

**Angus Mackenzie**  
Freedom of Information Project  
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July 7, 1990

Inspector General  
Nuclear Regulatory Commission  
Chief, FOIA and Privacy Branch  
Office of Administration  
Washington, D.C. 20535

FREEDOM OF INFORMATION  
ACT REQUEST  
*FOIA-90-351*  
*Rec'd 7-30-90*

Dear Inspector General:

Re: Request Under the Freedom of Information Act  
FOIA), 5 U.S.C., Section 552

Dear Sir or Madam:

This is a Freedom of Information Act request under 5 U.S.C., Section 552, for a report of the inspector general of the Nuclear Regulatory Agency regarding the testimony before Congress of the former chief of staff of the nuclear regulatory agency, Victor Stello, Jr., who testified about payments for information on the Nine Mile Point nuclear complex and other matters. This IG report was noticed by the New York Times of June 20, 1990.

The FOIA requires a response be made to this request within 10 working days. Should you require an extension of the Act's statutory time limits, please advise us in writing, within 10 days of your receipt of this letter, of: 1) the reasons for such extension and the date on which a determination is expected to be dispatched; 2) an estimate of the quantity of material responsive to this request, and 3) an estimate of fees, if any.

The Media Alliance is a non-profit news organization and the information in this request, if released, will contribute significantly to public understanding of the operations or activities of government and is not primarily in the commercial interest of the requester, which is a nonprofit organization distributing news reports through newspapers, television stations, radio, magazines and books.

While we are not requesting a fee waiver at this time, this request meets the requirements of the OMB proposed fee schedule and administrative guidelines for the implementation of the Freedom of Information Reform Act of 1986. We reserve the right to request such a total waiver at a later date, after an estimate of fees has been given to this requester. Please note that this organization has won 100 per cent fee waivers in U.S. District Courts in Washington, D.C., and San Francisco, and regularly obtains fee waivers from all federal agencies.

We ask that you search all field offices responsible for the territory in which the subject of this request has been located at any time. If you do not intend to search those offices for

the documents requested, please notify us immediately.

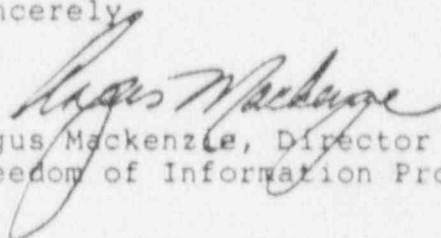
Additionally, please advise us if any of the records responsive to this request have already been released under the FOIA.

In the event that access is denied to any part of the requested records, please describe the deleted material in detail, specify the statutory basis claimed for such withholding, and inform us of the appeal procedures available under the law. Please separately state your reasons for not invoking your discretionary powers to release the requested documents in the public interest. Such statements will be helpful in deciding whether to appeal an adverse determination.

Thank you for your prompt attention to this request. We look forward to a response within the statutory 10-day period.

Please call if we may be of assistance.

Sincerely



Angus Mackenzie, Director  
Freedom of Information Project

cc: Thomas Steel, Esq.  
.pa



*PDR (PI-37)*

FOIA -90-351

RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

RESPONSE TYPE

FINAL  PARTIAL

DATE AUG 14 1990

DOCKET NUMBER(S) (if applicable)

REQUESTOR *Mackenzie, Angus*

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, 2021 L Street, N.W., Washington, DC 20555.
- Agency records subject to the request that are identified on Appendix(es) \_\_\_\_\_ are being made available for public inspection and copying in the NRC Public Document Room, 2021 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 2021 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 Comments Section.
- Enclosed is information on how you may obtain access to and the charges for copying records placed in the NRC Public Document Room, 2021 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 \$ \_\_\_\_\_.
- 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 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, 2021 L Street, N.W., Washington, DC, in a folder under this FOIA number and requester name.

COMMENTS

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

*Donna H. Brindley*

PART II. B - APPLICABLE EXEMPTIONS

Records subject to the request that are described on the enclosed Appendix(es) A 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 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	IG/EDO
<i>Leo J. Norton</i>	<i>Assistant Inspector General for Investigations, Office of Inspector General</i>	<i>Appendix H</i>		<i>X</i>

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~~ the Secretary of the Commission, OR 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 INSPECTOR GENERAL*

APPENDIX A  
DOCUMENTS BEING WITHHELD IN THEIR ENTIRETY

NUMBER	DATE	DESCRIPTION
1.	--	IG Case No. 89-12H (93 pages) Exemptions 5, 6, 7A and 7C