

SMITH, HAUGHEY, RICE & ROEGGE

A Professional Corporation
ATTORNEYS AT LAW

200 Calder Plaza Building
250 Monroe Avenue, N.W.
Grand Rapids, MI 49503-2251
Telephone 616-774-8000
Facsimile 616-774-2461

1301 North Hagadorn Road
East Lansing, MI 48823-2320

241 East State Street
P.O. Box 848
Traverse City, MI 49685-0848

Douglas G. Powe
Dan C. Porter
Brian J. Plachia
Phillip K. Mowers
Kay Griffith Hammond
Carol D. Carlson
Robert M. Faulkner
Ann M. Sturston
Richard E. Holmes, Jr.
Marilyn S. Nickell
Christopher R. Genther
Beth S. Kromer
Thomas C. Kates
Loretta B. Passanante
Paul D. Fox
John R. Vander Veen
Mark D. Williams
Robert M. Kruse
John B. Combs

Laurence D. Smith
1913-1980

Jeffrey R. Womacott
Daniel N. Stephens
Aileen M. Smet
Scott W. Morgan
Matthew L. Meyer
James R. Duby, Jr.
Elizabeth R. VerHey
Carmie J. Haib
Todd W. Millar
Veronica A. Marsich
Ann Mackey Kling
Jennifer Jane Nasser
Ginny K. Mikita
Karl W. Butterer, Jr.
Erin Eileen Gerrity

Michael S. Barnes
1944-1989

L. Roland Roegge
Thomas F. Blackwell
P. Lawrence Mulvihill
Lawrence P. Mulligan
Thomas R. Tasker
Paul H. Reinhardt
Lance E. Mather
Charles F. Behler
Gary A. Rowe
William W. Jack, Jr.
William J. Hondorp
Thomas M. Weibel
James G. Black
E. Thomas McCarthy, Jr.
Glen W. House, Jr.
Thomas R. Wurst
Craig R. Noland
Paul M. Chenczak
Craig S. Neckers

Thomas E. Kent
Leonard M. Hickey
David N. Campos
George F. Bearup
John C. O'Loughlin
Anthony J. Quarto
Bruce P. Kasi
John M. Erus
Paul Van Oostenburg
Mark P. Bickel
Dale Ann Iverson
William R. Jewell
Jon D. Vander Ploeg
Patrick F. Geary
P. Da. Vinocur
R. Jay Hardin
Terence J. Ackert
Brian J. Kilbane
Robert W. Tubbs

Robert V. V. Rice
1899-1982

A. B. Smith, Jr.
David O. Haughey
Susan B. Jakubowski
Thomas P. Scholler
of Counsel

April 19, 1995

FREEDOM OF INFORMATION
ACT REQUEST

FOIA-95-190
Rec'd 4-25-95

USNRC
Mail Stop T6D8
Washington, DC 20555
Attention: William T. Russell, Director NRR

Re: David Dunmire v. Video-Tech-Tronics, Inc., et al.
Our File: 62012

Dear Mr. Russell:

On December 13, 1994, I submitted a letter requesting certain information pursuant to the Freedom of Information Act. Your office's response, number FOIA-94-536 dated February 14, 1995 does not seem to be responsive to my entire request. I have enclosed my December 13, 1994 letter and your office's response for your reference.

Please note that Appendix A of your response indicates that Section 5 of the Palisades Nuclear Plant Security Plan is withheld. This security plan seems to respond only to my request number 3 of my December 13, 1994 letter.

Therefore, I am resubmitting my request stated in item numbers 1 and 2 of my December 13, 1994 letter:

1. Reports pertaining to the injury of David Dunmire at the Palisades Nuclear Power Plant, 27780 Blue Star Memorial Highway, Covert, MI 49043 on March 1, 1991.
2. Documentation of all citations issued to Consumers Power Company for non-compliance with NRC requirements pertaining to work place safety between 1981 and 1991.

9508280037 950419
PDR FOIA
STEGINK95-190 PDR

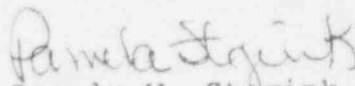
SMITH, HAUGHEY, RICE & ROEGGE

USNRC
April 19, 1995
Page 2

I thank you for your assistance and urge you to contact me at
(616) 458-8601 if you require further details.

Very truly yours,

SMITH, HAUGHEY, RICE, & ROEGGE


Pamela W. Stegink
Legal Assistant

/pws

Enclosures

1. December 13, 1994 letter
2. USNRC February 14, 1995 response number FOIA-94-536



RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

FOIA - 94-536

RESPONSE TYPE

X FINAL PARTIAL

DATE FEB 14 1995

DOCKET NUMBER(S) (if applicable)

REQUESTER Pamela W. Stegink

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.

X Fees (NONE)

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

X 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 record identified on enclosed Appendix A is responsive to your request. This record is being withheld in its entirety.
You are not being assessed fees for the processing of your FOIA request since the minimal fee limit has not been exceeded. This completes NRC's action on your request.

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

[Handwritten Signature]

450801075 3PP

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

FOIA NUMBER(S)

FOIA - 94-536

DATE

FEB 14 1995

PART II B - APPLICABLE EXEMPTIONS

Records subject to the request that are described in the enclosed Appendix(es) A 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 141-145 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 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
William T. Russell	Director, NRR	App. A	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 A

DOCUMENTS BEING WITHHELD IN THEIR ENTIRETY

NUMBER	DATE	DESCRIPTION/EXEMPTION
1.	----	Section 5 of Palisades Nuclear Plant Security Plan, (4 pgs.) - EX. 3.

SMITH, HAUGHEY, RICE & ROEGGL

A Professional Corporation
ATTORNEYS AT LAW

200 Calder Plaza Building
250 Monroe Avenue, N.W.
Grand Rapids, MI 49503-2251
Telephone 616-774-8000
Facsimile 616-774-2461

1301 North Hagadorn Road
East Lansing, MI 48823-2320

241 East State Street
P.O. Box 848
Traverse City, MI 49685-0848

L. Roland Roegge
Thomas F. Blackwell
P. Lawrence Mulvihill
Lawrence P. Mulligan
Thomas R. Tasker
Paul H. Reinhardt
Lance R. Mather
Charles F. Beshier
Gary A. Rowe
William W. Jack, Jr.
William J. Hondorp
Thomas M. Weibel
James O. Black
E. Thomas McCarthy, Jr.
Glenn W. House, Jr.
Thomas R. Wurst
Craig R. Noland
Paul M. Oleniczak
Craig S. Neckers

Thomas E. Kent
Leonard A. Hickey
David N. Campos
George F. Beatup
John C. O'Loughlin
Anthony J. Quarto
Bruce P. Rasmussen
John M. Kraus
Paul Van Costersburg
Mark P. Beckel
Dale Ann Iverson
William R. Jewell
Jon D. Vander Ploeg
Patrick F. Geary
P. David Verocur
R. Jay Hardin
Terrence J. Ackerl
Brian J. Kilbane
Robert W. Tubbs

Douglas G. Powe
Dan C. Porter
Brian J. Plachta
Phillip K. Mowers
Kay Griffith Hammond
Carol D. Carlson
Robert M. Faulkner
Ann M. Stuzarna
Richard E. Holmes, Jr.
Marilyn S. Nickell
Christopher R. Genthner
Beth S. Kromer
Thomas C. Kates
Loretta B. Passerante
Paul D. Fox
John R. Vander Veen
Mark D. Williams
Robert M. Kruse
John B. Combs

Jeffrey K. Wonacon
Daniel N. Stephens
Aileen M. Sunet
Scott W. Morgan
Matthew L. Meyer
James R. Daby, Jr.
Carne J. Hails
Todd W. Millar
Veronica A. Marsch
Ann Mackey Kling
Elizabeth R. Verhey
Jeruifer Jase Nasser
Garry K. Mikita
Karl W. Butterer, Jr.
Erin Eileen Garrity

A. B. Smith, Jr.
David O. Haughey
Susan B. Jakubowski
Thomas P. Scholler
of Counsel

Robert V. V. Rice
1899-1982

Laurence D. Smith
1913-1980

Michael S. Barnes
1944-1989

December 13, 1994

USNRC
Mail Stop T6D8
Washington, DC 20555

Re: David Dunmire v. Video-Tech-Tronics, Inc., et al.
Our File: 62012

Dear Sir/Madame:

I am assisting attorney Iverson of this office with the investigation of the above civil suit on behalf of defendant Video-Tech-Tronics, Inc. Plaintiff David Dunmire has brought this suit against our client and other parties alleging that he fell from the hatch cover area of the track alley at the Palisades Nuclear Power Plant, 27780 Blue Star Memorial Highway, Covert, MI 49043, on March 11, 1991 and received multiple personal injuries. He alleges that these personal injuries are the result of negligence by the defendants in the design and manufacture of the hingeless hatch cover system and the over-head crane system over the track alley where spent fuel is unloaded. He further alleges that our client, Video-Tech-Tronics, Inc. was negligent in the installation and maintenance of the digital motion detection system for the hingeless hatch covers.

Pursuant to the Freedom of Information Act, I would like to receive by **January 27, 1995** copies of the following documentation:

1. Reports pertaining to the injury of David Dunmire at the Palisades Nuclear Power Plant, 27780 Blue Star Memorial Highway, Covert, MI 49043 on March 1, 1991.
2. Documentation of all citations issued to Consumers Power Company for non-compliance with NRC requirements pertaining to work place safety between 1981 and 1991.
3. NRC requirements in effect in 1991 for security systems in areas of nuclear power plants where spent fuel is loaded/unloaded.

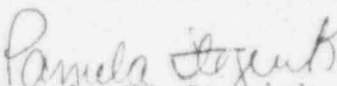
SMITH, HAUGHEY, RICE & ROEGGE

USNRC
December 13, 1994
Page 2

Thank you for your assistance and please feel free to contact me at (616) 458-8601 to obtain further information to assist you in responding to my request.

Very truly yours,

SMITH, HAUGHEY, RICE, & ROEGGE


Pamela W. Stegink
Legal Assistant

/pws