



72 docs

APR 11 1994

RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

REQUESTER

Salie B. O'Malley

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) _____ 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.

Fees

You will be billed by the NRC for fees totaling \$ _____.

You will receive a refund from the NRC in the amount of \$ _____.

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 releasable portions of the agency record identified on the enclosed Appendix U are enclosed.

The NRC is continuing to review records subject to your FOIA request. We will notify you upon completion of the review.

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

9501060116 940411
PDR FOIA
O'MALLE93-600 PDR

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

FOIA NUMBER(S)

FOIA --93-600/610

DATE

APR 11 1994

PART II. B - APPLICABLE EXEMPTIONS

Records subject to the request that are described in the enclosed Appendix(es) U&V 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(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 141-146 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 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
Ben B. Hayes	Director, Office of Investigations	Appendix U	<input checked="" type="checkbox"/>		
John C. Hoyle	Assistant Secretary of the Commission	Appendix V		<input checked="" type="checkbox"/>	

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 U

DOCUMENTS BEING WITHHELD IN PART

NUMBER	DATE	DESCRIPTION
1.	undated	EA 92-152 Summary (4 pages) Exemption 7(C)

APPENDIX V
DOCUMENTS BEING WITHHELD IN THEIR ENTIRETY

NUMBER	DATE	DESCRIPTION
1.	09/21/93	SECY-93-263, Proposed Enforcement Action Regarding Discrimination at Fort St. Vrain (EA 92-152) (5 pages) Exemption 5

O'MALLEY & ASSOCIATES, P.C.

A PROFESSIONAL CORPORATION

950 South Cherry Street, Suite 520
Denver, Colorado 80222
(303) 759-2205

SALIE B. O'MALLEY, Esq.

October 25, 1993

Director, Division of
Freedom of Information and
Publication of Services
Office of Administration
U.S. Nuclear Regulatory Commission
Washington, D.C. 2055

FREEDOM OF INFORMATION
ACT REQUEST

FOIA-93-600
Rec'd 11-9-93

To Whom It May Concern:

Please find attached description of various documents which we request under the Freedom of Information Act (FOIA). Please send one copy of each document to the above address. We are prepared to pay any search, review, and duplication fees incurred.

Thank you very much for your assistance. Please contact Salie O'Malley of this office if you require more identifying information or clarification.

Sincerely,

Salie B. O'Malley
Salie B. O'Malley

SOM:de

cc: Don Warembourg

FREEDOM OF INFORMATION ACT REQUEST

~~9412020131~~ 2pg.

FREEDOM OF INFORMATION ACT REQUEST

Description of Materials Requested

Any and all information, documents, materials, tapes, transcripts, notes or information maintained in any form or media whatsoever, concerning the Nuclear Regulatory Commission Investigation No. OI4-91-019 and the Department of Labor Investigation No. 91-ERA-037 and the Notice of Violation and Proposed Civil Penalty, Docket No. 50-267, including, but not limited to:

1. All reports, notes, opinions, recommendations or correspondence prepared by Nuclear Regulatory Commission investigator, Dan Gietl, in this matter encompassing the period January 1, 1993 to the date of this letter;
2. Any statement taken from any persons by Dan Gietl or other Nuclear Regulatory Commission employees or agents and signed by such persons in the above cases, between January 1, 1991, through November 1, 1993, including but not limited to, statements by: Ted Borst (Frederick Jon Borst), Marty Deniston, Don Alps, William Woodard, Tim Schleiger, Darrell Blain, and George McTiernan;
3. All other materials, notes, reports, evaluations, transcripts, recommendations or documentation of information of any type contained in Nuclear Regulatory Commission File No. OI4-91-019, or Department of Labor File No. 91-ERA-037 or concerning complaints or allegations made by George McTiernan against Public Service Company of Colorado.
4. Any papers, "whitepapers", communications, notes, reports, recommendations or any other materials prepared by any Nuclear Regulatory Commission, agency personnel regarding Nuclear Regulatory Commission Investigation No. OI4-91-019 between the period of May 10, 1993, and November 1, 1993, including, but not limited to, documents or other information which support or in any way relate to the Notice of Violation and Proposed Civil Penalty Notice dated October 13, 1993 and signed by James L. Milhoan;
5. A copy of the recommendation, document or other paper prepared by Region 4 after the May 10, 1993, enforcement conference in this matter.
6. A copy of the transcript of the tape recording of the May 10, 1993, enforcement conference held in Arlington, Texas, in which Public Service Company of Colorado and Region 4 personnel participated. If there is a charge for transcribing this tape, we are prepared to pay all transcription and copy charges upon notice; and,
7. With respect to all materials requested herein which you refuse to disclose, please provide a complete identification of the material(s) and an explanation for failure to disclose, and any further requirements necessary for disclosure, if any.

FREEDOM OF INFORMATION ACT REQUEST

O'MALLEY & ASSOCIATES, P.C.

A PROFESSIONAL CORPORATION

950 South Cherry Street, Suite 520
Denver, Colorado 80222
(303) 759-2205

Salie B. O'Malley, Esq.

October 26, 1993

FREEDOM OF INFORMATION
ACT REQUEST

*FOIA-93-610
Rec'd 11-17-93*

Director, Division of
Freedom of Information and
Publication of Services
Office of Administration
U.S. Nuclear Regulatory Commission
Washington, D.C. 2055

To Whom It May Concern:

Please find attached description of various documents which we request under the Freedom of Information Act (FOIA). Please send one copy of each document to the above address. We are prepared to pay any search, review, and duplication fees incurred.

Thank you very much for your assistance. Please contact Salie O'Malley of this office if you require more identifying information or clarification.

Sincerely,

Salie B. O'Malley
Salie B. O'Malley

SOM:de

cc: Don Warembourg

FREEDOM OF INFORMATION ACT REQUEST

~~9412020145~~ 2pg.

FREEDOM OF INFORMATION ACT REQUEST

Description of Materials Requested

Any and all information, documents, materials, tapes, transcripts, notes or information maintained in any form or media whatsoever, concerning the Nuclear Regulatory Commission Investigation No. OI4-91-019 and the Department of Labor Investigation No. 91-ERA-037 and the Notice of Violation and Proposed Civil Penalty, Docket No. 50-267, including, but not limited to:

1. All reports, notes, opinions, recommendations or correspondence prepared by Nuclear Regulatory Commission employees or agents which support or in any way relate to Notice of Violation and Proposed Imposition of Civil Penalty, EA-92-152, dated October 13, 1993.

FREEDOM OF INFORMATION ACT REQUEST