



7700005

# RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

FOIA - 91-187

RESPONSE TYPE	
FINAL	<input checked="" type="checkbox"/> PARTIAL
DATE	JUG 27 1991
DOCKET NUMBER	(if applicable)

REQUESTER  
Christine Zack\*

### PART I. - AGENCY RECORDS RELEASED OR NOT LOCATED (See checked boxes)

<input type="checkbox"/>	No agency records subject to the request have been located.
<input type="checkbox"/>	No additional agency records subject to the request have been located.
<input type="checkbox"/>	Requested records are available through another public distribution program. See Comments section.
<input checked="" type="checkbox"/>	Agency records subject to the request that are identified in Appendix(es) <u>A</u> are already available for public inspection and copying at the NRC Public Document Room, 2120 L Street, N.W., Washington, DC.
<input checked="" type="checkbox"/>	Agency records subject to the request that are identified in Appendix(es) <u>B</u> 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.
<input type="checkbox"/>	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.
<input type="checkbox"/>	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.
<input type="checkbox"/>	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.
<input checked="" type="checkbox"/>	Agency records subject to the request are enclosed. [Appendix A & B documents are enclosed.]
<input type="checkbox"/>	Records subject to the request have been referred to another Federal agency(ies) for review and direct response to you.
Fees	
<input type="checkbox"/>	You will be billed by the NRC for fees totaling \$ _____.
<input type="checkbox"/>	You will receive a refund from the NRC in the amount of \$ _____.
<input type="checkbox"/>	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

<input checked="" type="checkbox"/>	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.
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COMMENT:

In a telephone conversation on July 25, 1991, Mr. Raymond J. Basiaga informed Natalie Brown of my staff that all responses to his request should be addressed to you since he is no longer employed by your company.

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

*Thomas H. Rowley*

9203100301 910827  
 PDR FOIA  
 ZACK91-187 PDR

PART II B - APPLICABLE EXEMPTIONS

Records subject to the request that are described on the enclosed Appendixes C 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 2.117(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).
- X 5 The withheld information consists of interagency or intraagency records that are not available through discovery during litigation (EXEMPTION 5) Applicable Privilege:
  - X 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)
- X 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))
  - X Disclosure would constitute an unwarranted invasion of personal privacy (EXEMPTION 7(C))
  - X The information consists of names of individuals and other information the disclosure of which would 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 Audit 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
Ben B. Hayes	Director, Office of Investigations	App. C		C

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."

Re: FCIA-91-187

APPENDIX A  
DOCUMENTS ALREADY AVAILABLE IN THE PDR

NUMBER	DATE	DESCRIPTION
1.	8/13/82	Mary Sinclair's Restated Contention #6, 8, & 16. (8 pages) PDR Accession No. 8208200257

APPENDIX B  
DOCUMENTS BEING PLACED IN THE PDR

NUMBER	DATE	DESCRIPTION
1.	various	Investigation Status Records. (8 pages)
2.	11/18/83	Memo from E. Pawlik to J. Keppler, subject: Allegations by a Former Midland Employee Concerning Alleged Improper Termination. (1 page)
3.	Undated	R3 Tracking System. (1 page)
4.	2/24/83	News article - "Wrongful Discharge suit names Consumers, Zack." (1 page)
5.	2/9/84	Request for Reporting Service. (1 page)
6.	7/28/82	Handwritten - Zack Stop Work Summary - LaSalle County Station. (1 page)
7.	Undated	Zack Company Corporate Organization Chart. (1 page)
8.	Undated	Position Characterization Outline. (1 page)
9.	Undated	Newspaper ad regarding Document Control/Record Management. (2 pages)
10.	3/20/87	Memo from E. Pawlik to A. Bert Davis, subject: Administrative Closure of Case No. Q3-82-057: Midland Nuclear Power Plant - Alleged Improper Termination by Zack Company of Two Quality Assurance Employees for Reporting Deficiencies. (1 page)
11.	3/20/87	Memo from E. Pawlik to A. Davis, subject: Administrative Closure of Case No. Q3-82-057: Midland Nuclear Power Plant - Alleged Improper Termination by Zack Company of Two Quality Assurance Employees for Reporting Deficiencies. (3 pages)
12.	8/28/81	Letter from David Calkins, Zack Co., to L. E. Davis, Bechtel Power Corporation, with attachments. (258 pages)

APPENDIX B  
DOCUMENTS BEING PLACED IN THE PDR  
(Continued)

NUMBER	DATE	DESCRIPTION
		<b>ALLEGATION MANAGEMENT SYSTEM (AMS) FILE RIII-83-A-0096:</b>
13.	10/5/83	Allegation Data Form. (1 page)
14.	4/3/84	Allegation Tracking System Update sheet. (1 page)
		<b>AMS FILE RIII-83-A-0135:</b>
15.	6/29/82	Handwritten letter from Billie Garde to Mr. Keppler. (1 page)
16.	7/15/82	Allegation Data Form (1 page)
17.	8/29/83	Letter from R. L. Spessard to Billie Garde. (2 pages)
18.	4/3/84	Allegation Tracking System Update sheet. (1 page)
		<b>AMS FILE RIII-83-A-0138:</b>
19.	7/15/82	Allegation Data Form. (1 page)
20.	7/26/83	Letter from R. L. Spessard to Billie Garde. (2 pages)
21.	4/3/84	Allegation Tracking System Update sheet. (1 page)
		<b>AMS FILE RIII-83-A-0140:</b>
22.	8/15/82	Allegation Data Form. (1 page)
23.	9/1/82	Memo from W. D. Shafer to A. B. Davis, subject: Zack Allegations by GAP, with attachment. (4 pages)
24.	10/12/82	Letter from J. G. Keppler to Billie Garde. (4 pages)



APPENDIX B  
DOCUMENTS BEING PLACED IN THE PDR  
(Continued)

NUMBER	DATE	DESCRIPTION
25.	3/30/83	Letter from J. G. Keppler to Michael Miller. (5 pages)
26.	7/14/83	Letter from Stephen Lewis to Billie Garde. (2 pages)
27.	undated	The Zack Company - Potential: 10 CFR 50.55(e) - Reportable Defect Evaluation for Material Certification Deficiencies. (53 pages)
28.	8/18/83	Letter from J. Keppler to B. Garde. (1 page)
29.	8/24/83	Letter from R. L. Spessard to J. Cook. (1 page)
30.	8/20/83	Letter from R. L. Spessard to B. Garde. (2 pages)
31.	8/30/83	Memo from J. Keppler to E. Pawlik, subject: Statements by Former Zack Employees of Potential OI Interest. (1 page)
32.	9/2/83	Letter from R. L. Spessard to Mary Sinclair. (2 pages)
33.	4/3/84	Allegation Tracking System Update sheet. (1 page)
34.	6/26/84	Letter from R. L. Spessard to J. Cook, with attachments. (25 pages)
35.	2/4/85	Memo from C. Weil to C. McCormick, subject: Transfer of OI Report No. 3-82-025 Zack Company. (1 page)
36.	2/11/85	Memo from C. E. Norelius to J. Keppler, subject: Alleged Harassment and Intimidation of Zack Company QC Inspector (G3-84-025). (1 page)

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APPENDIX B  
DOCUMENTS BEING PLACED IN THE PDR  
(Continued)

NUMBER	DATE	DESCRIPTION
37.	12/3/87	Allegation Management System form. (1 page)
38.	2/26/88	Memo from E. Greenman to Allegation File No. RIII-83-A-0140, subject: Administrative Closure of Allegation No. RIII-83-A-0140. (1 page)
39.	8/1/88	Memo from E. Greenman to Allegation File No. RIII-83-A-0140, subject: Administrative Closure of Allegation No. RIII-83-A-0140 (OI Case No. 3-62-057). (1 page)
		<b>AMS FILE RIII-83-A-0145:</b>
40.	3/15/83	Allegation Data Form. (1 page)
41.	8/8/83	Letter from R. L. Spessard to Ronald Perry. (1 page)
42.	4/3/84	Allegation Tracking system Update Sheet. (1 page)
		<b>AMS FILE RIII-83-A-0147:</b>
43.	8/15/82	Allegation Data Form. (1 page)
44.	4/3/84	Allegation Tracking System Update Sheet. (1 page)

APPENDIX C  
DOCUMENTS BEING WITHHELD IN THEIR ENTIRETY

NUMBER	DATE	DESCRIPTION
1.	Undated	Zack Company chronology. (3 pages) Exemptions 6, 7(C), and 7(D)
2.	Undated	Zack Company chronology, with handwritten annotations. (3 pages) Exemptions 6, 7(C), and 7(D)
3.	Undated	Interview of Former Document Reviewer. (2 pages) Exemptions 6 and 7(C)
4.	Undated	Investigator's handwritten notes, with attached statement of individual. (8 pages) Exemptions 5, 6 and 7(C)
5.	Undated	Investigator's handwritten notes. (3 pages) Exemptions 5, 6 and 7(C)
6.	Undated	Investigator's handwritten notes. (15 pages) Exemptions 5, 6, 7(C), and 7(D)
7.	5/7/82	Consumers Power Company internal memorandum. (6 pages) Exemptions 6 and 7(C)
8.	10/29/82	Statement of individual. (9 pages) Exemptions 6 and 7(C)
9.	4/30/82	Mailgram from Zack Company. (1 page) Exemptions 6 and 7(C)
10.	7/28/82	NRC Telephone message form, with handwritten notes. (1 page) Exemptions 6 and 7(C)
11.	7/25/82	Government Accountability Project (GAP) confidential memorandum. (2 pages) Exemptions 6 and 7(C)
12.	4/30/82	Zack Company memorandum. (2 pages) Exemptions 6 and 7(C)
13.	4/12/82	Handwritten note. (1 page) Exemptions 6 and 7(C)



APPENDIX C  
DOCUMENTS BEING WITHHELD IN THEIR ENTIRETY  
(Continued)

NUMBER	DATE	DESCRIPTION
14.	4/13/82	Handwritten note. (1 page) Exemptions 6 and 7(C)
15.	Undated	Allegations Within the Purview of OI. (2 pages) Exemptions 5, 6, 7(C), and 7(D)
16.	Undated	Excerpts from transcript. (2 pages) Exemptions 6, 7(C), and 7(D)
17.	Undated	Excerpts from transcript. (28 pages) Exemptions 6, 7(C), and 7(D)
18.	7/25/82	Affidavit of individual. (27 pages) Exemptions 6, 7(C), and 7(D)
19.	7/26/82	Affidavit of individual. (8 pages) Exemptions 6, 7(C), and 7(D)
20.	Undated	List of individual identifications. (1 page) Exemptions 6, 7(C), and 7(D)
21.	4/4/84	Letter from NRC to individual. (2 pages) Exemptions 6, 7(C), and 7(D)
22.	4/15/82	Consumers Power Company Oral Communications Record. (2 pages) Exemptions 6, 7(C), and 7(D)
23.	4/22/82	Consumers Power Company Oral Communications Record. (2 pages) Exemptions 6, 7(C), and 7(D)
24.	4/21/82	Consumers Power Company Oral Communications Record. (3 pages) Exemptions 6, 7(C), and 7(D)
25.	4/21/82	Consumers Power Company Oral Communications Record. (2 pages) Exemptions 6, 7(C), and 7(D)

APPENDIX C  
DOCUMENTS BEING WITHHELD IN THEIR ENTIRETY  
(Continued)

NUMBER	DATE	DESCRIPTION
26.	4/21/82	Consumers Power Company Oral Communications Record. (2 pages) Exemptions 6, 7(C), and 7(D)
27.	4/19/82	Consumers Power Company Oral Communications Record. (2 pages) Exemptions 6, 7(C), and 7(D)
28.	4/16/82	Consumers Power Company Oral Communications Record. (2 pages) Exemptions 6, 7(C), and 7(D)
29.	1/25/82	Employee performance appraisal. (4 pages) Exemptions 6, 7(C), and 7(D)
30.	Undated	Investigator's handwritten notes. (5 pages) Exemptions 5, 6 and 7(C).
31.	2/16/84	Investigative Interview transcript of individual. (83 pages) Exemptions 6, 7(C), and 7(D)
32.	3/1/84	Investigative Interview transcript of individual. (159 pages) Exemptions 6, 7(C), and 7(D)