



NUDOCs

RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

95-481

RESPONSE TYPE	
<input checked="" type="checkbox"/> FINAL	<input type="checkbox"/> PARTIAL
DATE APR 02 1996	
DOCKET NUMBER(S) (if applicable)	

REQUESTER *Mr. Lance Hughes*

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) A 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 \$ 69.06
 - 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

In a telephone conversation with Ms. Carol Ann Reed on December 16, 1995, you modified the fourth item of your request to Department of Justice policy guidance on the relationship of the Freedom of Information Act and the statutory prohibition on funding intervenors by the NRC, 5 U.S.C. 504 (Note). The NRC has no records subject to this portion of your request.

FEES: Search - 1 hr. 20 min. prof. @32.47 per hr.	\$43.27
1 hr. clerical @ \$15.39 per hr.	15.39
Repro - 52 pages @ \$.20 per page	10.40
	<u>\$69.06</u>

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

Frank A. Swell

9604110002 960402
PDR FOIA
HUGHES95-481 PDR

FOIA 2/1

INFORMATION ACT (FOIA) REQUEST
(CONTINUATION)

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PART II B - APPLICABLE EXEMPTIONS

Records subject to the request that are described in the enclosed Appendix(es) B7C 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
<i>S. J. Burns</i>	<i>Associate General Counsel for Hearings, Enforcement & Administration</i>	<i>B11-B14, C11-C13, C18-C113, C116, C117, C119, C120</i>		<input checked="" type="checkbox"/>	
<i>P. J. Nany</i>	<i>Director, Office of Administration</i>	<i>B15-B14, C14-C17, C113-C115, C118, C121</i>		<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 A

RECORDS BEING PLACED INTO THE PDR UNDER THE ABOVE REQUEST NUMBER

<u>NUMBER</u>	<u>DATE</u>	<u>DESCRIPTION</u>
1.	Undated	Data input sheet for FACTS for FOIA-94-208 (1 page)
2.	Undated	Data input sheet for FACTS for FOIA-95-81 (1 page)
3.	Undated	Data input sheet for FACTS for FOIA-95-129 (1 page)
4.	Undated	Data input sheet for FACTS for FOIA-95-211 (1 page)
5.	Undated	Data input sheet for FACTS for FOIA-95-341 (1 page)
6.	Undated	Data input sheet for FACTS for FOIA-95-396 (1 page)
7.	Undated	Data input sheet for FACTS for FOIA-95-449(1 page)
8.	Undated	Data input sheet for FACTS for FOIA-95-A-14 (1 page)
9.	Undated	Handwritten note re: Fee waiver criteria FOIA-95-449 (1 page)
10.	Undated	Draft response from J. Milhoan to D. Colapinto re: denial of fee waiver submitted by M. J. Wilmoth, FOIA-95-A-14 (2 pages)
11.	Undated	G:\95-A-14 Response Letter (2 pages)
12.	Undated	G:\INTERVEN.II Draft Response Letter (2 pages)
13.	Undated	G:\95-211 Response Letter (2 pages)
14.	Undated	G:\95-129 Response Letter (2 pages)
15.	Undated	G:\95-396L Response Letter (2 pages)
16.	Undated	P:INTERVEN.LTR Sample intervenor fee response letter (2 pages)
17.	Undated	G:INTERVEN.LTR Draft Response Letter (2 pages)

Re: FOIA-95-481

APPENDIX A
(continued)

RECORDS BEING PLACED INTO THE PDR UNDER THE ABOVE REQUEST NUMBER

<u>NUMBER</u>	<u>DATE</u>	<u>DESCRIPTION</u>
18.	Undated	G:\95-449 Response Letter (2 pages)
19.	Undated	G:\95-341 Response Letter (3 pages)
20.	Undated	Excerpt from 5 CFR 500, Subchapter 1 (5 pages)
21.	Various	Excerpt from chronology for FOIA-94-208 (1 page)
22.	Various	Excerpt from chronology for FOIA-95-81 (1 page)
23.	Various	Excerpt from chronology for FOIA-95-129 (1 page)
24.	Various	Excerpt of chronology for FOIA-95-211 (1 page)
25.	10/02/92	Public Law 102-377, Nuclear Waste Technical Review Board (1 page)
26.	05/05/94	Fee Categorization for FOIA-94-208 (1 page)
27.	05/05/95	Letter from C. Kammerer to M. J. Wilmoth re: denial of fee waiver request for FOIA-95-81 (2 pages)
28.	06/01/95	E-mail 2:16pm from S. G. Fonner to J. F. Cordes re: Guidance on FOIA/PA Requests-Kohn-For (1 page)
29.	06/02/95	Letter from D. Colapinto to J. Taylor re: Appeal of Fee Waiver Denial; FOIA-95-81 with attached 6/1/95 letter from D. Colapinto to R. Powell re: FOIA-95-211 and PA-95-5 with its attachments (37 pages)
30.	06/07/95	E-mail 2:14pm from R. Powell to M. P. Siemien re: Guidance on FOIA/PS Requests-Kohn-Reply forwarding 6/7/95 2:12pm e-mail from S. Fonner to R. Powell re: Guidance on FOIA/PA Requests-Kohn-Reply (1 page)

Re: FOIA-95-481

APPENDIX A
(continued)

RECORDS BEING PLACED INTO THE PDR UNDER THE ABOVE REQUEST NUMBER

<u>NUMBER</u>	<u>DATE</u>	<u>DESCRIPTION</u>
31.	06/07/95	E-mail 2:08pm from R. Powell to M. P. Siemien, C. A. Reed, G. Rammling re: Guidance on FOIA/PA Request-Kohn-For forwarding 6/7/95 1:57pm e-mail from S. Fonner to R. Powell re: Guidance on FOIA/PA Requests-Kohn-For and 6/1/95 2:16pm e-mail from S. Fonner to J. Corder re: Guidance on FOIA/PA Requests-Kohn-For and 6/1/95 11:07am e-mail from R. Powell to M. P. Siemien re: Guidance on FOIA/PA Requests-Kohn (1 page)
32.	06/07/95	E-mail 1:57pm from S. Fonner to R. Powell re: Guidance on FOIA/PA Requests-Kohn-For (1 page)
33.	06/07/95	E-mail 2:12pm from S. Fonner to R. Powell re: Guidance on FOIA/PA Requests-Kohn-Reply (1 page)
34.	06/08/95	E-mail 5:43pm from M. P. Siemien to C. A. Reed re: Fee Waiver-Forwarded forwarding 6/8/95 5:41pm e-mail from M. P. Siemien to R. Powell re: Fee Waiver-Forwarded and 6/8/95 4:45pm e-mail from S. Fonner to M. P. Siemien re: Fee Waiver (1 page)
35.	06/13/95	E-mail 4:17pm from R. Powell to C. A. Reed re: Fee Waiver-Forwarded-Reply-Reply-Forw forwarding of 6/13/95 3:50pm e-mail from M. P. Siemien to R. Powell (1 page)
36.	06/14/95	E-mail 4:09pm from M. P. Siemien to C. A. Reed re: Fee Waiver forwarding 6/13/95 5:20pm e-mail from M. P. Siemien to R. Powell re: Fee Waiver (1 page)
37.	08/08/95	E-mail 5:36pm from S. Fonner to R. Powell re: FOIA-95-A-14-Reply forwarding 8/8/95 5:04pm e-mail from S. Fonner to C. A. Reed re: FOIA-95-A-14-Reply (1 page)
38.	08/14/95	E-mail 3:31pm from C. Holzle to C. A. Reed, C. Kammerer, R. Powell re: Colapinto fee waiver issue (1 page)
39.	08/15/95	E-mail 9:06am from C. Kammerer to R. Powell re: Results of meeting w/OGC (1 page)

APPENDIX A
(continued)RECORDS BEING PLACED INTO THE PDR UNDER THE ABOVE REQUEST NUMBER

<u>NUMBER</u>	<u>DATE</u>	<u>DESCRIPTION</u>
40.	08/15/95*	OGC referral on FOIA-94-208, 95-81, 95-A-14, 95-129, 95-211 (1 page)
41.	08/16/95	Referral to P. Craver on FOIA-94-208, 95-81, 95-A-14, 95-129, 95-211 (2 pages)
42.	08/17/95	E-mail 2:32pm from M. P. Siemien to R. Powell, C. A. Reed, S. Fonner, C. Holzle, D. Dambly, L. Chandler re: Appeal letter 95-A-14 with attached draft of 9/1/95 response (3 pages)
43.	08/22/95	Handwritten note re: NACE FOIA requests (1 page)
44.	08/25/95	Handwritten note re: phone call to L. Hughes (1 page)
45.	10/03/95*	Draft letter from C. Kammerer to S. Kohn re: denial of fee waiver request for FOIA-95-396 (2 pages)
46.	10/18/95	Letter from C. Kammerer to S. Kohn re: denial of fee waiver request for FOIA-95-396 with concurrence page (2 pages)
47.	11/20/95	Letter from C. Kammerer to D. Curran re: denial of fee waiver for FOIA-95-449 with concurrence page (2 pages)
48.	11/22/95	Letter from C. Kammerer to L. Hughes re: denial of fee waiver for FOIA-95-341 with concurrence page (3 pages)
49.	12/27/95	Fax showing concurrence of 01/11/96 response re: FOIA-95-129 (2 pages)
50.	12/27/95	Fax cover sheet to S. Fonner from C. A. Reed (1 page)
51.	12/27/95	E-mail 3:45pm from C. A. Reed to S. Fonner re: Vogtle FOIA-95-129 (1 page)
52.	01/11/96	Response to M. Kohn re: FOIA-95-129 with concurrence pages and appendices (6 pages)

APPENDIX A
(continued)

RECORDS BEING PLACED INTO THE PDR UNDER THE ABOVE REQUEST NUMBER

<u>NUMBER</u>	<u>DATE</u>	<u>DESCRIPTION</u>
53.	02/07/96	Printout of FACTS Case History Report for FOIA-94-208 (1 page)
54.	02/07/96	Printout of FACTS Case History Report for FOIA-95-81 and FO.A-95-A-14 (1 page)
55.	02/07/96	Printout of FACTS Case History Report for FOIA-95-129 (1 page)
56.	02/07/96	Printout of FACTS Case History Report for FOIA-95-211 (1 page)
57.	02/07/96	Printout of FACTS Case History Report for FOIA-95-341 (3 pages)
58.	02/07/96	Printout of FACTS Case History Report for FOIA-95-396 (1 page)
59.	02/07/96	Printout of FACTS Case History Report for FOIA-95-449 (1 page)

* Dates documents created on computer, not date of actual official document.

APPENDIX B

RECORDS PARTIALLY WITHHELD

<u>NUMBER</u>	<u>DATE</u>	<u>DESCRIPTION & EXEMPTION</u>
1.	Undated	Draft letter from C. Kammerer to D. Colapinto re: denial of fee waiver request for FOIA-94-208 (3 pages) EX. 5
2.	Undated	Draft letter from C. Kammerer to S. Kohn re: denial of fee waiver request for FOIA-95-211 and PA-95-5 (3 pages) EX. 5
3.	Undated	Draft letter from C. Kammerer to M. Kohn re: denial of fee waiver request for FOIA-95-129 (3 pages) EX. 5
4.	05/24/95	E-mail 2:50pm from M. P. Siemien to C. A. Reed re: Kohn-Hearing Transcripts-Reply (1 page) EX. 5
5.	08/03/95	Handwritten note to R. Powell from C. A. Reed with fax cover sheet (1 page) EX. 5
6.	08/08/95	E-mail 2:46pm from C. A. Reed to S. Fonner re: FOIA-95-A-14 with handwritten note (1 page) EX. 5
7.	08/08/95	Fax cover sheet to S. Fonner from C. A. Reed with handwritten note (1 page) EX. 5
8.	09/01/95	Letter from J. Milhoan to D. Colapinto re: denial of fee wavier for FOIA-95-A-14 with concurrences pages (2 pages) EX. 5
9.	09/15/95	E-mail 5:53pm from C. A. Reed to R. Powell re: Vogtle FOIAs (1 page) EX. 5
10.	10/02/95	Letter from C. Kammerer to D. Colapinto re: denial of fee waiver request for FOIA-94-208 with concurrence pages (2 pages) EX. 5
11.	10/02/95	Letter from C. Kammerer to M. Kohn re: denial of fee wavier for FOIA-95-129 with concurrence pages (2 pages) EX. 5
12.	10/02/95	Letter from C. Kammerer to S. Kohn re: denial of fee waiver for FOIA-95-211 and PA-95-5 with concurrence pages (2 pages) EX. 5

Re: FOIA-95-481

APPENDIX B
(continued)

RECORDS PARTIALLY WITHHELD

<u>NUMBER</u>	<u>DATE</u>	<u>DESCRIPTION & EXEMPTION</u>
13.	10/19/95*	Three Oldest FOIA Requests Report (1 page) EX. 5
14.	11/22/95*	G:\OLD.3 Oldest Three FOIA Requests Report (2 pages) EX. 5

* Dates documents created on computer, not date of actual official document.

APPENDIX C

RECORDS TOTALLY WITHHELD

<u>NUMBER</u>	<u>DATE</u>	<u>DESCRIPTION & EXEMPTION</u>
1.	Undated	Draft of NRC Staff Response to the National Whistleblower Center's Motion to Compel filing of Transcribed Depositions and to Intervenor's Rejoinder (3 pages) EX. 5
2.	03/31/95	E-mail 12:56pm from M. McDonald to S. Fonner re: Vogtle Depositions (1 page) EX. 5
3.	05/19/95	E-mail 9:51am from S. Fonner to R. Powell, C. Holzle, M. P. Siemien, and C. A. Reed re: Fee Waiver Request re FOIA 95-129 (1 page) EX. 5
4.	05/22/95	E-mail 11:51am from R. Powell to S. Fonner re: Fee Waiver Request re FOIA 95-129-Reply (1 page) EX. 5
5.	05/22/95	E-mail 4:30pm from R. Powell to M. P. Siemien re: FOIA 95-129-Fee Waiver (1 page) EX. 5
6.	06/01/95	E-mail 11:07am from R. Powell to M. P. Siemien re: Guidance on FOIA/PA Requests-Kohn (1 page) EX. 5
7.	06/07/95	E-mail 2:12pm from R. Powell to R. Powell (cc: C. A. Reed and G. Rammling) re: Guidance on FOIA/PA Requests-Kohn (1 page) EX. 5
8.	06/08/95	E-mail 4:45pm from S. Fonner to M. P. Siemien re: Fee Waiver (1 page) EX. 5
9.	06/08/95	E-mail 5:41pm from M. P. Siemien to R. Powell re: Fee Waiver-Forwarded (1 page) EX. 5
10.	06/08/95	E-mail 3:00pm from M. P. Siemien to R. Powell re: Guidance on FOIA/PA Requests-Kohn-Reply (1 page) EX. 5
11.	06/13/95	E-mail 5:20 pm from M. P. Siemien to R. Powell re: Fee Waiver (1 page) EX. 5
12.	06/13/95	E-mail 3:50pm from M. P. Siemien to R. Powell re: Fee Waiver-Forwarded-Reply-Reply (1 page) EX. 5

APPENDIX C
(continued)RECORDS TOTALLY WITHHELD

<u>NUMBER</u>	<u>DATE</u>	<u>DESCRIPTION & EXEMPTION</u>
13.	06/23/95	E-mail 2:36pm from C. Kammerer to R. Powell re: Memo for Norry on Fee Waiver-Reply (1 page) EX. 5
14.	06/29/95*	G:\FEEWAVER.CCK Draft memorandum C. Kammerer to P. Norry re: FOIA Fee Waiver Issue (4 pages) EX. 5
15.	08/01/95	Draft letter from J. Milhoan to D. Colapinto re: denial of fee waiver for FOIA-95-A-14 (2 pages) EX. 5
16.	08/02/95	E-mail 4:45pm from C. Holzle to C. A. Reed re: 95-A-14 (1 page) EX. 5
17.	08/08/95	E-mail 5:04pm from S. Fonner to C. A. Reed re: FOIA-95-A-14-Reply (1 page) EX. 5
18.	08/15/95	E-mail 9:53am from R. Powell to C. Kammerer re: Meeting w/OGC re Fee Waivers (1 page) EX. 5
19.	09/14/95	Memo from M. P. Siemien to S. Burns re: Interpretation of 10 CFR 2.750 and Interpretation of the Prohibition against Funding of Intervenors and its Interplay with the FOIA (9 pages) EX. 5
20.	12/21/95	Note to C. A. Reed from S. Fonner re: concurrence on 2 FOIA packages (1 page) EX. 5
21.	12/27/95	E-mail from C. A. Reed to M. P. Siemien re: FOIAs-95-129 & 95-420 (1 page) EX. 5

* Dates documents created on computer, not date of actual official document.