



U.S. NUCLEAR REGULATORY COMMISSION
 (PDR A-37)
 RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

REVISED

FOIA -- 90-334	
RESPONSE TYPE	
<input checked="" type="checkbox"/> FINAL	<input type="checkbox"/> PARTIAL
DATE DEC 6 - 1990	
DOCKET NUMBER(S) (if applicable)	

REQUESTER
 Bradley W. Jones

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) I 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 Comment's 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 \$ 1235.36*
- 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

In a telephone conversation with Natalie Brown of my staff on August 1, 1990, you agreed to pay fees in the amount of \$1,235.36. You will be billed by the NRC Division of Accounting for that amount, for the processing of your request as follows:

\$ 514.98 Search [16 hrs. professional, 2 hrs. 20 mins. SES, 2 hrs. clerical]
 720.38 Review [25.5 hrs. professional, 2 hrs. SES, 30 mins. clerical]
 \$1235.36 TOTAL

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

Donna H. Ramsey

9102080186 901206
 PDR FOIA PDR
 JONES90-334

PART II.B — APPLICABLE EXEMPTIONS

Records subject to the request that are described on the enclosed Appendixes J&K 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).
- 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
Ben B. Hayes	Director, Office of Investigations	J/1 - J/6		X
Thomas T. Martin	Regional Administrator, Reg. I	J/7, K/1, K/2, K/4 K/7, K/8		X
Joseph Scinto	Deputy General Counsel for Hearings and Enforcement	K/3, K/5, K/6	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.	4/4/89	Letter from John Russen to John White regarding corrective actions taken in response to the quarterly independent radiation safety audit of March 27. (2 pages)
2.	4/10/89	Memo from M. Knapp to C. White, subject: Request For OI Assistance in Radiation Technology, Inc. (RTI) Inspection. (2 page)
3.	4/27/89	Memo from Ernest Wilson to File, subject: OI Assistance in Radiation Technology, Inc. (RTI) Inspection/Interview. (1 page)
4.	5/4/89	Memo from Chester White to William Russell, subject: OI Response To/Status of Request For Investigation. (1 page)
5.	5/7/89	Investigative Work Plan. (1 page)
6.	5/5/89	Handwritten notes of Marlene Taylor, with attachments. (81 pages)
7.	5/9/89	Memo from John Russen to RSO File, subject: NRC Visit. (2 pages)
8.	5/15/89	Memo from B. Hayes to Chairman Zech, subject: Notification of Opening of OI Investigation. (1 page)
9.	Various	Investigation Status reports. (4 pages)
10.	6/13/89	Memo from John Russen to Tass Varaklis, subject: Operator discussions. (1 page)
11.	6/20/89	Memo from Tass Varaklis to J. Scandalios, subject: NRC Interviews. (1 page)
12.	6/27/89	Letter from J. Scandalios to E. Wilson. (1 page)
13.	6/27/89	Letter from Paul Shapiro to E. Wilson. (1 page)

APPENDIX I
DOCUMENTS BEING PLACED IN THE PDR
(Continued)

NUMBER	DATE	DESCRIPTION
14.	1/8/90	Memo from Ben Hayes to William Russell, subject: Radiation Technology, Inc. (RTI); Determining the Veracity of Statements Made By Licensee Management (Case No. 1-89-006). (1 page)
15.	1/8/90	Letter from Ben Hayes to Lawrence Lippe, subject, Case No. 1-89-006. (2 pages)
16.	2/12/90	Memo from Chester White to William Russell, subject: OI Response To/Status of Request For Investigation. (1 page)
17.	3/13/90	Letter from Chester White to The Honorable Samuel A. Alito, Jr., subject: Radiation Technology Case No. 1-89-006, District of New Jersey. (1 page)
18.	3/13/90	Memo from Chester White to William Russell, subject: Radiation Technology, Inc.: Determining the Veracity of Statements Made by Licensee Management/Additional Information: (Case No. 1-89-026S). (1 page)
19.	5/15/90	Memo from Richard Cunningham to Addressees, subject: NMSS Request For Background Information For Senior Management Meeting, June 12-13, 1990. (3 pages) (Deleted portions are outside the scope of the request.)
20.	5/29/90	Memo from Robert Bernero to Addressees, subject: NMSS Information For Senior Management Meeting, June 12-13, 1990. (4 pages) (Some deleted portions are outside the scope of the request; other deleted portions have been addressed in our previous responses to your request.)
21.	Undated	Radiation Technology Incorporated Discrepancies. (6 pages)

APPENDIX I
DOCUMENTS BEING PLACED IN THE PDR
(Continued)

NUMBER	DATE	DESCRIPTION
22.	Various	Investigation Status Record. (1 page)
23.	Undated	Excerpts from RTI Radiation Protection Manual. (13 pages)
24.	Various	Delivery receipt log. (1 page)
25.	Undated	Note from Ernest Wilson, subject: Receipt of Correspondence. (1 page)

APPENDIX J
DOCUMENTS BEING RELEASED IN PART

NUMBER	DATE	DESCRIPTION
1.	6/22/89	Letter from PTNJ to NRC. Portions withheld pursuant to Exemptions 6 and 7(C).
2.	6/22/89	Letter from PTNJ to NRC. Portions withheld pursuant to Exemptions 6 and 7(C). (1 page)
3.	2/13/90	Investigative Work Plan. (2 pages) Portions withheld pursuant to Exemptions 6 and 7(C).
4.	Various	Case Chronology. (4 pages) Portions withheld pursuant to Exemptions 6 and 7(C).
5.	Various	Telephone messages and telephone conversation records. (8 pages) Portions withheld pursuant to Exemptions 6 and 7(C).
6.	Various	Investigator's notes. (103 pages) Portions withheld pursuant to Exemptions 5, 6, and 7(C). [Some deleted portions are outside the scope of the request.]
7.	8/22/89	Handwritten notes of conversation with employee. (2 pages) Portions withheld pursuant to Exemptions 6 and 7(C).

APPENDIX K
DOCUMENTS BEING WITHHELD IN THEIR ENTIRETY

NUMBER	DATE	DESCRIPTION
1.	4/25/89	Handwritten notes of Marlene Taylor from RTI Enforcement Conference. (5 pages) Exemption 5
2.	7/22/89	Letter from James F. Nicolesci to John Scandalios, subject: Proposal to Provide Interim Radiation Safety Officer Westinghouse Radiological Services, Inc. Proposal No. RE-8807-03. (9 pages) Exemption 4
3.	1/11/90	Enforcement Control Sheet, regarding Radiation Technology potential false information by management. (1 page) Attorney work-product, Exemption 5.
4.	4/11/90	Unsigned draft letter from Lee Bettenhausen to Messrs. Andrew and Bruce Welt, responding to 3/7/90 letter to the NRC, with OGC handwritten notes. (3 pages) Exemption 5
5.	6/25/90	Note from Steve to Jack/Susan regarding upcoming meeting on RTI to discuss pending renewal application. (1 page) Attorney work-product, Exemption 5
6.	Undated	OGC handwritten comments on copy of Apparent Violations Resulting From RTI (Case 1-89-006). (2 pages) Attorney work-product, Exemption 5.
7.	Undated	Four unsigned, Region I draft letters to the Welt Group, Incorporated, responding to 3/30/90 letter to the NRC, with OGC handwritten comments. (14 pages) Exemption 5
8.	Undated	Handwritten notes discussing inspection results. (6 pages) Exemption 5



PDR (01-37)

U.S. NUCLEAR REGULATORY COMMISSION
RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

NRC FOIA REQUEST NUMBER(S)	
FOIA — 90-334	
RESPONSE TYPE	
<input checked="" type="checkbox"/> FINAL	<input type="checkbox"/> PARTIAL
DATE	
DEC 6 - 1990	
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REQUESTER
Bradley W. Jones

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

<input type="checkbox"/>	No agency records subject to the request have been located.
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<input checked="" type="checkbox"/>	You will be billed by the NRC for fees totaling \$ <u>1235.36*</u>
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PART II. A — INFORMATION WITHHELD FROM PUBLIC DISCLOSURE

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 \$1235.36 TOTAL

SIGNATURE, DIRECTOR, DIVISION OF FREEDOM OF INFORMATION AND PUBLICATIONS SERVICES
Donna H. Rinsley

PART II. B - APPLICABLE EXEMPTIONS

Records subject to the request that are described on the enclosed Appendix(es) J & K 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.

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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
Ben B. Hayes	Director, Office of Investigations	J/1 - J/7		X
Thomas T. Martin	Regional Administrator, Reg. I	J/8, K/1, K/2, K/4 K/7, K/8		X
Joseph Scinto	Deputy General Counsel for Hearings and Enforcement	K/3, K/5, K/6	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."

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