



**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

JAN 30 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  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 \*

\$ 1384.20

\* See comments for details

- 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.

**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 actual fees for processing the request are as follows:

\$ 386.18 - search  
 746.61 - review  
 325.80 - duplication  
 \$1458.59  
 - 74.39 - advance fees  
 \$1384.20 TOTAL

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

*Russell A. Nichols*  
Russell A. Nichols

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**PART II.A -- APPLICABLE EXEMPTIONS**

APPENDICES  
**B**

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. 4: Disclosure will harm an 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
Charles L. Miller	Director, FSME	Appendix B	<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 B  
RECORDS BEING WITHHELD IN PART**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTION</u>
1.	12/12/57	Letter & Application for general license (26) <b>EX. 4</b>
2.	08/26/59	Letter: To – W.O. Miller, AEC, From – P.R. Guinn, Martin, RE: Manuals on outline of health physics program and health physics procedures (55) <b>EX. 4</b>
3.	04/18/60	Letter: To – L. Johnson, From – J.V. Loppert, RE: SNM-53 for amendment to proceed to ship Uranium-Aluminum type fuel elements (5) <b>EX.4.</b>
4.	10/03/61	Memo: To - L. Johnson, From – H.J. McAlduff, RE: Financial Limitations for Cooper Union & Martin Company (1) <b>EX. 4</b>
5.	03/22/62	Letter: To – D.A. Nussbaumer, From – F.G. Meyers RE: SNM License SNM-53, Amendment (7) <b>EX. 4</b>
6.	05/21/62	Letter: To – D.A. Nussbaumer, From – W.W. Wachtl RE: Supplement to License Report NMD-2789 (6) <b>EX. 4</b>
7.	06/04/62	Memo: To – D.A. Nussbaumer, From – A.E. Aikens RE: Supplement to License Report MND—2789, Review of structural integrity of shipping container (1) <b>EX. 4</b>
8.	06/07/62	Memo: To D.A. Nussbaumer, From – A.A. Aikens RE: Memo of 06/04/62 structural integrity of shipping container (1) <b>EX. 4</b>
9.	09/20/62	Memo: To – D.A. Nussbaumer, From – C. Beck RE: Martin-Marietta Application 08/29/62 for Approval of Shipping Procedures (1) <b>EX. 4</b>
10.	09/24/62	Letter: To – W. Wachtl, From – D.A. Nussbaumer, RE: authorization for determination to ship (2) <b>EX. 4</b>
11.	05/17/63	Letter: To – D.A. Nussbaumer, From – C.W. Keller, RE: Nuclear Safety Evaluation <b>EX. 4</b>

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<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTION</u>
12.	07/30/63	Memo: To – D.A. Nussbaumer, From – C. Beck RE: Martin Co. shipping container for Pathfinder Fuel (1) <b>EX. 4</b>
13.	10/08/63	Letter: To – R. Layfield, From – C.W. Keller RE: Proposed Amendment Number 19 to SNM License No. 53 (7) <b>EX. 4</b>
14.	01/23/64	Letter: To – USAEC, From – R.J. Brisson RE: Renewal of Byproduct Material License No. 19-1398-19 (40), <b>EX. 4</b>
15.	02/28/64	Memo: To – D.A. Nussbaumer, From – C.D. Luke RE: Martin Co. Shipment of Uranium Bearing Excess Material from Martin-Marietta Corporation, Amendment No. 20 (2) <b>EX. 4</b>
16.	03/09/64	Memo to File: From – R.L. Stevenson RE: Telecon with C.W. Keller & W. Osmyer of Martin Marietta 03/02/64, regarding shipment of air filters via motor truck from Baltimore, MD to Erwin, TN (1) <b>EX. 4</b>
17.	03/12/64	Letter: To – C.W. Keller, From – D.A. Nussbaumer, RE: Application of 02/14/64 for authorization of shipment of air filters containing Uranium to the Division Chemical Company (1) <b>EX. 4</b>
18.	03/20/64	Letter: To – D.A. Nussbaumer, From – C.W. Keller RE: Additional Information to proposed amendment 20 to SNM-53 (7) <b>EX. 4</b>
19.	04/01/64	Letter: To – D.A. Nussbaumer, From – C.W. Keller RE: Proposed Amendment 21 to SMN-53 (9) <b>EX. 4</b>
20.	04/07/64	Memo: To – D.A. Nussbaumer, From – C.Beck RE: Martin Co. Letter 03/20/64 supplying further Information on shipment of U-Bearing Air Filter (1) <b>EX. 4</b>
21.	04/24/64	Letter: To – D.A. Nussbaumer, From – C.W. Keller & RE: Proposed amendment No. 21 to SNM License No. 53 (3) <b>EX. 4</b>
22.	05/11/64	Letter: – D.A. Nussbaumer, From – C.W. Keller RE: Information for shipment of Uranium bearing solutions (5) <b>EX. 4</b>
23.	06/01/64	Telegram: To – K. Lauterbach, From – C.W. Keller RE: Approval for shipment of solution and solid scrap (4) <b>EX. 4</b>

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<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/ (PAGE COUNT)/EXEMPTION</u>
24.	06/09/64	Letter: To – K. Lauterbach, From – C.W. Keller, RE: Additional information for Amendment 20 to SNM-53 (3) <b>EX. 4</b>
25.	07/09/64	Letter: To – D.A. Nussbaumer, From – C.W. Keller, RE: Proposed amendment 21 to SNM License 53 (31) <b>EX. 4</b>
26.	07/20/64	Telegram: To – K.E. Lauterbach, RE: Providing information In regard to July 7 application (10) <b>EX. 4</b>
27.	08/04/64	Letter: To – D.A. Nussbaumer, From – C.W. Keller RE: revised submission of proposed amendment 21 to SNM license 53 (27) <b>EX. 4</b>
28.	08/14/64	Letter: To – D.A. Nussbaumer, From – C.W. Keller RE: Amendment 21 to SNM-53 as it relates to using shipping containers & attachment of MH-1A tubes from Martin vendor (8) <b>EX\$</b>
29.	08/19/64	Letter: To K. Lauterbach, From – C.W. Keller, RE: Additional Information for Proposed Amendment No. 21 to SNM-53 (13) <b>EX. 4</b>
30.	08/26/64	Letter: To – K. Lauterbach, From - C.W. Keller, RE: Drop Test of Shipping Container, Proposed Amendment #21 to SNM-53 (11) <b>EX. 4</b>
31.	09/11/64	Letter: To K. Lauterbach, From – C.W. Keller, RE: Additional Information for Amendment #21 to SNM-53 (7) <b>EX. 4</b>
32.	09/24/64	Telex: To – D.A. Nussbaumer, From – H. J. McAlduff, RE: Financial limitation increased for SNM-53, R-77 & SNM-504 (1) <b>EX. 4</b>
33.	11/23/64	Letter: To – K. Lauterbach, From C.W. Keller , RE: Interim Storage of Fuel Rods Containing Slightly Enriched Uranium Oxide Pellets (9) <b>EX. 4</b>
34.	02/12/65	Letter: To – R. Brinkman, From – C.W. Keller, Application for Byproduct Material (37) <b>EX. 4</b>

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTION</u>
35.	03/03/65	Letter: To - K. Lauterbach, From - C.W. Keller RE: Proposed amendment to SNM-53 to permit MH-1A fuel elements (7) <b>EX. 4</b>
36.	04/27/65	Letter: To – R.S. Boyd, From – C.W. Keller, RE: Proposed change in technical specifications – storage of fuel after criticality experimentation (23) <b>EX. 4</b>
37.	06/29/65	Letter: To – R. Brinkman, From – C.W. Keller, RE: Proposed Amendment No. 2 to Byproduct License 19-1398-33 (12) <b>EX 6</b>
38.	07/09/65	Letter: To – K. E. Lauterbach, From – C.W. Keller, RE: Request for AEC licensing approval for shipman of excess special nuclear material to reprocessor (3) <b>EX. 4</b>
39.	10/28/65	Letter: To – R. Brinkman, From – C.W. Keller, RE: Proposed Amendment to Byproduct License No. 19-1398-33 to permit Advanced R&D program (11) <b>EX4</b>
40.	12/16/65	Letter: To – C.W. Keller, From – D.A. Nussbaumer RE: Requesting authorization to ship MH-1A fuel elements (1) <b>EX. 4</b>
41.	12/23/65	Letter: To – C.W. Keller, From – D. A. Nussbaumer RE: Authorization to ship MH-1A fuel elements (1) <b>EX. 4</b>
42.	11/11/66	Letter: To – J.A. McBride, From – C.W. Keller, RE: Application for Specific License for Packaging Radioactive Material for Transport (28) <b>EX. 4</b>

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APPENDIX C  
RECORD BEING RELEASED IN ENTIRETY

<u>NO.</u>	<u>DATE</u>	<u>DOCUMENT DESCRIPTION/PAGE COUNT</u>
1.	04/11/60	Letter from J. V. Loppert, The Martin Company, to James R. Mason, USAEC, requesting amendment to Material License No. 19-1398-19. 3 pages