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U.S. NUCLEAR REGULATORY COMMISSION

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

NRC FOIA REQUEST NUMBER(S) <b>FOIA — 93-236</b>	
RESPONSE TYPE	
<input type="checkbox"/> FINAL	<input checked="" type="checkbox"/> PARTIAL
DATE <b>JUN 14 1993</b>	
DOCKET NUMBER(S) (if applicable)	

REQUESTER  
**Ted Wendling**

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

<input type="checkbox"/>	No agency records subject to the request have been located.
<input type="checkbox"/>	No additional agency records subject to the request have been located.
<input type="checkbox"/>	Requested records are available through another public distribution program. See Comments section.
<input type="checkbox"/>	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.
<input checked="" type="checkbox"/>	Agency records subject to the request that are identified in Appendix(es) <u>A</u> 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.
<input type="checkbox"/>	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.
<input type="checkbox"/>	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.
<input type="checkbox"/>	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.
<input checked="" type="checkbox"/>	Agency records subject to the request are enclosed.*
<input checked="" type="checkbox"/>	Records subject to the request have been referred to another Federal agency(ies) for review and direct response to you.
<b>Fees</b>	
<input type="checkbox"/>	You will be billed by the NRC for fees totaling \$ _____.
<input type="checkbox"/>	You will receive a refund from the NRC in the amount of \$ _____.
<input type="checkbox"/>	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**

<input checked="" type="checkbox"/>	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.
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**COMMENTS**

\*Agency records subject to your FOIA request that are identified on the enclosed Appendix A and the releasable portions of the records identified on the enclosed Appendix B are enclosed.

The NRC is continuing to review records subject to your request. We will notify you upon completion of the review.

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

*Donna H. Chinsley*

9404130310 940614  
PDR FOIA  
WENDLING93-236 PDR

*9404130310*

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

FOIA NUMBER(S)

**FOIA -- 93-236**

DATE

**JUN 14 1993**

**PART II. B - APPLICABLE EXEMPTIONS**

Records subject to the request that are described in the enclosed Appendix(es) B & C are being withheld in their entirety or in part under the Exemption No.(s) and for the reason(s) given below pursuant to 5 U.S.C. 552(b) and 10 CFR 9.17(a) of NRC regulations.

<input type="checkbox"/>	1. The withheld information is properly classified pursuant to Executive Order. (Exemption 1)
<input type="checkbox"/>	2. The withheld information relates solely to the internal personnel rules and procedures of NRC. (Exemption 2)
<input type="checkbox"/>	3. The withheld information is specifically exempted from public disclosure by statute indicated. (Exemption 3)
<input type="checkbox"/>	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).
<input type="checkbox"/>	Section 147 of the Atomic Energy Act, which prohibits the disclosure of Unclassified Safeguards Information (42 U.S.C. 2167).
<input type="checkbox"/>	4. The withheld information is a trade secret or commercial or financial information that is being withheld for the reason(s) indicated. (Exemption 4)
<input type="checkbox"/>	The information is considered to be confidential business (proprietary) information.
<input type="checkbox"/>	The information is considered to be proprietary information pursuant to 10 CFR 2.790(d)(1).
<input type="checkbox"/>	The information was submitted and received in confidence pursuant to 10 CFR 2.790(d)(2).
<input checked="" type="checkbox"/>	5. The withheld information consists of interagency or intraagency records that are not available through discovery during litigation. (Exemption 5). Applicable Privilege:
<input checked="" type="checkbox"/>	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.
<input type="checkbox"/>	Attorney work-product privilege. (Documents prepared by an attorney in contemplation of litigation.)
<input type="checkbox"/>	Attorney-client privilege. (Confidential communications between an attorney and his/her client.)
<input checked="" type="checkbox"/>	6. The withheld information is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy. (Exemption 6)
<input checked="" type="checkbox"/>	7. The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated. (Exemption 7)
<input type="checkbox"/>	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 recipients to take action to shield potential wrongdoing or a violation of NRC requirements from investigators. (Exemption 7 (A))
<input checked="" type="checkbox"/>	Disclosure would constitute an unwarranted invasion of personal privacy. (Exemption 7(C))
<input type="checkbox"/>	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, for any denials that may be appealed to the Executive Director for Operations (EDO).

DENYING OFFICIAL	TITLE/OFFICE	RECORDS DENIED	APPELLATE OFFICIAL		
			EDO	SECRETARY	IG
Joseph Scinto	Deputy General Counsel for Hearings, Enforcement, and Administration	Appendices B & C		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 there. Any such appeal must be made in writing within 30 days of receipt of this response. Appeals must be addressed, as appropriate, to the Executive Director for Operations, to the Secretary of the Commission, or to the Inspector General, 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."

# THE PLAIN DEALER

OHIO'S LARGEST NEWSPAPER

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OHIO TOLL FREE  
800-362-0727

April 22, 1993

Donnie Grimsley, Director  
FOIA and Publication Services  
Nuclear Regulatory Commission  
MS P-370  
Washington, D.C. 20555

FREEDOM OF INFORMATION  
ACT REQUESTFOIA-93-236  
Rec'd 4-26-93

Dear Mr. Grimsley:

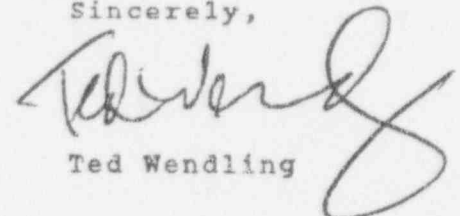
This is a request for access to public records under 5 USC 552, the Freedom of Information Act. Under provisions of that statute, I am requesting copies of the following records:

1. NRC Office of Investigations case reports 3-85-015 and 3-86-010.
2. Any Department of Justice referral letters or declination letters pertaining to the above two cases. I am also asking for copies of any indictments, dismissals or other correspondence between DOJ and NRC pertaining to these two cases.

If any of these records are withheld, I'm requesting a written citation of the applicable FOIA exemption for each record, or portion thereof, that is denied. I am also asking for a waiver of search and copying fees because the information gained in this request will be used in stories I am writing for this newspaper.

Thanks for your help. If you have any questions, I can be reached at (216) 344-4987.

Sincerely,



Ted Wendling

9403300204

APPENDIX A  
DOCUMENTS BEING PLACED IN THE PDR

NUMBER	DATE	DESCRIPTION
		CASE NO. 3-85-015
1.	07/21/86	Letter from Hayes to Toensing (1 page)
2.	03/09/87	Letter from Toensing to Murray (3 pages)
3.	04/10/87	Letter from Walker to Carlson (4 pages)
4.	04/15/87	Letter from Hayes to Weld (1 page)
5.	05/24/88	Letter from Stein to NRC (1 page)
6.	07/11/88	Order granting motion to dismiss indictment (1 page)
		CASE NO. 3-86-010
7.	02/12/87	Letter from Walker to Carlson (1 page)
8.	04/15/87	Letter from Hayes to Weld (1 page)
9.	04/20/87	Letter from Walker to Carlson (1 page)
10.	04/22/87	Letter from Walker to Carlson (1 page)
11.	06/15/87	Letter from Walker to Brown (1 page)
12.	07/22/87	Letter from Walker to Brown (2 pages)
13.	09/15/87	Letter from Walker to Brown (1 page)
14.	03/03/88	Letter from Walker to Brown (1 page)
15.	03/25/88	Letter from Walker to Brown (1 page)
16.	04/07/88	Letter from Walker to Brown (1 page)
17.	03/23/87	Letter from Murray to Toensing (1 page)
18.	03/30/87	Letter from Woodhead to Carlson (3 pages)
19.	03/14/89	Memorandum from Kagan to Advanced Medical Defendants (47 pages)

## APPENDIX B

## DOCUMENTS BEING WITHHELD IN PART

NUMBER	DATE	DESCRIPTION
		CASE NO. 3-85-015
1.	09/12/84	Occupational External Radiation Exposure History - NRC Form 4 (2 pages) Exemptions 6 & 7 (C)
2.	06/24/86	ROI 3-85-015, Advanced Medical Systems, Inc., Alleged Material False Statement (28 pages) Exemptions 6 & 7 (C)
		CASE NO. 3-86-010
3.	06/09/87	Memorandum, subject: June 8, 1987 Telecon Request (1 page) Exemptions 6 & 7 (C)
4.	09/02/87	Letter concerning subpoenas served on individuals regarding Advanced Medical Systems, Inc. (2 pages) Exemptions 6 & 7 (C)
5.	09/30/87	Letter furnishing response to request for information (2 pages) Exemptions 6 & 7 (C)
6.	01/13/88	Letter furnishing information regarding overexposure (2 pages) Exemptions 6 & 7 (C)
7.	03/10/89	ROI 3-86-010, Advanced Medical Systems, Inc., Alleged Willful Assignment of Unqualified and Unlicensed Service Engineers to Conduct Service Requiring a License and Providing a False Document to the NRC; Alleged Falsification of Sealed Source Leak Test Data; Allegedly Providing Test Answers to Applicants for a Service License; and Alleged Failure to Notify the NRC of a Defect Affecting the Operation of the Cobalt-60 C-9 Teletherapy Unit (54 pages) Exemptions 6 & 7 (C)

APPENDIX C  
DOCUMENTS BEING WITHHELD IN THEIR ENTIRETY

NUMBER	DATE	DESCRIPTION
		CASE NO. 3-86-010
1.	03/1987	NRC Staff Motion for Stay of Proceeding In the Matter of Advanced Medical Systems, Inc. (Draft) (10 pages) Exemption 5