

FOIA/PA REQUEST

Case No.: 2011-0179
Date Rec'd: 4-7-11
Specialist: Raphael
Related Case: _____

FOIA Resource

From: David McCoy [dave@radfreenm.org]
Sent: Wednesday, April 06, 2011 5:52 PM
To: FOIA Resource
Subject: Freedom of Information Act Request to NRC for "Confidential Assessment" of Japan Reactor Meltdown

April 6, 2011

Freedom of Information Officer
FOIA.resource@nrc.gov

Re: Freedom of Information Act Request "Confidential Assessment" of Japan Reactor Meltdown

Dear FOIA Officer:

Under the Freedom of Information Act, 5 U.S.C. § 522, Citizen Action New Mexico is requesting access to a full and complete copy of the Nuclear Regulatory Commission's March 26, 2011 "Confidential Assessment" regarding the nuclear accidents at Fukushima Japan. This request is to include all documents in any form, whether from maps, drawings, schedules, correspondence, memoranda, tape recordings, electronic or handwritten communications, notes or handout documents used to prepare the report.

The requested documents are a matter of public concern because they are relevant to the potential for nuclear accidents at operating nuclear reactors and spent fuel pool storage within the United States

Although the exact title of the document is unknown, the "Confidential Assessment" was referred to by the New York Times in an article on April 6, 2011.

The NRC should apply the new FOIA policy of President Obama's administration and provide the documents "as servants of the public":

"Nondisclosure should never be based on an effort to protect the personal interests of Government officials at the expense of those they are supposed to serve. In responding to requests under the FOIA, executive branch agencies (agencies) should act promptly and in a spirit of cooperation, recognizing that such agencies are servants of the public.

"All agencies should adopt a **presumption in favor of disclosure**, in order to renew their commitment to the principles embodied in FOIA, and to usher in a new era of open Government. The presumption of disclosure should be applied to all decisions involving FOIA." (Emphasis supplied).

For any documents or portions of documents for which NRC may block release due to specific exemption(s) from the requirements of the Freedom of Information Act, please describe the documents or portions of documents withheld along with a detailed justification for claiming a particular exemption that explains why each such exemption applies to the document or portion of a document withheld.

Citizen Action New Mexico is a special interest citizen-based organization that publishes or disseminates information that will be beneficial to the public as well as for operations of the government, scientific and potential regulatory purposes; therefore, we request a waiver of all fees associated with this request. Disclosure of the requested information is in the interest of the public as it is likely to contribute significantly to public

knowledge and education; public health issues; and other concerns frequently cited by members of the public (*please refer to Section 2). This request is not in our commercial interest nor are we a business attempting to collect information on industrial competitors.

Describe the purpose for which you intend to use the requested information. The purpose (use) of the requested information is to inform the public of possible accident scenarios, failure modes and lack of emergency planning and preparedness not yet identified for operation of nuclear reactors in the United States and worldwide.

Explain the extent to which you will extract and analyze the substantive content of the requested records. Citizen Action will review and analyze the records by technical staff at Citizen Action.

Describe the nature of the specific activity or research in which you will use the requested records and the specific qualifications you possess to utilize information for the intended purpose in such a way that it will contribute to public understanding. Nuclear reactors are in operation in Albuquerque, New Mexico and the safety and accident scenarios and issues of spent fuel storage will be examined. Citizen Action Director David McCoy is knowledgeable about nuclear issues and participated in NRC regulatory hearings for the Trojan Nuclear Power Plant Spent Fuel Pool Expansion hearings 50-344. McCoy has written numerous articles for the public on nuclear safety for facilities in Oregon, Idaho National Laboratories, Sandia National Laboratories and Los Alamos National Laboratory. McCoy has also participated in numerous permitting hearings regarding issues of spent fuel, nuclear waste disposal. Allegations by McCoy regarding unsafe nuclear facilities have been the subject of full investigations by the EPA Office of Inspector General on two occasions. The Defense Nuclear Facility Safety Board is currently conducting analysis of a nuclear reactor at Sandia National Laboratories alleged by McCoy to be operating in a building that cannot be made earthquake safe.

Describe the likely impact on the public's understanding of the subject, compared to the level of public understanding of the subject before disclosure of the requested information. The public has not received the information contained in the "Confidential Assessment." The public is entitled to know the level of risk that it is asked to assume by further operation of nuclear power plants and by the planned construction of additional reactors in the United States and worldwide.

Describe the size and nature of the public segment whose understanding will be increased by disclosing the requested information. The size of the public whose understanding will be increased is unknown but will be substantial because of the interest in the current situation in Japan and domestically for operation of nuclear plants. The nature of the public will be those persons who wish to educate themselves as to the risks and economies of nuclear operations.

Describe the means by which you intend to disseminate the requested information to the general public. Citizen Action maintains a website where information can be disseminated. Citizen Action writes articles that are published in the press. Citizen Action appears at organizational meetings to provide information.

Indicate whether you will provide public access to the requested information free of charge or in return for an access or publication fee. All information will be provided without fee.

Describe any commercial or private interest that you or any other party may have in the requested records. Citizen Action and persons or other groups associated with Citizen Action have no private or commercial interest in the records.

Please note the following additional information:

1. Citizen Action is a non-profit citizen group under the fiscal auspices of the New Mexico Community Foundation (NMCC), Santa Fe, New Mexico. Citizen Action represents at least 16-non-governmental organizations (NGOs) and neighborhood associations as a part of its coalition. The organizations within the coalition include: Southwest Research and Information Center (SRIC); Citizens for Alternatives to Radioactive Dumping (CARD); Peace Action New Mexico (PANM); Progressive Albuquerque Network (PAN); Southwest Organizing Project (SWOP); Native Forest Network (NFN); Center for Action and Contemplation (CAC); Green Party of New Mexico; Bernalillo County Green Party; International Depleted Uranium Study Team (IDUST); Living Rivers; Forest Guardians; Mountain View Neighborhood Association; South Meadows Neighborhood Association; New Mexico Solidarity Network (NMSN); and Stop The War Machine (STWM).

2. Citizen Action's work on issues at SNL/NM has been funded both by private donations from individuals and through several foundations.

3. Citizen Action's interactive website (www.radfreenm.org) contains a partial listing (29 entries) of information from previous documents obtained by our organization under the Freedom of Information Act (FOIA). The contact information for the University of New Mexico Zimmerman Library, U.S. Department of Energy Reading Room, where the entire collection of FOIA documents is available for public review, is also posted on our website.

4. Citizen Action's website receives on average between 8,000 - 10,000 hits per month. In addition to posting independent technical reviews of the Mixed Waste Landfill, facilities at Sandia and Kirtland Air Force Base, press releases, newspaper articles, action alerts, related lawsuits, and meeting announcements the results of FOIA requests are summarized and posted on the Citizen Action website.

5. Deleted.

6. Citizen Action sends press releases to the local media announcing the results of FOIA reviews for further dissemination of this information to the public. Citizen Action also makes appearances on television and radio programs and disseminates information obtained from FOIA requests.

7. Citizen Action maintains an active and rapidly growing e-list serve and member mailing list of over 700 people to provide updated information on issues at SNL/NM. We network with other groups in disseminating information on SNL/NM issues such as neighborhood organizations, clubs, churches, schools, unions, businesses, and other non-governmental organizations

8. As we have done in the past, information obtained from previous FOIA requests are shared with the New Mexico Environment Department (NMED) and news media.

The general public has a keen interest in nuclear issues bearing on public health, regardless of location. In addition, the underlying subject matter of this request concerns the validity of NRC claims for the safety of operation of nuclear power plants, the handling of nuclear wastes and disposal. The public has an acute interest in the truth of representations to the public made by the NRC and other government agencies about nuclear operations and waste.

Citizen Action New Mexico is requesting a full fee waiver for all items requested under this FOIA request with the EPA OIG as the agency solely responsible for any costs associated with this request at no cost to the taxpayer or the requester. We hope this information is sufficient for you to assess our request for a fee waiver.

To the extent that NRC needs to perform a detailed review, Citizen Action requests that all fees be waived because “disclosure of the information is in the public interest . . . and is not primarily in the commercial interest of the requestor” (5 U.S.C. 552 (a) (4)(A)):

If you have any questions about the handling of this request or the information requested therein you may call me at (505) 262-1862.

As the FOIA requires, Citizen Action will look forward to a response from NRC within 20 days. Feel free to contact us by telephone if there are any questions.

Sincerely,

David B. McCoy, Executive Director
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