



RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

2017-0317

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RESPONSE TYPE INTERIM FINAL

REQUESTER:

Julian Tarver

DATE:

MAR 24 2017

DESCRIPTION OF REQUESTED RECORDS:

All internal/external communication and letters to requester in Washington State Attorney General Office, CON-2012-0005

PART I. -- INFORMATION RELEASED

You have the right to seek assistance from the NRC's FOIA Public Liaison. Contact information for the NRC's FOIA Public Liaison is available at <https://www.nrc.gov/reading-rm/foia/contact-foia.html>

- Agency records subject to the request are already available on the Public NRC Website, in Public ADAMS or on microfiche in the NRC Public Document Room.
- 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

NO FEES

AMOUNT*

\$0.00

*See Comments for details

- You will be billed by NRC for the amount listed.
- You will receive a refund for the amount listed.
- Fees waived.
- Minimum fee threshold not met.
- Due to our delayed response, you will not be charged fees.

PART I.B -- INFORMATION NOT LOCATED OR WITHHELD FROM DISCLOSURE

- We did not locate any agency records responsive to your request. *Note:* Agencies may treat three discrete categories of law enforcement and national security records as not subject to the FOIA ("exclusions"), 5 U.S.C. 552(c). This is a standard notification given to all requesters; it should not be taken to mean that any excluded records do, or do not, exist.
- We have withheld certain information pursuant to the FOIA exemptions described, and for the reasons stated, in Part II.
- Because this is an interim response to your request, you may not appeal at this time. We will notify you of your right to appeal any of the responses we have issued in response to your request when we issue our final determination.
- You may appeal this final determination within 90 calendar days of the date of this response by sending a letter or e-mail to the FOIA Officer, at U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, or FOIA.Resource@nrc.gov. Please be sure to include on your letter or email that it is a "FOIA Appeal." You have the right to seek dispute resolution services from the NRC's Public Liaison, or the Office of Government Information Services (OGIS). Contact information for OGIS is available at <https://ogis.archives.gov/about-ogis/contact-information.htm>

PART I.C COMMENTS (Use attached Comments continuation page if required)

[Empty box for comments]

Signature - Freedom of Information Act Officer or Designee

Stephan...



Rob McKenna
ATTORNEY GENERAL OF WASHINGTON
 1125 Washington Street SE • PO Box 40100 • Olympia WA 98504-0100

FOI/PA REQUEST
 Case No.: CON-2012-005
 Date Rec'd: 9/14/12
 Specialist: Kelgore
 Related Cases: _____

FREEDOM OF INFORMATION ACT REQUEST

March 8, 2010

MAR 13 2010 01
 DIVISION OF RECORDS MANAGEMENT

Freedom of Information Act Officer
 U.S. Department of Energy
 1000 Independence Avenue SW
 Washington, DC 20585

Mr. Scott Blake Harris, General Counsel
 U.S. Department of Energy
 Office of the General Counsel
 GC-1/Forrestal Building
 1000 Independence Avenue SW
 Washington, DC 20585

Dear General Counsel Blake and FOIA Officer:

On behalf of the State of Washington, we are formally requesting, pursuant to the Freedom of Information Act, 5 U.S.C. § 552; 10 C.F.R. § 1004, disclosure of copies of all materials, including but not limited to all drafts, letters, documents, memoranda, survey, maps, reports, studies, phone records, notes, tapes, computer disks, electronic mail, or other physical or electronic records located in any office of the U.S. Department of Energy (DOE), or of its agents and contractors, that relate to the following:

1. The decision by Secretary Chu that "a geologic repository at Yucca Mountain is not a workable option for long-term disposition" of spent nuclear fuel and high-level nuclear waste.¹
2. Secretary Chu's "judgment that scientific and engineering knowledge on issues relevant to disposition of high-level waste and spent nuclear fuel has advanced dramatically over the twenty years since the Yucca Mountain project was initiated."²

¹ See U.S. Department of Energy's Motion to Withdraw, NRC Docket No. 63-001, ASLBP No. 09-892-HLW-CAB04 at 1.

² *Id.* at 3.

HQ-2010-01081-F

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3. Any instruction, directives, information, or other guidance to the Nuclear Regulatory Commission (NRC), the Office of Civilian Radioactive Waste Management at the Yucca Mountain, or any other entity associated with the Yucca Mountain project that involves the cessation of any DOE activity associated with the Yucca Mountain project.
4. Any decision or action taken by DOE to withdraw, cease, suspend, or otherwise affect any activity, permit, license, or other authorization applied for by DOE, in connection with the Yucca Mountain project.
5. Any communication directing the DOE, its Secretary, or other employees or agents, to withdraw the Yucca Mountain license application or to cease, suspend, or terminate project activities connected with the Yucca Mountain project.
6. All information that served as the basis or support for Secretary Chu's March 4, 2010 testimony before the Senate Appropriations Subcommittee on Energy and Water Development, specifically, the Secretary's statements in response to questions from Senator Murray that "other conditions...other knowledge as they evolved made it look increasingly like Yucca is not an ideal choice," there was an "unfolding of issues" indicating Yucca is not an option and any other statement by Secretary Chu regarding the Secretary's opinion that Yucca is not an option.³

If any portion of this request is deemed denied, we request a detailed statement of the precise reasons for withholding each item, and an index or similar statement describing each item claimed to be privileged. If nonprivileged materials are commingled with privileged materials, we request that you provide a detailed explanation as to the impossibility of extricating the nonprivileged materials either by providing redacted materials or by providing the same information in some other form. Likewise, please provide a list of names and titles of all persons responsible for the decision to withhold any materials.

Pursuant to the Act and applicable regulations, Washington agrees to pay all reasonable charges incurred under regulation for the search and copying of these materials up to \$2,500.00 upon presentation of an invoice along with the produced materials. Notwithstanding our willingness to pay the above charges, we hereby request that you furnish the documents without charge or at a reduced charge, pursuant to 10 C.F.R. § 1004.4(e) and § 1004.9(a)(8), because disclosure of the information is likely to contribute significantly to public understanding of the operations and activities of the government and disclosure is not in the commercial interest of the requestor State of Washington.

Please direct any correspondence concerning this matter to me and to Mr. Fitz at the addresses below:

³ Secretary Chu's testimony may be viewed at <http://appropriations.senate.gov/webcasts.cfm?method=webcasts.view&id=b72cf918-5224-4777-ac2b-f498b6ef0716>.

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Robert K. Costello
Deputy Attorney General
Washington State Attorney General's Office
Administration Division
P.O. Box 40100
Olympia, WA 98504-0100
Phone: (360) 664-2961

Andrew A. Fitz
Senior Counsel
Washington State Attorney General's Office
Ecology Division
P.O. Box 40117
Olympia, Washington 98504-0117
Phone: (360) 586-6752

I appreciate your prompt attention to this request. Thank you for your assistance.

Sincerely,


ROBERT K. COSTELLO
Deputy Attorney General

RKC:cg

cc: James B. McRae, Assistant General Counsel, Civilian Nuclear Programs, DOE
Bruce Diamond, Assistant General Counsel, Environment, DOE



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

September 14, 2012

CON-2012-00005

Robert K. Costello
Washington State Attorney General's Office
P.O. Box 40100, Administration Division
Olympia, WA 98504-0100

Dear Requester:

We received your Freedom of Information Act/Privacy Act (FOIA/PA) request as a **Referral** from the **Department of Energy (HQ-2010-01081-F)** on **09/14/2012**.

Your request has been assigned the following reference number that you should use in any future communications with us about your request: **CON-2012-00005**.

To ensure the most equitable treatment possible of all requesters, the NRC processes requests on a first-in, first-out basis, using a multiple track system based upon the estimated time it will take to process the request. Based on the records referred to our agency, we estimate completion of your request will be over 20 working days. We will advise you of any change in the estimated time to complete your request.

Due to the unexpected events in Japan, the NRC is experiencing a larger than normal volume of FOIA requests including some that have qualified for expedited processing and have therefore been placed at the front of the queue. We are doing our best to process all requests in a timely manner but our response times are being affected. We appreciate your understanding.

In accordance with our regulations (10 CFR 9.33), we have placed your request in the following category: **Non-Exempted/Other**. However, there will be no fees associated with this request.

The following person is the FOIA/PA Specialist who has been assigned responsibility for your request: **Linda Kilgore** at **301-415-5775**.

If you have questions on any matters concerning your FOIA/PA request please feel free to contact the assigned FOIA/PA Specialist or me at (301) 415-7169.

Sincerely,

/s/

Donna L. Sealing
FOIA/Privacy Act Officer
Office of Information Services

Enclosures:
Incoming Request