages)
3.	07/08/1991	9203120243	Responds to 901123 request for documents re Quehanna Nuclear Reactor Facility including, records re License R-36, R-72 & various byproduct matls licenses. Forwards documents listed on App F & G. Search for addl records underway (18 pages)
4.	06/13/1994	9406220079	Informs, for dockets 7000014, 7000058 & 7000908, that addl info necessary to determine whether previously licensed facilities suitable for release for unrestricted use or currently licensed by active NRC or State of MD license. (7 pages)
5.	01/23/1995	9501310052	Insp repts 40-3296/94-01 & 70-0058/94-01 on 941103. No violations noted. Major areas inspected: bldgs C & D at Martin-Marietta Middle River facility & bldgs KJ & KC at Martin State Airport (6 pages)
6.	01/25/1995	9501310046	Forwards insp repts 40-3296/94-01 & 70-0058/94-01 on 941103. No violations noted. Informs that listed sites suitable for unrestricted use. (3 pages)
7.	01/25/1995	9501310129	Forwards insp repts 40-3296/94-01 & 70-0058/94-01 on 941103. No violations noted. Informs that listed sites suitable for unrestricted use (3 pages)
8.	09/23/1982	8209300294	Forwards IE Insp Repts 40-2308/82-01 & 40-3296/82-01 on 820305-0615. No noncompliance noted (2 pages)

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

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1.	01/23/1995	ORNL Sites - Summary, License No. 19-01398-32 (2 pages)
2.	01/23/1995	ORNL Sites - Summary, License No. SMN-00011 (2 pages)
3.	03/10/1995	ORNL Sites - Summary, License No. SNM-00053 (2 pages)
4.	01/23/1995	ORNL Sites - Summary, License No. STB-00187 (2 pages)
5.	Undated	Handwritten notes regarding License SNM-1192 (6 pages)
6.	02/03/1970	Ltr from D. Nussbaumer of USAEC to E. Chennault of Martin Marietta Corporation, regarding licensing requirements (1 page)
7.	04/24/1970	Ltr from R. Mccaulay of Martin Marietta Corporation to D. Nussbaumer of USAEC, regarding application and work procedure for license (1 page)
8.	05/01/1970	Ltr from E. Chenault of Martin Marietta Corporation to R. Woolsey of USAEC, regarding supplementary attachments 1 and 2 (16 pages)
9.	05/15/1970	Ltr from E. Chenault of Martin Marietta Corporation to R. Woolsey of USAEC, regarding supplemental data (2 pages)
10.	05/22/1970	Ltr from D. Nussbaumer of USAEC to R. Macauley of Martin Marietta Corporation, regarding AEC Material License No. SNM-1192 (7 pages)
11.	06/24/1970	Ltr from E. Chenault of Martin Marietta Corporation to R. Woolsey of USAEC, regarding current status of decontamination program (2 page)
12.	06/24/1970	Ltr from E. Chenault of Martin Marietta Corporation to R. Woolsey of USAEC, regarding current status of decontamination program (2 page)
13.	07/15/1970	Ltr from E. Chenault of Martin Marietta Corporation to D. Nussbaumer of USAEC, regarding decontamination program (1 page)
14.	07/30/1970	Ltr from C. Keller of Department of Health of the State of Maryland to R. Kirkman of USAEC, regarding Martin Marietta Coporation's Special Materials License No. 1192 (1 page)
15.	09/22/1970	Ltr from E. Chenault of Martin Marietta Corporation to R. Woolsey of USAEC, regarding comprehensive radiation survey report (1 page)
16.	10/07/1970	Ltr from R. Woolsey of USAEC to B. Youngblood of USAEC,

- regarding Decontamination - Martin Marietta Corporation -
Baltimore Plant - Docket No. 70-58 (1 page)
17. 11/10/1970 USAEC Health and Safety Laboratory Sample Req. D 4736-4741
(6 pages)
 18. 12/29/1970 Ltr from D. Nussbaumer of USAEC to E. Chenault of Martin
Marietta Corporation, regarding final survey of Middle River,
Maryland facilities (1 page)
 19. 04/13/1971 USAEC Compliance Statistical Data Input Report No. 71-1,
License No. SNM-1192 (1 page)
 20. 08/11/1992 Expert System License Evaluation Report for License SNM-01192
(2 pages)
 21. 01/23/1995 ORNL Sites - Summary, License No. SNM-01192 (2 pages)

**APPENDIX C
RECORDS BEING WITHHELD IN PART**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	04/12/1971	Ltr from P. Nelson of USAEC to W. Roy of USAEC, regarding Martin Marietta Corporation (1 page)
	03/25/1971	Close-OUT Survey for Licensee Martin Marietta Corporation, date of Inspection 11/10/1970 (3 pages)
	Undated	Martin Marietta Aerospace Group, Comprehensive Radiation Survey Report for the Release of Decontaminated Premises for Unrestricted Use (64 pages) / Exemption 6
2.	08/02/1982	IE Insp Repts 40-2308/82-01 & 40-3296/82-01 on 820305-0615. No noncompliance noted. Major areas inspected: review of records to determine whether Middle River, MD facility meets unrestricted use criteria(30 pages) / Exemption 6