



774DOCS

RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

NRC FOIA REQUEST NUMBER(S)	
FOIA - 96-19	
RESPONSE TYPE	
<input checked="" type="checkbox"/> FINAL	<input type="checkbox"/> PARTIAL 1
DATE	
APR 01 1996	
DOCKET NUMBER(S) (If applicable)	

REQUESTER
William W. Nexsen

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. App. A, and releasable portions of App. B documents 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 \$128.71 [1.5 hours review, 400 pages duplication]
- 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 Natalie Brown, you agreed to pay fees in the amount noted above. We do not grant fee waivers to commercial requesters.

SIGNATURE, DIRECTOR, DIVISION OF FREEDOM OF INFORMATION AND PUBLICATIONS SERVICES
Carlton Lamm 3-25-96

FIA
0/1

9604110057 960401
PDR FOIA
NEXSEN96-19 PDR

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

FOIA NUMBER(S)

FOIA — 96-19

DATE

APR 01 1996

PART II B — APPLICABLE EXEMPTIONS

Records subject to the request that are described in the enclosed Appendix(es) B 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)

XX 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))

XX 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
Guy P. Caputo	Director, Office of Investigation	Appendix B	XX		
Carlton Kammerer	Director, DFIPS	FEE WAIVER	XX		

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 RELEASED IN THEIR ENTIRETY

NUMBER	DATE	DESCRIPTION
1.	11/8/95	Office of Investigations' Report of Investigation (ROI), Case No. 2-94-003 - The Atlantic Group: Alleged Discrimination Against an Instrument and Control Technician. (26 pages)
2.	various	Exhibit 1 to ROI 2-94-003: Investigation Status Record. (1 page)
3.	9/16/92	Exhibit 4 to ROI 2-94-003: Letter from T. Saporito to the EDO. (3 pages)
4.	10/26/93	Exhibit 9 to ROI 2-94-003: Letter from T. Saporito to EDO. (2 pages)
5.	1/15/94	Exhibit 11 to ROI 2-94-003: Letter from T. Saporito to EDO. (3 pages)
6.	2/26/94	Exhibit 13 to ROI 2-94-003: Letter from T. Saporito to EDO. (2 pages)
7.	5/10/93	Exhibit 15 to ROI 2-94-003: Page 1 and 70 of Recommended Decision and Order. (2 pages)
8.	3/22/95	Exhibit 16 to ROI 2-94-003: Interview of Frank Warriner. (7 pages)
9.	5/22/95	Exhibit 19 of ROI 2-94-003: Affidavit of William E. Engelking. (7 pages)

APPENDIX B
DOCUMENTS BEING RELEASED IN PART

NUMBER	DATE	DESCRIPTION
1.	4/8/92	Exhibit 2 to ROI-2-94-003: Amended Complaint. (2 pages) Portions withheld pursuant to Exemption 7(C)
2.	5/7/92	Exhibit 3 to ROI 2-94-003: Amended Complaint. (9 pages) Portions withheld pursuant to Exemption 7(C)
3.	1/22/93	Exhibit 5 to ROI 2-94-003: Complaint Against the Arizona Public Service Company/Arizona Nuclear Power Project; and the Atlantic Group. (10 pages) Portions withheld pursuant to Exemption 7(C)
4.	2/4/93	Exhibit 6 to ROI 2-94-003: Amended Complaint. (4 pages) Portions withheld pursuant to Exemption 7(C)
5.	5/13/93	Exhibit 7 to ROI 2-94-003: Letter from individual regarding complaint against Arizona Public Service Company/Arizona Nuclear Power Project and the Atlantic Group. (2 pages) Portions withheld pursuant to Exemption 7(C)
6.	10/23/93	Exhibit 8 to ROI 2-94-003: Complaint. (6 pages) Portions withheld pursuant to Exemption 7(C)
7.	1/2/94	Exhibit 10 to ROI 2-94-003: Complaint. (5 pages) Portions withheld pursuant to Exemption 7(C)
8.	2/26/94	Exhibit 12 to ROI 2-94-003: Complaint. (5 pages) Portions withheld pursuant to Exemption 7(C)
9.	6/29/94	Exhibit 14 to ROI 2-94-003: Investigative Interview of individual. (112 pages) Portions withheld pursuant to Exemption 7(C)
10.	6/26/95	Exhibit 17 to ROI 2-94-003: Statement of individual. (4 pages) Portions withheld pursuant to Exemption 7(C)

APPENDIX B
DOCUMENTS BEING RELEASED IN PART
(Continued)

NUMBER	DATE	DESCRIPTION
11.	7/20/95	Exhibit 18 to ROI 2-94-003: Interview of individual. (107 pages) Portions withheld pursuant to Exemption 7(C)
12.	7/20/95	Exhibit 20 to ROI 2-94-003: Interview of individual. (73 pages) Portions withheld pursuant to Exemption 7(C)
13.	8/3/95	Exhibit 21 to ROI 2-94-003: Memo to File, subject: Analysis and Summary of Evidence Corroborating the Testimony of individual. (8 pages) Portions withheld pursuant to Exemption 7(C)