



NUREG

UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D. C. 20555-0001

JUL - 6 1994

Mr. Marc L. Bogutz
Christie, Pabarue, Mortensen and Young
Attorneys at Law
1880 JFK Boulevard-Tenth Floor
Philadelphia, PA 19103

IN RESPONSE REFER
TO FOIA-94-A-6E
(FOIA-93-499)

Dear Mr. Bogutz:

I am responding to your letter dated May 13, 1994, in which you appealed in Russell A. Powell's response dated April 13, 1994. Mr. Powell's response denied in part records subject to your Freedom of Information Act (FOIA) request for copies of records in regard to W. R. Grace Washington Research Center, Maryland. The records are identified on the enclosed Appendix C.

Acting on your appeal, I have carefully reviewed the record in this case and have determined to uphold the previous decision to withhold the information 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. Your appeal is, therefore, denied.

We have deleted the home addresses of the principal officials of the W.R. Grace Company. We also deleted the names, initials, and social security numbers of individual employees from records which relate to their potential overexposure to radiation. We have not withheld any of the records in their entirety, only the portions which were identified as subject to Exemption 6. I am unable to identify any legitimate public interest in the release of this information that outweighs the privacy interests of the individuals. Therefore, I am withholding that information as disclosure would cause a clearly unwarranted invasion of personal privacy.

This is a final agency decision on this appeal. As set forth at 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

Enclosure: As stated

9502170274 740706
PDR FOIA
SPENCE94-A-6E PDR

APPENDIX C
DOCUMENTS BEING RELEASED IN PART

NUMBER	DATE	DESCRIPTION
1.	10/4/60	Letter from W. R. Grace & Co. to USAEC, regarding application for license. (10 pages) Portions withheld pursuant to Exemption 6
2.	5/28/64	Letter from W. R. Grace & Co. to USAEC, regarding License No. SNM-417. (4 pages) Portions withheld pursuant to Exemption 6
3.	10/28/64	Letter from W.R. Grace & Co. to USAEC, regarding application for renewal of license. (7 pages) Portions withheld pursuant to Exemption 6
4.	10/5/67	Letter from W. R. Grace & Co. to USAEC, enclosing Application for Renewal and Amendment of Special nuclear Materials License SNM-840. (39 pages) Portions withheld pursuant to Exemption 6
5.	11/7/72	Letter from W. R. Grace & Co. to USAEC, subject: Notification Pursuant to 10 CFR, Part 20.405 (a) (1). (9 pages) Portions withheld pursuant to Exemption 6
6.	2/13/73	Letter from W. R. Grace & Co. to USAEC, re: Final Report Regarding Overexposure of Personnel to Airborne Radioactivity. (44 pages) Portions withheld pursuant to Exemption 6

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September 8, 1993

Mr. Russell Powell
11555 Rockville Pike
Room P378
Rockville, MD 20852

FREEDOM OF INFORMATION
ACT REQUEST

FOIA-93-499
Rec'd 9-14-93

Re: Freedom of Information Act Request
Site: W.R. Grace Washington Research Center
7379 Guilford Road (Rt. 32)
Columbia, MD
Our File No. 100-45

Dear Mr. Powell:

We are interested in obtaining documents regarding the above-referenced site. Specifically, we are interested in documents and/or reports pertaining to waste disposal practices, contaminants at the site, photographs, inspection reports, permits, correspondence between the owner/operator and the U.S. Nuclear Regulatory Commission as well as the Atomic Energy Commission, violation notices, administrative orders and/or directives, and remedial reports.

In addition, the representative may request copies of certain department documents which will be useful in our investigation. We will reimburse the department for all duplicating costs.

I look forward to your timely reply to this request. Please notify me at the number listed above of the appropriate date and time to review the documents

95043002

CHRISTIE, PABARUE, MORTENSEN AND YOUNG

Russell Power A Professional Corporation

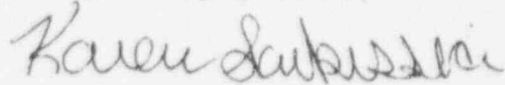
U.S. Nuclear Regulatory Commission

September 8, 1993

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Thank you for your anticipated cooperation in this matter.

Very truly yours, .



Karen Sarkissian
Paralegal

KHS:24682



RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

FOIA - 93-499
 RESPONSE TYPE
 FINAL PARTIAL
 DATE **APR 13 1994**
 DOCKET NUMBER(S) (if applicable)

REQUESTER
 Demetria L. Spencer

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) B 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. (Department of Transportation)
- Fees
- You will be billed by the NRC for fees totaling \$ _____.
- You will receive a refund from the NRC in the amount of \$ 144.14
- 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 actual fees for processing your request are as follows:

Search:	\$ 15.51	
Review:	219.41	
	<u>234.92</u>	TOTAL

Ms. Sarkissian, formerly of your office, had already submitted a check in the amount of \$379.06 to cover processing this request. You will, therefore, receive a refund in the amount of \$144.14.

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

[Handwritten Signature]

4501130034

RESPONSE TO FREEDOM OF INFORMATION ACT (A) REQUEST
(CONTINUATION)

FOIA - 93-499

APR 13 1994

PART II B - APPLICABLE EXEMPTIONS

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

X 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
Thomas T. Martin	Regional Administrator, Reg. I	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 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 B
DOCUMENTS BEING PLACED IN THE PDR

NUMBER	DATE	DESCRIPTION
1.	Undated	Application for Amendment to Special Nuclear Materials License SNM-840 for Nuclear Chemistry Facility, with background documents. (173 pages)
2.	4/8/70	Application for Amendment to Special Nuclear Materials License SNM-840 for Nuclear Chemistry Facility, with background material. (114 pages)
3.	7/9/70	Letter from Donato Telesca to D. Nussbaumer, regarding application. (5 pages)
4.	7/29/70	Letter from Donato Telesca to D. Nussbaumer, regarding application. (26 pages)
5.	9/22/70	Letter from D. R. Telesca to D. Nussbaumer, regarding application. (20 pages)
6.	7/6/72	Letter from D. R. Telesca to D. Nussbaumer, regarding replacement pages. (48 pages)
7.	12/11/72	Letter from G. E. Ashby to D. Nussbaumer. (10 pages)
8.	2/13/73	Letter from R. J. Herbet to R. B. Chitwood, submitting replacement pages for SS Materials Accountability Manual. (10 pages)
9.	3/7/73	Letter from F. E. Kruesi to G. E. Ashby, acknowledging receipt of 2/13/73 letter. (1 page)

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