



**RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST**

*NWDCS*

NRC FOIA REQUEST NUMBER(S)  
**FOIA -- 89-355**

RESPONSE TYPE

FINAL  PARTIAL

DATE  
**OCT 25 1989**

DOCKET NUMBER(S) (if applicable)

REQUESTER

Mr. John Darke

**PART I. - AGENCY RECORDS RELEASED OR NOT LOCATED (See checked boxes)**

No agency records subject to the request have been located.

No additional agency records subject to the request have been located.

Requested records are available through another public distribution program. See Comments Section.

Agency records subject to the request that are identified on Appendix(es) \_\_\_\_\_ are already available for public inspection and copying in the NRC Public Document Room, 2120 L Street, N.W., Washington, DC 20555.

Agency records subject to the request that are identified on Appendix(es) **A** are being made available for public inspection and copying in the NRC Public Document Room, 2120 L Street, N.W., Washington, DC, in a folder under this FOIA number and requester name.

The nonproprietary version of the proposal(s) that you agreed to accept in a telephone conversation with a member of my staff is now being made available for public inspection and copying at the NRC Public Document Room 2120 L Street, N.W., Washington, DC, in a folder under this FOIA number and requester name.

Agency records subject to the request that are identified on Appendix(es) \_\_\_\_\_ may be inspected and copied at the NRC Local Public Document Room identified in the Comments Section.

Enclosed is information on how you may obtain access to and the charges for copying records placed in the NRC Public Document Room, 2120 L Street, N.W., Washington, DC.

Agency records subject to the request are enclosed.

Records subject to the request have been referred to another Federal agency(ies) for review and direct response to you.

You will be billed by the NRC for fees totaling \$ \_\_\_\_\_.

In view of NRC's response to this request, no further action is being taken on appeal letter dated \_\_\_\_\_ No. \_\_\_\_\_.

**PART II. A - INFORMATION WITHHELD FROM PUBLIC DISCLOSURE**

Certain information in the requested records is being withheld from public disclosure pursuant to the exemptions described in and for the reasons stated in Part II, sections B, C, and D. Any released portions of the documents for which only part of the record is being withheld are being made available for public inspection and copying in the NRC Public Document Room, 2120 L Street, N.W., Washington, DC, in a folder under this FOIA number and requester name.

COMMENTS

SIGNATURE, DIRECTOR, DIVISION OF FREEDOM OF INFORMATION AND PUBLICATIONS SERVICES

*Thomas H. Hundt*

8910310037 891025  
PDR FOIA  
DARKE89-355 PDR

PART II. B — APPLICABLE EXEMPTIONS

Records subject to the request that are described on the enclosed Appendix(es) B are being withheld in their entirety or in part under the Exemptions and for the reasons set forth below pursuant to 5 U.S.C. 552(b) and 10 CFR 9.17(e) of NRC Regulations.

1. The withheld information is properly classified pursuant to Executive Order (EXEMPTION 1)
  2. The withheld information relates solely to the internal personnel rules and procedures of NRC. (EXEMPTION 2)
  3. The withheld information is specifically exempted from public disclosure by statute indicated: (EXEMPTION 3)
    - 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)
  4. The withheld information is a trade secret or commercial or financial information that is being withheld for the reason(s) indicated: (EXEMPTION 4)
    - The information is considered to be confidential business (proprietary) information.
    - The information is considered to be proprietary information pursuant to 10 CFR 2.790(d)(1).
    - The information was submitted and received in confidence pursuant to 10 CFR 2.790(d)(2).
  - X 5. The withheld information consists of interagency or intraagency records that are not available through discovery during litigation. (EXEMPTION 5). Applicable Privilege:
    - X 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.)
  6. The withheld information is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy (EXEMPTION 6)
  7. The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated. (EXEMPTION 7)
    - Disclosure could reasonably be expected to interfere with an enforcement proceeding because it could reveal the scope, direction, and focus of enforcement efforts, and thus could possibly allow them to take action to shield potential wrongdoing or a violation of NRC requirements from investigators. EXEMPTION 7 (A)
    - Disclosure would constitute an unwarranted invasion of personal privacy (EXEMPTION 7(C))
    - The information consists of names of individuals and other information the disclosure of which could reasonably be expected to reveal identities of confidential sources (EXEMPTION 7 (D))
- OTHER

PART II. C — DENYING OFFICIALS

Pursuant to 10 CFR 9.25(b) and/or 9.25 (c) 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 persons responsible for the denial are those officials identified below as denying officials and the Director, Division of Freedom of Information and Publications Services, Office of Administration and Resources Management, for any denials that may be applied to the Executive Director for Operations (EDO).

DENYING OFFICIAL	TITLE/OFFICE	RECORDS DENIED	APPELLATE OFFICIAL	
			SECRETARY	EDO
Mr. Robert D. Martin	Regional Administrator Region IV	B-1 - B-17		X
Mr. Robert M. Bernero	Director, Office of Nuclear Material Safety and Safeguards	B-18		X

PART II. D — APPEAL RIGHTS

The denial by each denying official identified in Part II C may be appealed to the Appellate Official identified in that section. Any such appeal must be in writing and must be made within 30 days of receipt of this response. Appeals must be addressed as appropriate to the Executive Director for Operations or to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should clearly state on the envelope and in the letter that it is an "Appeal from an Initial FOIA Decision."

APPENDIX A  
RELEASED RECORD

1. 5/1/86 Meeting Attendance List (1 page)
2. 7/30/86 NRC/Atlas Meeting of 7/30/86 - Attendance List (1 page)
3. 3/18/87 Note from Dick Bangart to Bob Martin (1 page)
4. Undated List Attendees Representing Atlas Corporation at Meeting with NRC on May 1, 1986 (1 page)



APPENDIX B  
RECORDS WITHHELD IN ENTIRETY - EXEMPTION 5

1. 11/5/86 Draft note from Dale to Dick Bangart (1 page) with attached draft Order to Show Cause Why License Should Not be Modified (Effective Immediately) (4 pages)
2. 3/18/89 Facsimile Transmittal from William L. Brown to Dale Smith (1 page) enclosing draft memorandum from Robert D. Martin to Hugh L. Thompson (4 pages), draft letter to Richard R. Weaver (1 page), and draft Order (1 page)
3. 6/26 Handwritten notes from Dale to Bill regarding Atlas (5 pages)
4. Undated Two draft letters from R. Dale Smith to R.E. Blubaugh (4 pages)
5. Undated Draft letter from Robert D. Martin to Richard R. Weaver (3 pages) with attached draft Order (3 pages)
6. Undated Draft letter from Robert D. Martin to Richard R. Weaver (4 pages) with attached draft Order (3 pages)
7. Undated Draft memorandum from Robert D. Martin to Hugh L. Thompson, Jr. (3 pages)
8. Undated Draft - Appendix A - Order of \_\_\_\_\_ 1987 (8 pages) with attached draft letter from Robert D. Martin to Richard R. Weaver (3 pages) enclosing draft Order (4 pages)
9. Undated Two draft memorandums from William L. Brown to Robert D. Martin and others (2 pages) with attached draft Order to Modify License (5 pages)
10. Undated Draft Order to Modify License (6 pages)
11. Undated Draft Order to Show Cause Why License Should Not Be Modified (Effective Immediately) (2 pages)
12. Undated Draft memorandum from Robert D. Martin to Hugh L. Thompson, Jr. (3 pages) with attached draft letter from Robert D. Martin to Richard R. Weaver (4 pages) enclosing draft Order (3 pages)

APPENDIX B  
RECORDS WITHHELD IN ENTIRETY - EXEMPTION 5  
(Continued)

13. Undated Draft letter from Robert D. Martin to Richard R. Weaver (4 pages) with attached draft Materials License, SUA-917 (11 pages)
14. Undated Draft Materials License, SUA-917 (11 pages)
15. Undated Handwritten notes - Key Events in Chronology (8 pages)
16. Undated Handwritten notes concerning Atlas (2 pages)
17. Undated Draft Appendix A - Order of \_\_\_\_\_ 1987 (7 pages) with attached draft letter from Robert D. Martin to Richard R. Weaver (3 pages) enclosing draft Order (4 pages)
18. Undated Draft Commission paper (8 pages)

MAY 1, 1986

NAME	COMPANY	TITLE
HARRY FETTENGILL	USNRC	BRANCH CHIEF
DAN E. MORGAN	NRC/NRIS	Section Leader
WM. L. BROWN	NRC/RLD	REGIONAL COORDINATOR
JOHN M. DEVANEY	ATLAS	V.P. FINANCE
Edward R. Farley Jr	ATLAS	Chairman & President
Ramsay D. Fotts	Atlas	} Council to Atlas
Shela M.C. Harvey		
Richard R. Weaver	Atlas	Pres. of the Vermont in the Atlas Corp
Richard B. Buehler	Atlas	Regulatory Affairs mgr.
James Holtkamp	Atlas (Van Cott, Bagley, Cornwall E. McCarty)	Utah Council to Atlas
Kenneth E. May	Utah Division of Oil, Gas & Mining	Assoc. Director.
DALE SMITH	USNRC	DIRECTOR, UREC
Ed Hawkins	USNRC	Branch Chief, DLR
Neah M. Shoppen	USNRC	Project Manager, 10

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NRC/ATLAS MEETING OF 7/30/86  
ATTENDANCE LIST

<u>NAME</u>	<u>TITLE</u>	<u>ORGANIZATION</u>
Robert D. Martin	Administrator	NRC/Region IV
Richard L. Bangart	Director, Div. Rad Safety/Safeguards	"
Dale A. Powers	Enforcement Officer	"
DALE SMITH	DIRECTOR, URFO	NRC/RIV
HARRY PETTENSILL	CHIEF/LB#2/URFO	NRC/RIV
DAN E. MARTIN	Section Leader	NMSS/WMLU
W.M. L. BROWN	REGIONAL COUNSEL	NRC/RIV
P.S. CHECK	Dep Administrator	NRC-RIV
R.T. EXBY	VP FINANCE ATLAS MINERALS	
JOHN M. DEVANEY	ATLAS VP-FINANCE	
Richard R. Weaver	Atlas President Atlas Minerals Div.	
E. R. Furley, for RAMSAY D. Potts	Atlas Corp. Chairman of the Board and President Shaw, Pittman Potts & Trowbridge Counsel to Atlas	
Richard Blubaugh	Regulatory Affairs Mgr.	Atlas Minerals Grand Junction