

FILE ORIGINAL IN:

- NEW EA FILE 86-110

- EA FILE _____

MAKE COPIES FOR:

- REVIEWER
- AXELRAD
- TAYLOR
- VOLLNER _____
- LIEBERMAN (CLO)
- JORDAN _____
- PARTLOW
- GRIMES _____
- _____
- EISENHUT (NRR)
- CHAPPELL (NMSS) _____
- HOLOMAN (NRR)
- R. BURNETT _____

Rancho Seco
LICENSEE

Rec'd 6/23/84

Robinson
REVIEWER

Thank you,

Jane A. Axelrad, Director
Enforcement Staff

IF YOU HAVE COMMENTS, PLEASE CONTACT REVIEWER OR J. AXELRAD WITHIN FIVE DAYS
IF AT ALL POSSIBLE.

Information in this record was deleted
in accordance with the Freedom of Information
Act, exemptions 3
FOIA- 90-A-27

cl)

Document Name:
CP PKG RANCHO SECO EA 86-110

Requestor's ID:
IRMA

Author's Name:
A. Johnson

Document Comments:
Debbie, 6/18/86



RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

RESPONSE TYPE	
FINAL	<input checked="" type="checkbox"/> PARTIAL
DATE APR 26 1990	
DOCKET NUMBER(S) (if applicable)	

REQUESTER
Barry A. Zimmerman

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 checked="" type="checkbox"/>	Agency records subject to the request that are identified on Appendix(es) <u>A</u> are already available for public inspection and copying in the NRC Public Document Room, 2120 L Street, N.W., Washington, DC 20555.
<input checked="" type="checkbox"/>	Agency records subject to the request that are identified on Appendix(es) <u>B</u> 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.
<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 and requester name.
<input type="checkbox"/>	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.
<input checked="" type="checkbox"/>	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.
<input checked="" type="checkbox"/>	Agency records subject to the request are enclosed [Documents identified on Appendix B are enclosed]
<input type="checkbox"/>	Records subject to the request have been referred to another Federal agency(ies) for review and direct response to you.
<input type="checkbox"/>	You will be billed by the NRC for fees totaling \$ _____.
<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, 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.
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COMMENTS

This response does not include records that were addressed in the NRC response to the FOIA appeal (FOIA-89-A-7) filed by Marton Friedman of your law firm in 1989.

The records identified on Appendix A are also maintained at the Local Public Document Room for Rancho Seco at the following address:

Martin Luther King Regional Library
7340 24th Street Bypass
Sacramento, CA 95822
Contact: Ms. Bess Chen
Telephone: (916) 421-3151

John D. Phelan
SIGNATURE, DIRECTOR, DIVISION OF FREEDOM OF INFORMATION AND PUBLICATIONS SERVICES

~~9006120119~~ (5pp)

PART II B - APPLICABLE EXEMPTIONS

Records subject to the request that are described on the enclosed Appendix(es) C 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)
 - X 5 The withheld information consists of interagency or intraagency records that are not available through discovery during litigation (EXEMPTION 5) Applicable Privilege
 - X 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 fact 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
James Lieberman	Director, Office of Enforcement	Appendix 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 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 A
DOCUMENTS ALREADY AVAILABLE IN THE PDR

NUMBER	DATE	DESCRIPTION
1.	6/6/86	Letter from R. Scarano to J. Ward, subject: NRC Inspection Report. PDR Accession No. 8606200309
2.	6/6/86	Letter from R. A. Scarano to John Ward, subject: NRC Inspection Report. PDR Accession No. 8606200075
3.	12/23/87	Letter from J. Martin to G. C. Andongnini, subject: Request for Information. PDR Acc. No. 8712290255
4.	1/13/89	Letter from J. Martin to J. F. Firlit, subject: Notice of Violation and Proposed Imposition of Civil Penalty (Inspection Report No. 50-312/86-15). PDR Accession No. 8901190351
5.	2/13/89	Letter from J. F. Firlit to James Lieberman, subject: Response to Notice of Violation EA 86-110. PDR Acc. No. 8902240300
6.	3/1/89	Letter from J. Lieberman to J. F. Firlit, acknowledging receipt of payment for civil penalty. PDR Acc. No. 8903090392

APPENDIX B
DOCUMENTS BEING PLACED IN THE PDR

NUMBER	DATE	DESCRIPTION
1.	12/11/87	Memo to the File from James Lieberman, subject: Rancho Seco (EA 86-110). (1 page)
2.	12/15/87	Note to File from Jim Lieberman, subject: Conversation With Tom Flynn AVSA Rancho Seco EA 86-110. (1 page)
3.	12/29/87	Note to Files from Jim Lieberman, subject: Rancho Seco EA 86-110. (1 page)
4.	4/11/88	Note to File from J. Lieberman, subject: Rancho Seco. (1 page)
5.	1/13/89	Office of Enforcement Notification of Significant Enforcement Action - Proposed Imposition of Civil Penalty (EA 86-110) (1 page)
6.	2/22/89	NRC Invoice to Sacramento Municipal Utility District - receipt of full payment for EA 86-110, dated January 13, 1989, Docket No. 50-312, in the amount of \$100,000. (2 pages)
7.	4/26/89	Enforcement Action Tracking System Data Sheet, subject: Rancho Seco EA 86-110. (1 page)

APPENDIX C
DOCUMENTS BEING WITHHELD IN THEIR ENTIRETY

NUMBER	DATE	DESCRIPTION
1.	6/23/86	Unsigned draft enforcement package, consisting of: 1) draft memo from A. D. Johnson to Jane Axelrad, subject: Rancho Seco Notice of Violation and Proposed Imposition of Civil Penalties Relating to Release of Radioactive Liquid Effluents and Emergency Preparedness, 2) draft letter from John Martin to Dewey K. K. Lowe, subject: Notice of Violation and Proposed Imposition of Civil Penalties, and 3) draft Notice of Violation and Proposed Imposition of Civil Penalty. (12 pages) Withheld in entirety pursuant to Exemption 5.
2.	12/14/87	Memo from James Lieberman to various addressees, subject: Rancho Seco (EA 86-110), attaching draft letter to G. Carl Andognini regarding Request for Information. (4 pages) Withheld in entirety pursuant to Exemption 5.
3.	10/11/88	Memo from James Lieberman to J. B. Martin, subject: EA 86-110 Rancho Seco Radioactive Effluent Discharge, attaching draft Commission paper. (12 pages) Withheld in entirety pursuant to Exemption 5.
4.	Undated	Unsigned draft letter from J. Martin to Dewey K. K. Lowe, subject: Notice of Violation and Proposed Imposition of Civil Penalty (Inspection Report Nos. 50-312/86-14, 50-312/86-15) (7 pages) Withheld in entirety pursuant to Exemption 5.

FRIEDMAN, COLLARD & POSWALL

PROFESSIONAL CORPORATION¹7750 COLLEGE TOWN DRIVE, SUITE 300
SACRAMENTO, CALIFORNIA 95828TELEPHONE (916) 381-9011
FACSIMILE (916) 381-7048MORTON L. FRIEDMAN²
WILLIAM M. COLLARD³
JOHN M. POSWALL⁴
ALLAN J. OWEN
MICHAEL L. HANKS
R. PARKER WHITE
WILLIAM M. BRIGGS
GEORGANN B. JOHNSTON
J. CLEVE LIVINGSTON
PETER J. STUBBS
BARRY A. ZIMMERMAN

February 14, 1990

FREEDOM OF INFORMATION
ACT REQUESTFOIA-90-76
Rec'd 2-21-90Donnie H. Grimsley, Director
Division of Freedom of Information
and Publication Services
Offices of Administration and
Resources Management
UNITED STATES NUCLEAR REGULATORY
COMMISSION
Washington, D.C. 20555

Re: Freedom of Information Act Request

Dear Mr. Grimsley:

As you will recall, on November 3, 1988, a Freedom of Information Act request was made on behalf of persons living within the vicinity of the Rancho Seco Nuclear Power Plant with respect to the United States Attorney's criminal investigation of Sacramento Municipal Utilities District employees following the discharge of radioactive liquid waste water at the plant. A portion of this FOIA request was referred to the Nuclear Regulatory Commission. See your FOIA number 89-2.

The NRC has previously produced those records it supplied to the U.S. Attorney's Office as part of the U.S. Attorney's investigation into possible criminal indictments against SMUD employees. I am now initiating a separate request on behalf of persons living within the vicinity of the Rancho Seco Nuclear Power Plant for further NRC documents.

Pursuant to Title 5, U.S.C. Section 552, request is hereby made for any and all documents, letters, interviews, statements, and any other tangible things or effects regarding the Nuclear Regulatory Commission's investigation of liquid radioactive discharges from the Rancho Seco Nuclear Power Plant leading up to the determination to impose regulatory penalties upon the Sacramento Municipal Utilities District in or about January, 1989. Request is further made for any and all documents, letters, interviews, statements, and any other tangible things or effects regarding the discharge of radioactive liquid effluent from the

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Page 2 of 2
Donnie H. Grimsley, Director
February 14, 1990

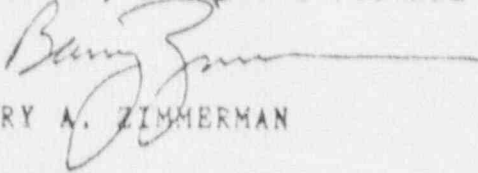
Rancho Seco Nuclear Power Plant following the assessment of penalties by the NRC against SMUD in or about January, 1989.

Application is also hereby made for waiver of fees in connection with this request on the ground that the information primarily benefits the general public. In addition, many of the people upon whose behalf this FOIA request is made, are persons who have qualified for in forma pauperis protections under California law.

A response to this request is to be provided within twenty days pursuant to applicable Federal law.

Very truly yours,

FRIEDMAN, COLLARD & POSWALL


BARRY A. ZIMMERMAN

BAZ:rh

DEC 14 1987

MEMORANDUM FOR: Jack B. Martin
 Regional Administrator
 Region V

Frank Miraglia, Associate Director
 for Reactor Projects
 Office of Nuclear Reactor Regulation

Larry Chandler, Assistant General Counsel
 for Enforcement
 Office of the General Counsel

FROM: James Lieberman, Director
 Office of Enforcement

SUBJECT: RANCHO SECO (EA 86-110)

The Assistant Attorney handling the case has requested that the NRC refrain from proposing a civil penalty in this case pending their decision on prosecution.

In an effort to meet the previously agreed timetable for resolving restart enforcement concerns at Rancho Seco, please call Jim Luehman with your comments after you have reviewed the enclosure.

*Original Signed By
James Lieberman*

James Lieberman, Director
Office of Enforcement

Enclosure: As Stated

cc: J. Taylor, DEEO

DISTRIBUTION:

Chron File
 OE Rdg File
 OE Staff (cir)
 JLuehman, OE
 EA File

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 in accordance with the Freedom of Information
 Act, exemptions A
 FOIA: 90-A-27

OE *[initials]* D:OE *[initials]*
 JLuehman JLieberman
 12/14/87 12/14/87

9007110308 (1P)

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20556

OCT 11 1988

MEMORANDUM FOR: J. B. Martin, Regional Administrator
Region V

FROM: James Lieberman, Director
Office of Enforcement

SUBJECT: EA 86-110 RANCHO SECO RADIOACTIVE EFFLUENT DISCHARGE

Now that DOJ has declined prosecution on this matter the staff needs to formulate a final position on the enforcement issue. The enclosed draft enforcement action is essentially the same as the one your staff proposed some months ago. Please have your staff review the draft and provide any comments to Jim Luehman at 492-3280. As in all enforcement cases involving OI investigations timeliness of enforcement is a real consideration. However, given that at the time your office proposed the original action a significant length of time had already passed since the violations occurred and corrective actions had been taken by the licensee, I do not see that the situation has changed much since then. Therefore, I do not see any overriding reasons why the basic proposal should be changed now.

Also enclosed is a draft Commission paper on this subject. The paper represents what I think is an accurate summary of the discussion held between our offices, OGC, and NRR in late 1987. Again please have your staff provide Jim Luehman any comments on the paper. Finally, since extensive staff discussions have already taken place we should be able to move fairly quickly to forward the staff's position to the Commission for consideration and thereby minimize the further lack of timeliness associated with this matter.

James Lieberman, Director
Office of Enforcement

cc: D. Crutchfield, NRR
L. Chandler, OGC

Information in this record was deleted
in accordance with the Freedom of Information
Act, exemptions 5
FOIA- 90-A-27

~~9007110289~~

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