

2012-0176

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

FINAL



PARTIAL

REQUESTER

Olivia Lucas

DATE

JUL 11 2012

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
A 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
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 *

\$ 639.52

* 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 incoming FOIA request can be located in ADAMS at ML12080A155.

Records with an ML accession number are available in the NRC Library at www.nrc.gov/reading-rm/adams.html. For assistance in obtaining any records, please contact the NRC's Public Document Room (PDR) at 1-800-397-4209 or by e-mail at pdr.resource@nrc.gov.

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

Donna L. Sealing

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

FOIA 2012-0176

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PART II.A -- APPLICABLE EXEMPTIONSAPPENDICES
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 practices 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 4702(b), 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).
- ☐ Disclosure will harm an identifiable private or governmental interest.
- ☒ 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 wrong doing or a violation of NRC requirements from investigators).
- ☐ (C) Disclosure could 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
Pat Hirsch	Asst. General Counsel, OGC		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input 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 A
RECORDS BEING RELEASED IN THEIR ENTIRETY

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/ (PAGE COUNT)</u>
1..	04/9/10	E-Mail from D. White to K. Schneider et al., Subject: Fw: Uranium NRC IMPEP Review of Colorado Agreement State Program (1 page)
2.	04/12/10	E-Mail from C. Brown to D. White Subject: FW: Colorado Department of Public health and Environment Agreement State Program and Atomic Energy Act State Compliance Requirements (4 pages)
3.	04/12/10	E-Mail from C. Brown to D. Sollenberger Subject: Colorado Department of Public health and Environment Agreement Program and Atomic Energy Act State Compliance State Compliance Requirements involving a Uranium Watch attachment letter (6 pages)
4.	05/17/10	E-Mail from D. White to D. Sollenberger, Subject: FW: CDPHE Implementation of Atomic Energy Act Notice and Comment Requirements (1 pages)
5.	06/22/10	E-Mail from D. White, to D. Sollenberger, et al., Subject: Response to Uranium Watch letters re CDPHE compliance with AEA (2 pages)
6.	07/9/10	Letter to S. Fields, Uranium Watch from M. Thaggard, Subject: Concerns You Raised to the NRC Regarding Colorado's Department of Public Health and environment (CDPHE) Agreement Program and Atomic energy Act State Compliance Requirements – FSME – 2010-AS-0080 (4 pages)
7..	12/01/10	E-Mail from D. Schneck, San Miguel County to D. Sollenberger, Subject: RE: Available times to discuss Agreement State Mill program requirements (1 page)
8.	12/01/10	E-Mail from D. Schneck, San Miguel County to D. Sollenberger, Subject: Conference call with San Miguel County staff (1 page)
9..	12/02/10	E-Mail from D. Schneck, San Miguel County to D. Sollenberger, Subject: RE: Conference call with San Miguel County Staff (3 pages)

10. 02/14/11 E-Mail from S. Fields, Uranium Watch to M. Thaggard
Subject: CO Dept. of Public Health and Environment including
A Uranium Watch attachment letter (12 pages)
11. 03/07/11 Branch Evaluation Plan and Recommendation Agreement State
Performance Concern Number: FSME-20011-AS-0004 (4 pages)
12. 03/07/11 Letter to S. Fields, Uranium Watch from C. Brown Subject:
The Concern You raised to the NRC Regarding the CDPHE –
FSME-2011-AS-0004 (4 pages)
13. 03/10/11 E-Mail from J. Parsons, Western Mining Action Project to
D. White Subject: Concerns about Colorado's Agreement
Program (1 page)
14. 03/14/11 E-Mail from S. Fields, Uranium Watch to C. Brown
Subject: FSME-2011-AS-0004 (1 pages)
15. 03/14/11 E-Mail from S. Fields, Uranium Watch to C. Brown
Subject: FSME-2011-AS-0004 (2 pages)
16. 07/05/11 Branch Evaluation, Plan and Recommendation, Agreement State
Performance Concern Number: FSME 2011-AS-0004 (5 pages)
17. 08/16/11 E-Mail from C. Brown to D. White, D. Sollenberger, and
S. Poy Subject: CO (1 page)
18. 09/21/11 E-Mail from C. Brown to S. Poy Subject: CO (1page)
19. 11/22/11 Branch Evaluation, Plan and Recommendation, Agreement State
Performance Concern Number: FSME 2011-AS-0004 (5 pages)
- 20.. 02/29/12 E-Mail from S. Sanderson, Colorado Mining Association to
D. White Subject: NRC issues (2 pages)
21. 02/29/12 E-mail to Dave McIntyre, Victor Dricks, Lara Uselding, Amy
Powell, Rachel Browder, Randy Erickson from Stephen Poy
Subject: Communications Plan Regarding Current Performance
Concerns Involving the Pinon Ridge Uranium Mill License
w/attachment (7 pages)
22. 03/06/12 Letter to S. Fields from D. Jackson Subject: The
Concern You Raided to the NRC Regarding the
CDPHE – FSME-2011-AS-0004 (4 pages)
23. 03/06/12 Letter to J. Parsons, Western Mining Action Project from D.
Jackson Subject: The Concern You Raised to the
NRC Regarding the CDPHE – FSME-2011-As-0004 (3 pages)
24. 03/13/12 E-mail from D. White to D. McIntyre, et al, Subject: Re: Don't
Forget to send me the CI letter (1 page)

25. 03/13/12 E-mail from D. McIntyre, to D. White Subject: Don't Forget to send me the CI letter (1 page)
26. 03/13/12 Email from S. Poy to D. White, Subject: RE: don't forget to send me... (1 page)
27. 03/14/12 E-mail from W. Smith to S. Tarlton, Subject: FW: Google Alert – Sheep Mountain Alliance (1 page)
28. 03/14/12 E-mail from D. White to D. McIntyre Subject: RE: Has CO had any problems under IMPEP? (1 page)
29. 03/14/12 E-mail D. White to D. McIntyre Subject: RE: Is there a March 7 letter to us from CO (1 page)
30. 03/14/12 E-mail from D. White to D. McIntyre Subject: RE: Is there a March 7 letter to us from CO? (1 page)
31. 03/14/12 E-mail from D. White to D. McIntyre Subject: FW: Google Alert – Sheep Mountain Alliance (2 page)
32. 03/14/12 Email from S. Py, to D. McIntyre, Subject: FW: Sensitive Allegation Material... (1 page)
33. 03/14/12 Email from S. Poy to D. McIntyre, Subject: March 7 letter from Steve Tarlton (1 page)
34. 3/15/12 Note to File: FSME-2011-AS-0004 from T. Powell Subject: Record of Phone Conversation (1 page)
- 35.. 3/15/12 E-Mail from D. White P. Jehle Subject: Piñon Ridge (2 pages)
36. 3/15/2012 E-mail from P. Jehle, OGC to D. White et al. Subject: FYI – Public Justice – Richard Webster (1 page)
37. 03/15/12 E-Mail from R. Webster, Public Justice to D. White Subject: Re: Piñon Ridge (2 pages)
- 38.. 03/15/12 E-mail from D. McIntyre to D. White Subject: Re: Pinon Ridge Mill (1 page)
- 39.. 03/15/12 E-mail from D. White to R. Webster, Subject: Pinon Ridge (1 page)
40. 03/15/12 E-mail from D. McIntyre to D. White Subject: Re: Pinon Mill Mill (2 pages)

41. 03/15/12 E-mail from D. McIntyre to cproctor@bzjournals.com
Subject: NRC letters (1 page)
42. 03/15/12 E-mail from D. McIntyre to abaltz@bna.com Subject:
NRC letters (1 page)
43. 03/15/12 E-mail from D. McIntyre to H. Harrington et al., Subject:
Dave's Talking Points (1 page)
44. 03/15/12 E-mail from D. White to D. McIntyre Subject: Re: Pinon
Ridge Mill (2 pages)
45. 03/15/12 E-mail from D. White to D. McIntyre Subject: FW:
Pinon Ridge Mill (1 pages)
- 46.. 03/16/12 E-mail from D. McIntyre to D. White Subject: RE: Pinon
Ridge Mill (3 pages)
47. 03/16/12 E-mail from D. McIntyre to bfinley@denverpost.com
Subject: NRC response (1 page)
48. 03/16/12 E-mail from D. McIntyre to D. Roberts Subject: Re: Pinon
Ridge Mill (3 pages)
49. 03/16/12 E-mail from D. McIntyre to OPA Resource et al., Subject:
Re: (1 page)
50. 03/16/12 E-mail from J. Biggins to D. White Subject: Accepted: Call
with Richard Webster regarding Pinon Ridge lawsuit
(1 page)
51. 03/16/12 E-mail from K. McConnell to S. Burnell et al., Subject:
RE: Boulder Weekly request for information (2 pages)
52. 03/16/12 E-mail from D. McIntyre to S. Burnell, et all Subject:
RE: CDPHE and NRC (2 pages)
53. 03/16/12 E-mail from D. White to D. McIntyre et al., Subject:
RE: CDPHE and NRC (2 pages)
54. 03/16/12 E-mail from D. White to D. McIntyre et al., Subject: RE:
Boulder Weekly request for information (1 page)
55. 03/16/12 E-mail from D. McIntyre to S. Burnell Subject: RE: CDPHE
and NRC (2 pages)

56. 03/16/12 Email from D. McIntyre, to D. White, Subject: RE: Pinon Ridge (4 pages)
57. 03/16/12 E-mail from E. Miller to S. Burnell, Subject: Re: boulder Weekly request for information (2pages)
58. 3/19/12 E-mail from P. Jehle to S. Poy Subject: ML12074A280 – Response Letter from Steve Tralton to Pamela Henderson regarding a NRC Letter dated 2-27/12 (3 page)
- 3/7/12 Attachment: Subject: NRC Letter of February 27, 2012, **Publicly Available in ADAMS – ML12074A280 not included** (2 page)
59. 3/19/12 Accepted Meeting – Call with Richard Webster regarding Piñon Ridge lawsuit (1 page)
60. 03/19/12 E-mail from P. Jehle to R. Webster Subject: FW: Pinon Ridge (1 page)
61. 03/19/12 E-mail . D. White to D. McIntyre Subject: Re: Colorado Compatibility Issues (1 page)
62. 03/19/12 E-mail from P. Jehle to D. White et al., Subject: Re: Call with Richard Webster regarding Pinon Ridge lawsuit (1 page)
63. 03/19/12 E-mail from D. White to P. Jehle et al., Subject: FW: Colorado Compatibility Issues (1 page)
64. 03/19/12 E-mail from D. White to D. McIntyre Subject: FW: Colorado Compatibility Issues (1 page)
65. 03/19/12 E-mail from P. Jehle to R. Webster Subject: Re: Pinon Ridge (3 pages)
66. 3/20/12 E-mail from J. Biggins, to M. Arribas-Colon Subject: Accepted Meeting – Discussion of Colorado hearing Issue (1 page)
67. 03/22/12 E-mail from D. McIntyre to E. Miller Subject: Re: Boulder Weekly request for information (1 page)
68. 4/23/12 Note t File: FSME-2011-AS-0004 from T. Powell, FSME, Subject: Record of Phone Conversation (1 page)

**APPENDIX B
RECORDS BEING WITHHELD IN PART**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/ (PAGE COUNT)</u>
1.	11/19/10	E-mail from D. White to D. Scollenberger Subject: FW: Call from Steve Tarlton (2 pages) EX. 6
2	03/14/12	E-mail from B. McDermott, to M. Satorius et al, Subject: FYI: Colorado Hearing Issue (1 page) EX 6
3.	03/14/12	E-mail from B. McDermott to D. McIntyre, Subject: FYI: SHEEP Mountain Alliance airs NRC Allegation Response (1 page) Ex 6
4.	03/14/12	E-mail from D. McIntyre, to M. Quinones Subject: NRC Finds Colorado State Review of Pinon Ridge Uranium Mill Flawed and Deficient (2 pages) Ex 6
5.	03/15/12	E-mail from D. White to J. Biggins et al. Subject: RE: Pinon Ridge (2 pages) Ex 5 and 6
6.	03/15/12	E-mail from D. White to D. McIntyre et al, Subject: Re: Colorado (1 page) Ex 6
7.	03/15/12	E-mail from D. White to J. Biggins Subject: RE: Pinon Ridge (2 pages) EX. 5
8.	03/16/12	E-mail from B. McDermott to C. Carpenter Subject: FYI: Letter from Colorado on Compatibility issues and press Release (1 page) Ex 6
9.	03/16/12	E-mail from D. McIntyre to OPA4 Resource et al., Subject: Re: Energy Fuels, Inc. (1 page) Ex 6
10.	03/16/12	E-mail from D. McIntyre to S. Burnell, Subject: Re: Pinon Ridge Mill (2 page) Ex 6
11.	03/16/12	E-mail from B. McDermott to S. Burnell, et all., Subject: Re: CDPHE news State Challenges claims and intervention from NRC regarding licensing of uranium mill (2 pages) (letter not provided) Ex 6

12. 03/16/12 E-mail D. McIntyre to Y. Xie Subject: Re: Colorado Uranium (1page) **Ex 6**
13. 03/19/12 E-mail from R. Webster to D. White Subject: RE: Pinon Ridge (1 pages) **EX. 6**
14. 03/19/12 E-mail from R. Webster to D. White Subject: RE: Pinon Ridge (2 pages) **EX. 6**
15. 03/19/12 E-mail from P. Jehle to J. Biggins et al. Subject: RE: Pinon Ridge (2 pages) **EX. 5 and EX. 6**
16. 03/19/12 E-mail from R. Webster to D. White et al. Subject: RE: Pinon Ridge (2 pages) **EX. 6**
17. 03/19/12 E-mail from R. Webster to D. White et al., Subject: RE: Pinon Rige (1 pages) **EX. 6**
18. 03/20/12 E-mail from D. McIntyre to E. Miller Subject: RE: Boulder Weekly request for information (2 pages) **EX. 6**
19. 03/20/12 E-mail from E. Miller to S. Burnell Subject: Re: Boulder Weekly request for information (2 pages) **EX. 6**
20. 03/13/12 E-mail from D. McIntyre Subject: Re: NRC response and CDPHE response (2 pages) **EX. 6**
21. 03/13/12 E-mail from D. White to D. McIntyre Subject: FW: NRC Response and CDPHE response (1 page) **EX. 6**
22. 03/13/12 E-mail from R. Kamp to W. Smith Subject: NRC response and CDPHE response (1 page) **EX. 6**