



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

*Woods*

MAR 18 1991

Mark A. Bazzanella, Esquire  
Joseph R. Curcio, LTD  
Suite 750 - Quaker Tower  
321 North Clark Street  
Chicago, IL 60610

IN RESPONSE REFER  
TO FOIA-91-A-4  
(FOIA-90-504)

Dear Mr. Bazzanella:

This is in response to your letter dated February 7, 1991, in which you appealed Mr. Donnie H. Grimsley's response dated January 16, 1991. Mr. Grimsley's response denied two records, identified on the enclosed appendix, subject to your Freedom of Information Act (FOIA) request for records concerning Nite Site, Incorporated.

Acting on your appeal, I have carefully reviewed the record in this case and have determined that the previously withheld information will continue to be withheld from public disclosure pursuant to Exemption 6 of the FOIA (5 U.S.C. 552(b)(6)) and 10 CFR 9.17(a)(6) of the Commission's regulations.

The withheld information consists of the home addresses of Nite Site customers, and the home telephone number of a Nite Site employee, the release of which would cause a clearly unwarranted invasion of personal privacy. I find that there are overriding privacy and public interests in protecting this information. The interest in disclosing the information does not outweigh the significant privacy interest of the individuals involved.

This is a final agency action. As set forth in the FOIA (5 U.S.C. 552(a)(4)(B)), judicial review of this decision is available in a district court of the United States in the district in which you reside or have your principal place of business or in the District of Columbia.

Sincerely,

Hugh L. Thompson, Jr.  
Deputy Executive Director for  
Nuclear Materials Safety, Safeguards,  
and Operations Support

Enclosures: As stated

9103250309 910318  
PDR FOIA  
BAZZANE91-A-4 PDR

Re: FOIA-91-A-4  
(FOIA-90-504)

APPENDIX

<u>NUMBER</u>	<u>DATE</u>	<u>DESCRIPTION AND EXEMPTION</u>
1.	UNDATED	Handwritten notes. (1 page) EX. 6
2.	UNDATED	List of customer names and addresses. (4 pages) EX. 6



RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

FOIA REQUEST TYPE:  PARTIAL  
DATE: JAN 30 1981  
DOCKET NUMBER: 81-10311-0260

BY REQUESTER

Mark A. Bazzanella

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 Appendixes \_\_\_\_\_ are already available for public inspection and copying at the NRC Public Document Room, 2120 L Street, N.W., Washington, DC 20555

XX Agency records subject to the request that are identified on Appendixes 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 and requester name.

The nonproprietary version of the proposal that you agreed to accept in a telephone conversation with a member of my staff is now being made available for 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 Appendixes \_\_\_\_\_ may be inspected and copied at the NRC Local Public Document Room 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, 2120 L Street, N.W., Washington, DC

XX 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. Will be dated \_\_\_\_\_ No

PART II - INFORMATION WITHHELD FROM PUBLIC DISCLOSURE

XX Certain information in the requested records is being withheld from public disclosure pursuant to the exemptions described in and for the records stated in Part sections B, C, and D. Any exempted 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

\*Agency records subject to your FOIA request that are identified on the enclosed Appendix C are enclosed.

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

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

*James H. Kinsey*

~~9103110260~~ 4pp.

Records subject to the request that are described on the enclosed Appendixes D 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 9.171(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 ordinary channels 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 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) or 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
Robert Bernero	Director, Office of Nuclear Material Safety and Safeguards	D/1		X
Bert Davis	Regional Administrator Region III	D/2		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 C  
DOCUMENTS BEING PLACED IN THE PDR

NUMBER	DATE	DESCRIPTION
1.	07/14/70	Routing Slip from Roy on Nite-Site Unauthorized Transfers (1 page)
2.	10/01/70	Memorandum from Allan to Roy concerning unauthorized transfers with enclosure (6 pages)
3.	10/21/70	Letter from Lubensau to Santiago regarding shipment of rights (1 page)
4.	07/10/72	Memorandum from Leith to Miller with enclosure, subject: Second Billings (2 pages)
5.	07/26/72	Memorandum from Miller to Leith concerning issued licenses (1 page)
6.	02/12/73	Memorandum from Miller to Jordan, subject: License Fees (1 page)
7.	06/17/76	Letter from Cabell to Knutsen concerning application for renewal of license (1 page)
8.	05/04/79	Letter from Jackson to Knutsen concerning amendment fee (1 page)
9.	12/11/81	Letter from Jackson to Knutsen concerning application for renewal of license (1 page)
10.	08/24/82	Letter from Wiedeman to Knutsen with enclosures concerning safety inspection (23 pages)
11.	12/02/82	Letter from Wiedeman to Knutsen with enclosure concerning correction of noncompliance (4 pages)

APPENDIX D

DOCUMENTS BEING WITHHELD IN PART

NUMBER	DATE	DESCRIPTION
1.	08/28/75	Handwritten Notes (1 page) Exemption 6
2.	04/29/81	Letter with enclosures concerning correction of noncompliance (11 pages) Exemption 6

LAW OFFICES

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November 2, 1990

NUCLEAR REGULATORY COMMISSION  
ATTN: Bruce Berson  
Material License Branch  
Region Three Office  
799 Roosevelt Road  
Building 4  
Glen Ellyn, Illinois 60137

FREEDOM OF INFORMATION  
ACT REQUEST

FOIA-90-504  
2000 11-7-90

RE: William Luce

Dear Mr. Berson:


Pursuant to our conversation of November 2, 1990, please consider this letter a request under the Freedom of Information Act. As we discussed, we look forward to receipt of Nite-Site, Inc's file that is on hand at the Nuclear Regulatory Commission. As you will recall, Nite-Site was formerly licensed by the Nuclear Regulatory Commission, and that license was terminated in 1987. You indicated that these files may be in some Federal depository in Maryland and it would take you a few weeks to obtain the file, copy it, and send it to us.

We will diary this request for three weeks and look forward to your response.

If you have any additional questions regarding this request, please do not hesitate to contact the undersigned. We appreciate your anticipated cooperation in this matter and look forward to hearing from you.

Very truly yours,

JOSEPH R. CURCIO, LTD.

  
Mark A. Bazzanella

MAB/dmn

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