

[REDACTED]
June 30, 1997

FOI/PA REQUEST

US Nuclear Regulatory Commission
Attn: FOIA/LPDR
Attn: Russell Powell
Washington DC 20555

Case No: 97-253
Date Rec'd: 7-8-97
Action Off: Pool
Related Case: 97-235 97-236

Re: Freedom of Information Request

Dear Mr. Powell:

This is a request under the Freedom of Information Act ("FOIA"), 5 U.S.C. Section 552.

Please provide available information about what is known and not known about the existing and potential current and future threats to human health, property and the environment posed by the Advanced Medical Systems, Inc. (AMS) installation at 1020 London Rd, Cleveland, Ohio 44110 and associated:

- Radiation
- Radioactive and/or toxic materials and waste
- Activities (including transportation of materials to and from the facility) and
- Contamination (including that in the soil, sewers, etc. from previous releases)
- Any other potentially associated environmental impact generators (including catastrophes such as train wrecks, tornadoes, etc.)

Please also provide this for calendar years 1995 and 1996.

This is also a request for available information on steps recently taken, steps underway, and steps planned by AMS, NRC, Ohio EPA, Cuyahoga County emergency preparedness organizations and other entities to help minimize like'y as well as potential environmental impacts, both under normal conditions and in event of an accident or catastrophe.

Available and upcoming opportunities for members of the general public to review draft submittals and permit conditions, call for hearings, and to participate in activities such as emergency response exercises are also requested.

In addition, this is a request for available information on which individuals and institutions are financially responsible for AMS and for any damage to the surrounding community, the extent of their liability, and their ability to pay. In addition, please provide available information on individuals and institutions that would be considered to be potentially responsible parties if the site were to become under the jurisdiction of CERCLA/SARA Superfund programs, along with available information on the ability of such entities to pay for associated studies, cleanup, damages, etc. This request includes the results of any credit checks and title searches conducted concerning AMS and associated entities, along with the general procedures used for such investigations.

Please also provide available information on the cost of damages that a catastrophe at AMS could cause and the extent of financial liability on the part of AMS and associated entities for such damages, along with the ability of associated organizations and institutions to pay for such damages. Since this could change drastically if the site were under Superfund versus current regulations, please provide this information for both scenarios.

Unsubstantiated reports concerning the above matters alone are inadequate, and available proof concerning what is known and not known is needed, in order to facilitate an independent review and audit. This FOIA request is intended to help fulfill this purpose. Any summaries of how the specific documents provided could be used to provide such an understanding would be most helpful, along with the conclusions of others concerning these matters (and the reasons for their conclusions). Any documents not specifically requested that would increase such understanding are also requested. Your cooperation in this matter is greatly appreciated.

To help clarify the types of information requested concerning AMS in Cleveland and associated matters, please be sure to include the following:

1. Any existing and currently proposed Emergency Response Plans for responding to fire, explosion, train derailment, or other events that could result in a release of radioactive material, along with any meeting notes or comments on the plans and dates by which comments or calls for hearings must be filed
2. The existing and proposed onsite Radiological Contingency Plan and any comments on the plan and dates by which comments or calls for hearings must be filed (if different from Item 1)
3. The requirements for, plans for, schedule for, results of, and comments on any proposed or actual exercises with offsite emergency response personnel since June 1994, and for associated audits -- along with the opportunities for public comment and participation in future exercises and associated planning and dates by which comments or calls for hearings must be filed (we understand that exercises are being planned for August 1997)
4. The requirements for, plans for, results of and comments on any proposed or actual reviews of emergency response programs and emergency plan procedures, training, equipment, and supplies since June 1994.
5. Any correspondence, meeting notes, etc. related to the possibility of AMS having a program involving:
 - Continuous monitoring and automatic audible alarms (with repeaters inside nearby buildings when needed) in event of a dangerous release to the environment from AMS and
 - Associated training programs to alert and train the community as to what to do if an alarm sounds (shut windows, turn of air intake vents, seal cracks, etc., or evacuate).

Please take this as a request for inclusion of such a program in AMS's emergency response plans and associated programs and for them to be tested during the planned exercises in August, if possible.

Also please prove any proposals, comments, contingency plans or other documents involving the possibility of AMS or any other associated entity notifying business and persons in the surrounding community in event of an emergency at AMS and/or for providing appropriate training on how businesses and persons should respond.

6. Available information on recent (1995 and 1996), current and potential future impacts on public health and welfare and to the environment by AMS's past, current and potential future emissions of radiation and radionuclides to the environment. These risks should be stated in terms of cancer risks, potential radiation and/or radionuclide exposure, degradation of property values, and any other matters pertinent to the public health and welfare, the environment or business, and associated assumptions and results (when available). This information should include details on the existing or possible future that could substantively influence the hazard (anticipated emissions, potential future catastrophic events, assumed weather, etc.). Please be sure to include available information on associated probabilities of occurrence, assumptions, models, uncertainties and comments on such studies and estimates.

The concept of current impacts should be taken with reasonable flexibility (it is not meant to mean at this instant, if that would unduly restrict access to pertinent information). When completely up to date information is unavailable, please include impacts for the most recent year for which appropriate data is available for a given parameter, with appropriate caveats.

7. All available information concerning recent (since June, 1994) activities, current activities, and taking place and those activities planned within the Advanced Medical Systems' London road site involving radioactive materials within the past year, and plans for the future.
8. All available information concerning the containment, pollution control, monitoring, and emergency response programs recently in place (since June 1994), currently in place and those planned to prevent or reduce contamination and/or emissions into the surrounding environment and to deal with any unexpected emissions should they occur -- along available information on their expected effectiveness and associated emissions, emission reductions, levels of potential exposure in the surrounding community, and human health, welfare and environmental impacts
9. The design and results of pertinent environmental monitoring and modeling programs associated with the aforementioned site and its recent (1994 and 1995), current (for the current calendar year, including the most recent data available) and projected future impacts on the surrounding environment. Please include where and when readings were taken or results modeled, the measurement or modeling protocols used, calibration records (or assumptions) and the precise type of units in which the measurements were taken or estimates made (committed effective dose equivalent exposure in mrem/yr, etc.) covering all radiation monitoring, exposure estimates, etc. performed and all associated assumptions. Please include all available comments and summary reports on this monitoring and modeling.
10. All current permits, licenses, or other similar documents issued to the aforementioned facility and all associated permit, license, etc. conditions and requirements, along with all associated comments on those permits, licenses, etc. Please also include all associated proposals and submittals by Advanced Medical Systems, Inc., as well as all requirements for future permits,

licenses, etc. and renewals and associated schedules, submittals by AMS, and opportunities for public comment, or deadlines for petitioning for hearings, etc.

11. All available data on the quantities of radioactive material and mrem/hr potential exposure recently (since June 1994) and currently at the advanced Medical Systems site, significant changes in the inventory or estimated inventory since June 1994, plans for future changes in inventory (including decontamination plans, etc.), types of containment and pollution controls, detailed design and condition of containment and pollution controls, effectiveness of containment and pollution controls against fire, sabotage, train derailments, tornadoes, corrosion and other sources of degradation, monitoring programs to verify containment and effectiveness of pollution controls, etc.—with special emphasis on the Waste Holdup Tank Room (and associated floor slab) and any other facilities containing substantial quantities of radioactive materials or activities having a potential to cause emissions into the environment (such as shot blasting, steam cleaning, and other decontamination methods).
12. Any available information on why the water flooding the basement of the AMS facility in late 1994 and 1995 became radioactive, and the hazards posed by this water (before and after treatment) to workers and the surrounding community, along with the current location and degree of contamination of this water and associated cleanup resins, and associated hazards and estimates of associated existing or potential future hazards to workers and the public. Of particular concern would be the potential for backwash from the flooded basement leading to the contaminated water that ended up in the basement and what that may imply concerning future hazards from surface water, ground water, sewer, etc. pathways. (Please include pertinent information on drainage (including sewers and ground water hydrogeology) associated with the AMS site and associated contamination, the integrity of the AMS floor slab, plans to determine its integrity, etc.
13. All information submitted by Advanced Medical Systems, Inc or other entities (Ohio EPA, etc.) since June 1994 to the Nuclear Regulatory Commission pertinent to the aforementioned facility and/or its existing and potential environmental impacts
14. All information related to existing and potential financial liability for impacts on the surrounding community, including the identity of:
 - All past and current owners and investors in AMS and providers of their Cobalt 60 and other radioisotopes, along with
 - The identity of others who were financially involved paying for operations, monitoring and clean-up

While liability is currently limited under current Atomic Energy Act and NRC regulations, this request is broader than one just covering that legislation, although liabilities under current conditions are also requested.

In addition to this, available information on the identity and financial condition of any individuals, institutions, companies, providers of Cobalt 60 or other entities associated with AMS throughout the entire history of AMS and prior owners that might be identified as potentially responsible parties. This information is to aid in an assessment of the situation if

AMS were to go bankrupt and the site fall under the EPA CERCLA/SARA regulations (Superfund) -- or if other circumstances (such as legislation) would put the site under Superfund. Of course, the individuals and institutions financially responsible for AMS activities and liabilities is also requested.. All documentation linking these individuals and organizations to AMS should also be provided, along with copies of any correspondence with such individuals or meeting notes concerning the AMS site and associated matters.

15. All existing and potential future opportunities for concerned members of the general public and the business community to have or to request opportunities to review and comment or hearings on proposed orders, emergency response plans, permits, licenses, exercises, etc, any comments submitted, etc. Please provide a list of all such opportunities, and the actual or projected dates for those opportunities manifesting, where pertinent notification will take place, and the deadlines for submitting comments, requests for hearings, etc. This letter also requests routine notification when such opportunities manifest in the future. Please be sure to include in how interested members of the community can become involved in emergency response exercises planned for late August 1997, the review of associated emergency response plans, etc.
16. Transcripts of hearings, and other correspondence concerning AMS etc. since June, 1994
17. Any correspondence, transcripts, records, or other entities related to public relations, public participation, risk perception, or encouraging or discouraging participation by individuals, organizations or other entities in matters related to AMS and NRC's actions or jurisdiction over AMS.
18. The most recent ORISE report concerning the AMS site and any comments and correspondence related to the report in NRC files
19. All pertinent inspection and environmental monitoring reports from June, 1994 to the present and any risk assessments based on reports, or other information
20. Copies of all correspondence, meeting notes, etc. with the City of Cleveland or other entities concerning any matter mentioned above since June 1994.

While all of the above may seem very complex, and some of it repetitive, much of this detail is to avoid important gaps in the information received. The intent of this request is to obtain a complete record of available information concerning or related to:

- The impacts and potential impacts (and associated probabilities) currently posed to the surrounding community by AMS, how those impacts or potential impacts may have changed in the very recent past (when absolutely current information is unavailable)
- Plans to change those environmental impacts and potential environmental impacts in the future (and expected associated impacts)
- Potential impacts in event of catastrophes and their probabilities
- Possible methods of reducing those impacts (including financial impacts)
- Opportunities for concerned individuals and organizations to review associated documents, draft

permits, draft licenses, emergency response plans, etc. and to suggest or compel improvements to further reduce the impacts or potential impacts, and/or to petition for and participate in hearings etc.

Copies of any annotations based on this letter or checklists prepared to assure that the documents requested are provided are also requested. This FOIA request covers many key concerns related to AMS, and any notes concerning which documents or portions of documents relate to which questions would be greatly appreciated.

If you regard any of the documents as exempt from required disclosure under FOIA, I request that you disclose them nevertheless, as such disclosure would serve the public interest of educating citizens. See 10 C.F.R. § 1004.1 (authorizing disclosure of documents exempt from FOIA disclosure where such disclosure is in the public interest).

If any of the requested documents include classified or restricted information and the volume of the material makes a lengthy declassification review necessary, I request the prompt release of all portions of the document marked Unclassified, For Official Use Only, or Declassified. In addition, I request that the remaining classified portions undergo a careful review for the purpose of declassification, in whole or in part, and that you release to us all reasonably segregable portions of the classified record, except those portions that could reasonably damage national security.

As you know, an agency cannot rely simply on the markings of a document to deny its release. For a document to be withheld under Exemption 1 of FOIA, it must be reviewed and found to be in fact properly classified pursuant to both procedural and substantive criteria found in the governing executive order. 5 U.S.C. § 552(b)(1)(B). See also Lesar v. U.S. Dep't of Justice, 636 F.2d 472, 483 (D.C. Cir. 1980); Southam News v. INS, 674 F. Supp. 881, 884 (D.D.C. 1987). This requires an actual, substantive review of the materials and their classification markings.

Should you decide to invoke a FOIA exemption, please include in your full or partial denial letter sufficient information for me to appeal the denial. To comport with legal requirements this information must include, inter alia:

1. Basic factual material about each withheld item, including the originator, date, length, general subject matter, and location of each item.
2. Explanations and justifications for denial, including the identification of the category within the governing executive order or statutory provision under which the withheld document (or portion thereof) was found to be subject to classification; at what level the entire document was ultimately classified and the nature and variety of the document's portion-marking; and, most importantly, explanations of how each exemption fits the withheld material.

The information requested is to be released to an investor concerned about the safety of his employees, neighbors, investments and potential investments in the Collinwood area and to the Earth Day Coalition, and the Collinwood Homeowners and Tenants Association, which are reportedly non-

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profit, tax-exempt, public-education, research and environmental organizations. It is expected that the information disclosed pursuant to this request will be made available by these organizations to the public and others engaged in policy analysis and research, including historians, area specialists, and journalists. Three copies of the requested files should be provided, if possible, so that the aforementioned organizations and associated consultants can study them simultaneously.

FOIA permits the waiver of search and copy fees where the release of information is in the public interest. 5 U.S.C. § 552(a)(4)(A)(iii). See also 10 C.F.R. § 1004.9(a)(8). Release of the documents requested here would contribute significantly to public understanding of these matters. The information is to be made available to the public through the methods specified above. For these reasons, this request qualifies for a fee waiver, and I ask that you waive all fees in connection with this request.

I appreciate your help in obtaining this information. As provided in FOIA, I will expect a reply within ten working days. If you need further information about this request, please contact me by phone at (216) 247-5021 in order to speed consideration of this matter.

Sincerely,

C. Lawrence Cornett, Jr.

C. Lawrence Cornett, Jr.

cc:

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