

WHDOS

RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

FOIA — 93-115

RESPONSE TYPE

☒ FINAL☐ PARTIAL

DATE

JUL - 6 1993

DOCKET NUMBER(S) (if applicable)

REQUESTER

Thomas E. Lenhart

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) C 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.☐ 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.☐ 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.☐ Records subject to the request have been referred to another Federal agency(ies) for review and direct response to you.☒ Fees (NONE)☐ 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

*The records identified on enclosed Appendices C and D are the remaining records responsive to your request. A copy of the Appendix C record is enclosed. The record on Appendix D is being withheld in its entirety. As you are aware, additional records responsive to this request have been addressed under your FOIA request, FOIA-93-168. You are not being assessed fees for the processing of your request since the minimal fee limit has not been exceeded. This completes NRC's action on your request.

9404270223 930706
PDR FOIA
LENHART93-115 PDR

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

Carol Ann Harris

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

FOIA NUMBER(S)

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PART II.B — APPLICABLE EXEMPTIONS

Records subject to the request that are described in the enclosed Appendix(es) D 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.

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 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 recipients 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, 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
John B. Martin	Regional Administrator, RIII	App. D	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."

APPENDIX C

RECORDS MAINTAINED IN THE PDR UNDER THE ABOVE REQUEST NUMBER

NUMBER	DATE	DESCRIPTION
1.	3/3/93	Letter to James Taylor from William B. Schatz re: Request for Action on License #34-19089-01, (2 pgs.).

APPENDIX D

DOCUMENTS BEING WITHHELD IN THEIR ENTIRETY

NUMBER	DATE	DESCRIPTION
1.	8/24/87	Ltr W. F. Kolis to NRC re: Financial Statements, Tax Returns, and Stock Ownership, w/attachments, (123 pgs.). EXEMPTION 4.



Northeast Ohio Regional Sewer District

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February 25, 1993

FREEDOM OF INFORMATION
ACT REQUEST

Director, Division of Freedom of
Information & Publications Services
Office of Administration
U. S. Nuclear Regulatory Commission
Washington, D.C. 20555

FOIA-93-115
Rec'd 3-1-93

Re: Request for Documents, FOIA

Dear Director:

On February 17, 1993, representatives of the Northeast Ohio Regional Sewer District (NEORSR) conducted a review of various licensee files at Region III in Glen Ellyn. This review was part of the NEORSR's investigation of the contamination of the Southerly Wastewater Treatment Center with Cobalt-60. During the course of reviewing the file on Advanced Medical Systems, Inc. there were several documents to which we were denied access due to the potential for confidential treatment by the NRC. NEORSR believes these documents contain relevant information and we therefore request that the following documents be made available for our review pursuant to the Freedom of Information Act:

1. An allegation follow-up dated 4/3/91 regarding a conversation in a bar concerning radioactive discharges from Advanced Medical Systems, Inc. (file AMS # RIII-91-A-0017);
2. From AMS file H-1
 - a) a 10/26/92 memorandum from D J. Sreniawski to the Regional Allegation Coordination regarding AMS discharges,
 - b) a 1982 report regarding personnel over exposures at AMS, and
 - c) information regarding accumulated exposures at time of termination of AMS employees. (NEORSR is interested in the names of employees and dates of termination; not in the exposure information).
3. From AMS file # H-2
 - a) all AMS financial statements,
 - b) all AMS tax returns, and
 - c) information regarding stock ownership in AMS.

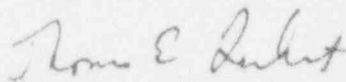
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Director
February 25, 1993
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As the NRC is aware, the management of the NEORSD is committed to addressing any health, safety or environmental problems associated with the Cobalt-60 contamination at Southerly. The cost of addressing these problems should, however, be allocated in an equitable manner. The above requested information is critical to this task, and we trust that the NRC will cooperate with all parties to reach an equitable solution regarding the incident.

The above information is being requested by a political subdivision in conjunction with its investigation of the contamination of its facility by an NRC licensee. The NEORSD, therefore, has no commercial interest in the requested documents and requests a fee waiver pursuant to 10 CFR 9.41.

Sincerely,


Thomas E. Lenhart
Assistant General Counsel

TEL/ydm

cc: Richard Bangart
Charles Norelius
William Schatz
Sara Fagnilli