



7/10/03

RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

FOIA — 93-306

RESPONSE TYPE

FINAL PARTIAL

DATE

JUN 10 1993

DOCKET NUMBER(S) (if applicable)

REQUESTER

Karen M. Unnerstall

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 in Appendix(es) _____ are already available for public inspection and copying at the NRC Public Document Room, 2120 L Street, N.W., Washington, DC.

Agency records subject to the request that are identified in Appendix(es) A are 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.

(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.

Agency records subject to the request that are identified in 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 located at the NRC Public Document Room, 2120 L Street, N.W., Washington, DC.

Agency records subject to the request are enclosed. Appendix A document is enclosed.

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

Fees

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

You will receive a refund from the NRC in the amount of \$ _____.

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, 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.

COMMENTS

You will not be billed for processing fees since the minimal fee limit was not exceeded.

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PDR FOIA
UNNERST93-306 PDR

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

Walter H. Mansley

Re: FOIA-93-306

APPENDIX A
DOCUMENT BEING PLACED IN THE PDR

NUMBER	DATE	DESCRIPTION
1.	3/24/93	Letter from James Lieberman to William Manion, Nuclear Energy Services, subject: Settlement Agreement with Arnold Gundersen; Demand for Information. (2 pages)

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20665-0001

MAR 24 1993

Docket No. 030-22060

Nuclear Energy Services
ATTN: William Manion, President
1000 Shelter Rock Road
Danbury, Connecticut 06810

SUBJECT: SETTLEMENT AGREEMENT WITH ARNOLD GUNDERSEN;
DEMAND FOR INFORMATION

This is to advise you that the Nuclear Regulatory Commission has received a letter dated February 12, 1993, from Arnold Gundersen, a former employee of Nuclear Energy Services (NES), challenging certain sections of the settlement agreement between Mr. Gundersen and NES dated December 29, 1990 (copy enclosed). In his letter, Mr. Gundersen asserts that paragraphs 4, 6, 7, 9, and 11 violate 10 CFR 30.7(g), which provides that no agreement affecting the compensation, terms, conditions, and privileges of employment may contain any provision which would prohibit, restrict, or otherwise discourage an employee from participating in protected activities. Mr. Gundersen requests that the NRC declare the settlement illegal and to be null and void. In addition, Mr. Gundersen requests that the NRC rule that a civil suit filed against him by NES is illegal.

The NRC has reviewed Mr. Gundersen's letter and it appears that certain provisions of the settlement agreement, specifically paragraphs 6, 7, and 10, may possibly prohibit Mr. Gundersen from exercising the rights guaranteed by Section 211 (formerly Section 210) of the Energy Reorganization Act. Such a prohibition would be a violation of 10 CFR 30.7(g) and also would be void as against public policy and, therefore, such provisions would be unenforceable by either party to the settlement.

Pursuant to Sections 161c and 161o of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and 30.32(b), in order for the Commission to determine whether enforcement action should be taken in this matter, you are required to respond to me in writing and under oath or affirmation, within 30 days of the date of this letter, concerning the following matters:

- (1) why the NRC should not conclude that the settlement agreement violates 10 CFR 30.7(g);
- (2) since Mr. Gundersen believes the settlement agreement attempts to prohibit him from bringing matters to the attention of the NRC, what action have you taken, and

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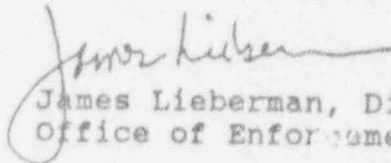
Nuclear Energy Services

- 2 -

what actions do you plan to take, to inform Mr. Gundersen that no portion of the settlement agreement should be interpreted as prohibiting him from exercising his rights under Section 211.

If you have any questions on this matter, please contact me.

Sincerely,



James Lieberman, Director
Office of Enforcement

Enclosure: As Stated

cc: w/o Enclosure
E. Hadley