



U.S. NUCLEAR REGULATORY COMMISSION

PDR (P-37)

RESPONSE TO FREEDOM OF
INFORMATION ACT (FOIA) REQUEST

NRC FOIA REQUEST NUMBER(S)

FOIA — 90-21

RESPONSE TYPE

☒ FINAL
DATE☐ PARTIAL

JUN 27 1990

DOCKET NUMBER(S) (if applicable)

REQUESTER

Chris Trepal

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) F 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

9007160236 900627
PDR FOIA
TREPAL90-21 PDR

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

Ronnie H. Shimley

FREEDOM OF INFORMATION ACT RESPONSE

FOIA NUMBER(S):

FOIA --90-21

DATE

JUN 27 1990

PART II. B - APPLICABLE EXEMPTIONS

Records subject to the request that are described on the enclosed Appendix(es) G & H 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 prohibit 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 commercially sensitive 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
Bert Davis	Regional Administrator Region III	G/1 - G/2		X
Joseph Scinto	Deputy General Counsel for Hearings and Enforcement	H/1 - H/2	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 I
DOCUMENTS BEING PLACED IN THE PDR**

NUMBER	DATE	DESCRIPTION
1.	02/1979	Survey Report - McGean Chemical Co., Harvard Avenue, Cleveland, Ohio (94 pages)
2.	08/28/79	NL Industries, Inc. Decon Project, McGean Chemical Co., Health Physics, Operating Procedures (19 pages)
3.	Undated	Summary Sheet - IMNS Originator (1 page)
4.	Undated	Table summarizing IMNS Summary Sheet - LLWM Originator (2 pages)
5.	Undated	Prioritization of Sites (1 page)
6.	04/14/88	Items for EDO Staff Meeting (1 page)
7.	05/01/89	Note from LaRoche to File, Subject: Conference Call Concerning Chemetron's Harvard Avenue Site, April 26, 1989 (1 page)

APPENDIX G

DOCUMENTS BEING WITHHELD IN PART

NUMBER	DATE	DESCRIPTION
1.	08/19/80	<p>Letter from Ralph Meyer to Vandy L. Miller transmitting a memorandum dated 08/06/80 from James G. Keppler to J. H. Snizek with attached map, Subject: Status Report on Decommissioning Of Facility Used By Chemetron Corp. At Newburg Hts., Ohio, Lic. No. SUB-1357 (4 pages)</p> <p>A portion of page 2 of the James G. Keppler memorandum is being withheld. Exemption 5</p>
2.	04/13/88	<p>Memorandum from Charles E. Norelius to Richard E. Cunningham, Subject: Chemetron Corporation Filing for Chapter 11 (2 pages)</p> <p>A portion of page 1 is being withheld. Exemption 5</p>

APPENDIX M
DOCUMENTS BEING WITHHELD IN THEIR ENTIRETY

NUMBER	DATE	DESCRIPTION
1.	04/28/88	Note from Robert M. Weisman to Gerry Lakoche, Subject: Chemetron Site Decontamination: Effect of Bankruptcy (2 pages) Exemption 5
2.	01/31/89	Memorandum from Lawrence J. Chandler to Hugh L. Thompson, Jr., Subject: 2.206 Petition Filed By McGean-Rohco, Inc. Regarding Decontamination Of The Chemetron (Harvard Avenue) Site with attachments (10 pages) Exemption 5



SIERRA CLUB

Northeast Ohio Group
Cleveland, Ohio

P.O. Box 770743
Cleveland, OH 44107-0035
January 9, 1990

Director
Office of Administration
U.S. Nuclear Regulatory Commission
Washington, DC 20555

FREEDOM OF INFORMATION
ACT REQUEST

FOIA-90-2
Rec'd 1-17-90

RE: FOIA Request

Dear Director,

I would like to request information/records about the Bert Avenue Site in Newburgh Heights Ohio (44105) under the Freedom of Information Act (FOIA). This site is presently owned by the McGean-Rohco, Inc.

I would like to request copies of any and all agency records generated in connection with the following:

- 1) Any historical site characterizations, monitoring records site visits, correspondence, memos from the Atomic Energy Commission from the site.
- 2) Any letters, memos, reports that indicate when the site was first used.
- 3) Any letters, memos, reports, records, etc. that indicate past manufacturing processes that contributed to the wastes deposited on site.
- 4) Any records to indicate the cessation of use of site as a 'dump'.
- 5) A copy of the Bore Hole Water Sampling study or report and all readings associated with this sampling.
- 6) A copy of the most recent (and any historical) study conducted by the Oak Ridge National Laboratory or any other Department of Energy facility.
- 7) The Site Characterization
- 8) The Environmental Impact Statement
- 9) Any analyses, reports, studies, letters memos on the analysis of the topography, hydro-geology or geology of the site.
- 10) Any report on surface water, ground water or aquifer contamination on site.

"When we try to pick out anything by itself, we find it hitched to everything else in the universe."

JOHN MUIR

~~90-7050155 (BP)~~



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Northeast Ohio Group
Cleveland, Ohio

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Newburgh Heights, Ohio 4410

- 11) A copy of the Clean up Plan
- 12) Any letters, memos, studies, etc. that indicate who has financial responsibility (legal responsibility) for the site. Is there a parent company for the responsible party? Report on financial ability of responsibility for clean-up (Memo, etc. on bankruptcy funds or parent company responsibility).
- 13) Report, study, memos, etc. that indicate specific isotopes on site (transuranics, fission product elements, enriched materials present?)
- 14) Copy of the study, report on Clean up options and commitment to any chosen option.
- 15) Letter, memos, etc. on the condition of fence around site? Are there signs to notify residents, trespassers?
- 16) Letters, memos, etc. to indicate when clean up will start on site.
- 17) Letters, memos, reports to indicate who is contractor, sub-contractor for clean-up. Any indications of relationship of clean up contractor to responsible party or parent company.
- 18) A copy of the Remediation Plan, Work Plan, any previous plans, the November 2, 1988 Addendum (NRC approved) to plan.
- 19) Any reports, letters, memos, etc on the excavations on site.
- 20) Any maps, topographical, hydro-geo, etc. that indicate readings of radioactivity. A copy of all Walk Over Surveys
- 21) Any reports, studies, letters, memos on drum readings.
- 22) Any letters, memos, records on public health concerns.
- 23) Any records, memos of physical inspections of drums.
- 24) Any records on population proximity, houses, schools, etc. that are near or abut the site.
- 25) Any diagrams of storm sewers, other sewers on site. Any letters, memos from City officials, departments, agencies concerning site. Any reports on clean up efforts on site before construction of sewers
- 26) Any records of surface contamination - depth - highest readings on site.



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- 27) Any records of monitoring on or off site (abutting properties)
- 28) Any records indicating volume of Class A, B or C wastes.
De minimis wastes?
- 29) Risk Assessment
- 30) Records to indicate transportation routes of wastes.
Where will the wastes go? Is incineration an option?
- 31) Any records to indicate sewer back up adjacent to site.
- 32) Any record to indicate involvement of Brook Creek, Cuyahoga River from site contamination.
- 3.) Are storm sewers, other sewers installed on site? Any letters, memos, records.

I am requesting this information for the use of the Sierra Club and members of the public. I would like to request a waiver of any fees associated with the gathering or copying of this information because we are a public interest group. The main functions of our group are to gather information, educate our members and the public and participate in local, state and federal meetings or hearings. The information that you will make available to us will not be used in a commercial manner because we are a volunteer environmental organization.

I would like to request this material to have a clearer understanding of the current and past history of the Bert Avenue site and a complete understanding of your agency's involvement and activities on site.

For any documents or portions of documents that you deny due to a specific FOIA exemption, please provide an index itemizing and describing the documents or portions of documents withheld. The index should provide a detailed justification of your grounds for claiming each exemption, explaining why each exemption is relevant to the document or portion of the document withheld.

Thank you in advance for sending these materials. I look forward to your response to this request within ten days.

Sincerely,

Chris Trepal, Conservation Chair, Northeast Ohio Sierra Club