



RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

OIA - 89-375

RESPONSE TYPE

FINAL

PARTIAL

DATE

SEP 13 1989

DOCKET NUMBER(S) (if applicable)

REQUESTER **Tom Foster**

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) A 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) B* 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. App. B & releasable portions of App. C documents 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 **SEP 18 10:03 89**

Donnie H. Shimley

PUBLIC DOCUMENT ROOM

8909180286

PART II B - APPLICABLE EXEMPTIONS

Records subject to the request that are described on the enclosed Appendix(es) C&D 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(a) 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).
- 5. The withheld information consists of interagency or intraagency records that are not available through discovery during litigation. (EXEMPTION 5) Applicable Privilege:
 - 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 appealed to the Executive Director for Operations (EDO).

DENYING OFFICIAL	TITLE/OFFICE	RECORDS DENIED	APPELLATE OFFICIAL	
			SECRETARY	EDO
William T. Russell	Regional Administrator, Reg. 1	C/1 through C/3		X
Robert Bernero	Director, NMSS	C/4		X
Ben B. Hayes	Director, Office of Investigations	D/1		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."

Re: FOIA-89-305

APPENDIX A
RECORDS ALREADY IN THE PDR

1. 7/29/88 Preliminary Notification of Event or Unusual Occurrence - PNO-J-88-79, subject: Senior Reactor Operator Tested Positive for Drug Use. Accession No. 8808110166
2. 7/88 NUREG-0525, Rev. 14 - Safeguards Summary Event List. Accession No. 8808120181
3. 3/29/88 Inspection Report 50-333/88-01. Accession No. 8804060174
4. 8/18/88 Inspection Report 50-333/88-12. Accession No. 8808260393

APPENDIX B
RECORDS BEING PLACED IN THE PDR*

1. 2/5/87 Excerpt: IX-87-12 re Fitzpatrick. (1 page)
2. 5/11/87 Region I Morning Report: Nine Mile Pt. 1 and 2, Update to 5/8 Daily Report. (1 page)
3. 11/17/87 Excerpt IX-87-116 re Nine Mile Pt. (1 page)
4. 11/18/87 Region I Morning Report: Nine Mile Pt. 2, New Contract Employee Tested Positive for Drugs. (1 page)
5. 3/16/88 Event Notification 11769, with AEOD log entry for the event. (1 page)
6. 3/17/88 Region I Morning Report: Nine Mile Point 1, Station employee tested positive for cocaine. (1 page)
7. 4/13/88 Region I Morning Report: Nine Mile Pt. 1, Drugs found in Employee Vehicle in the Parking Lot. (1 page)
8. 4/13/88 Letter from J. Beratta to T. Murley, attaching LER. (4 pages)
9. 4/19/88 Event Notification 12057, with AEOD log entry for the event. (1 page)
10. 4/20/88 Region I Morning Report: Nine Mile Pt. 2, Fitness for Duty. (1 page)
11. 5/17/88 Allegation No. RI-88-A-0062. (1 page)
12. 7/28/88 Region I Morning Report: Nine Mile Pt. 2, License Employee Denied Access Due to Positive Test. (1 page)
13. 8/3/88 Region I Morning Report: Fitzpatrick - Followup to FNO-1-88-79. (1 page)
14. 8/5/88 Region I Morning Report: Fitzpatrick - Update of Positive Drug Test. (1 page)
15. 2/3/89 Region I Morning Report: Nine Mile Pt. 2, Cigarette butt tests positive for indication of marijuana. (1 page)
16. 2/3/89 Event Notification 14533, with AEOD log entry for the event. (1 page)
17. 3/2/89 Letter from J. Beratta to NRC, attaching LER.

* The deletions in the documents identified on this appendix are for information that is outside the scope of the request.

APPENDIX C
DOCUMENTS BEING WITHHELD IN PART

1. 7/14/86 Memo from J.C. Linville to A. Shropshire, subject: Allegation of Presence of User or Distributor of Controlled Substances at Nine Mile Pt. Unit 2 (RI-86-A-0038), released, (1 page) with attachments:
 - a) 7/11/86 Ltr from J.C. Linville to Individual (1 page), portions withheld, Exemption 6
 - b) 6/2/86 Ltr from C.V. Mangan to Kane (1 page), released
 - c) 5/6/86 Ltr from Mangan to Kane (1 page), released
 - d) 4/7/86 Ltr from W. Kane to Mangan (1 page), released
 - e) Undated Allegation Description (2 pages), portions withheld, Exemption 6
 - f) 4/2/86 Handwritten memo from W. Kane to A. Shropshire, (1 page), portions withheld, Exemption 6.
2. 6/1/88 Memo from J. Johnson to Allegation File No. RI-88-A-0048, subject: Closeout of Allegation RI-88-A-0048. (2 pages). Portions withheld, Exemption 6.
3. 6/14/88 Memo from J. Johnson to Alan Shropshire, subject: Closeout of Allegation No. RI-88-A-0062 at Nine Mile Point, released, (1 page), with attachments:
 - a) 6/6/88 Memo from W. Russell to S. Connelly, subject: Unspecified Allegor Concern (1 page), portions withheld, Exemption 6
 - b) 6/1/88 Conversation Record (2 pages), portions withheld, Exemption 6
 - c) Undated Allegation Receipt Report (1 page) portions withheld, Exemption 6
 - d) 5/19 Handwritten note from Jay to Bill Kane, portions withheld, Exemption 6
4. Undated Safeguards Event Report Log, 1989. (1 page) Portions withheld pursuant to Exemption 3 [Other deletions are for information that is outside the scope of the request.]

*4 (PER DONNIE GRIMSTAY)

Re: FOIA-89-305

APPENDIX D
DOCUMENTS BEING WITHHELD IN THEIR ENTIRETY

1. Various Records subject to the request in the Office of Investigations' files relate to an ongoing investigation, and are being withheld in their entirety pursuant to Exemption 7(A).

July 5, 1989

Director, Division of Rules and Records
Office of Administration and Resources Management
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

FREEDOM OF INFORMATION
ACT REQUEST

FOIA-89-305
Rec'd 7-11-89

Dear Sir or Madam:

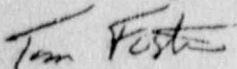
I am writing under the provisions of the Freedom of Information Act to request copies of records, correspondence or any documentation relating to incidents of drug and/or alcohol abuse during the past five years among employees or contractors at the following facilities in Oswego County, N.Y.: Nine Mile 1, Nine Mile 2 and Fitzpatrick. Please include in this request the NEWREG 0525 summary reports for the past five years, but please do not exclude other relevant documents because this document was specifically mentioned.

As you know, the Freedom of Information Act requires an agency to respond to a request within 10 business days. I would appreciate a response as soon as possible and look forward to hearing from you shortly.

Please fill this request and bill my company if the costs do not exceed \$50. If the copying cost are greater than \$50, please contact me by telephone before proceeding. If I can clarify this request or assist in any way, please contact my by telephone at (315) 470-3071 or (315) 788-5460.

If for any reason any portion of this request is denied, please inform me of the reasons for the denial in writing and provide the name and address of the person or body to whom an appeal should be directed. Thank you.

Sincerely,



Tom Foster
The Post-Standard
P v 4818
Syracuse, NY 13221

~~8909180295 (4)~~

April 13, 1988

Dr. Thomas E. Murley
ATT: Document Control Desk
Office of Nuclear Reactor Regulation
United States Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Dr. Murley:

In accordance with 10CFR 73.71(b), enclosed for your information is a copy of a Report of Physical Security Event, reported to the NRC Region I Office by telephone on March 16, 1988.

This information concerns subject matter which is exempt from disclosure under 2.790 d) of the NRC's Rules of Practice, Part 2, Title 10, Code of Federal Regulations. Accordingly, we request that the attachment not be placed in the Public Document Room, and that they be disclosed only in accordance with the provisions of 10CFR 9.12.

Very truly yours,

Joseph P. Beratta
Joseph P. Beratta
Manager, Nuclear Security

/kac

Enclosures

8804180-269

* 1X21
1/1
B/8

P436284434