



PDR-016

RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

| | |
|--|-------------------|
| NRC FOIA REQUEST NUMBER(S) FOIA-84-487 | |
| RESPONSE TYPE FINAL <input type="checkbox"/> PARTIAL <input checked="" type="checkbox"/> 9th | |
| DATE | MAY 6 1988 |
| DOCKET NUMBER(S) (if applicable) | |

REQUESTER **HUGE, HARRY**

PART I. - 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.
- Agency records subject to the request that are identified in Appendix _____ are already available for public inspection and copying in the NRC Public Document Room, 1717 H Street, N.W., Washington, DC.
- Agency records subject to the request that are identified in Appendix **I** are being made available for public inspection and copying in the NRC Public Document Room, 1717 H Street, N.W., Washington, DC, in a folder under this FOIA number and requester name.
- 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, 1717 H Street, N.W., Washington, DC, in a folder under this FOIA number and requester name.
- Enclosed is information on how you may obtain access to and the charges for copying records placed in the NRC Public Document Room, 1717 H Street, N.W., Washington, DC.
- Agency records subject to the request are enclosed. Any applicable charge for copies of the records provided and payment procedures are noted in the comments section.
- Records subject to the request have been referred to another Federal agency(ies) for review and direct response to you.
- In view of NRC's response to this request, no further action is being taken on appeal letter dated _____.

PART II.A - INFORMATION WITHHELD FROM PUBLIC DISCLOSURE

- Certain information in the requested records is being withheld from public disclosure pursuant to the FOIA exemptions described in and for the reasons stated in Part II, sections 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, 1717 H Street, N.W., Washington, DC, in a folder under this FOIA number and requester name.

Comments

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PDR FOIA
HARRY84-487 PDR

SIGNATURE, DIRECTOR, DIVISION OF RULES AND RECORDS

Ronnie H. Chisley

PART II B - APPLICABLE FOIA EXEMPTIONS

Records subject to the request that are described in the enclosed Appendices **J** are being withheld in their entirety or in part under FOIA Exemptions and for the reasons set forth below pursuant to 5 U.S.C. 552(b) and 10 CFR 9.5(a) of NRC Regulations.

- 1. The withheld information is properly classified pursuant to Executive Order 12356 (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)

Section 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 from a foreign source 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. 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. (EXEMPTION 5)

- 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 investigatory records compiled for law enforcement purposes and is being withheld for the reason(s) indicated. (EXEMPTION 7)

Disclosure would 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 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 would reveal identities of confidential sources. (EXEMPTION 7(D))

PART II C - DENYING OFFICIALS

Pursuant to 10 CFR 9.9 and/or 9.15 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 Rules and Records, 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 | |
|---------------------|---|----------------------------|--------------------|-------------------------------------|
| | | | SECRETARY | EDO |
| <i>Ben B. Hayes</i> | <i>Director, Office of Investigations</i> | <i>Portions Appendix J</i> | | <input checked="" type="checkbox"/> |
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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."

APPENDIX I

RECORDS MAINTAINED IN THE PDR UNDER THE ABOVE REQUEST NUMBER

1. 10/4/84 Allegation Data Form - Q4-84-045. (1 page)
2. 10/4/84 Investigation Status Record Q4-84-045. (3 pages)
3. 10/4/84 Case Chronology Q4-84-045. (1 page)
4. 10/4/84 Investigator's Handwritten Notes. (1 page)
5. 5/14/85 Memo for Noonan from Hayes, subject: Open Office of Investigations Reports on Comanche Peak, Units 1 and 2. (1 page)
6. 5/22/85 Investigator's Handwritten and typewritten notes. (1 page)
7. 12/3/85 Memo for Martin from Herr, subject: Comanche Peak Steam Electric Station: Alleged Falsification of Coatings Quality Control Training Records. (Q4-84-045). (1 page)
8. 12/3/85 Comanche Peak Steam Electric Station, Alleged Falsification of Coatings Quality Control Training Records. (6 pages)
9. Undated Investigator's Handwritten Notes. (1 page)

Re: FOIA-84-487
(9th Partial)

APPENDIX J

RECORD PARTIALLY WITHHELD
EXEMPTIONS 6, 7C and 7D

1. 8/21/84 Questions Relative to Allegation No. 33. (1 page)

LAW OFFICES
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September 14, 1984

*Rec'd 9/17/84
Clarification of the scope
of FOIA-84-487*

Joseph Felton
Director
Division of Rules and Records
Office of Administration
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

RE: Freedom of Information Request
FOIA - 84-487

Dear Mr. Felton:

We are making the following request, which supplements my letter to you dated June 12, 1984, pursuant to the Freedom of Information Act, 5 U.S.C. §552 and the Nuclear Regulatory Commission ("NRC") regulations codified at 10 C.F.R. Parts 2 and 9.

1. Please provide us with copies of all reports, memoranda, transcripts of hearings, correspondence and any other documentation in the custody or control of the NRC that pertain to hearings held by the Atomic Safety & Licensing Board ("ASLB") since January 1, 1984 regarding deficient painting works in the containment buildings at the Comanche Peak Steam Electric Station ("Comanche Peak").

We are especially interested in any information relating to Texas Utilities Generating Co. ("TUGCO"), the licensee, and Brown and Root, Inc., the construction contractor.

2. Please provide us with copies of all reports, memoranda, transcripts of hearings, correspondence and any other documentation in the custody or control of the NRC that pertain to hearings held by the ASLB regarding intimidation of Quality Assurance inspectors by employees of TUGCO or Brown and Root, Inc.

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ROGOVIN, HUGE & LENZNER
A PROFESSIONAL CORPORATION

Joseph Felton
September 14, 1984
Page Two

We are only interested in documents that have been produced or have become available since the issuance of OI Report No. 4-83-013, dated November 3, 1983.

3. Please provide us with copies of the transcripts of the testimony or the statements of the following witnesses, affiants and interviewees whose comments were made during the review of TUGCO's Application for an Operating License (Comanche Peak Steam Electric Station, Units 1 and 2, Docket No.s. 50-445 and 50-446):

- Roy Keith Combs
- b. Lester Smith
- c. Freddy Ray Harrell
- d. Gates (first name not known)
- e. Hamilton (first name not known)

The FOIA provides that if only portions of a file are exempted from release, the remainder must be released. We therefore request that we be provided with all nonexempt portions which are reasonably segregable and with an inventory of all exempted portions. We reserve our right to appeal the withholding or deletion of any information.

We are prepared to pay reasonable costs for locating the requested materials and reproducing them. If you have any questions regarding this request, please telephone us at the above number.

As provided in the Freedom of Information Act, we will expect to receive a reply within ten working days.

Sincerely,

ROGOVIN, HUGE & LENZNER

By:

Harry Huge
Harry Huge

cc: Stephen Isaacs
NRC
Information Office

LAW OFFICES
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June 12, 1984

Joseph Felton
Director
Division of Rules and Records
Office of Administration
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

FREEDOM OF INFORMATION
ACT REQUEST
FOIA 84-487
Rec'd 6-13-84

Re: Freedom of Information Request

Dear Mr. Felton:

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and the regulations promulgated thereunder by the Nuclear Regulatory Commission ("NRC") at 10 C.F.R. Parts 2 and 9, we hereby request that you provide us with the following documents:

1. Copies of all records in NRC's files pertaining to any studies, investigations, inquiries (formal or informal) concerning the Comanche Peak Nuclear Power Plant ("Comanche Plant") in Texas as well as any agency documents, internal memoranda, reports, complaints, citations and orders which pertain to the Comanche Plant.

We are primarily interested in any materials related to or concerning construction of the Comanche Plant, by Brown & Root, Inc., including safety conditions, employee relations, work standards, allegations of inferior work, faulty workmanship, deficient work standards, and deficient performance.

2. Copies of all records in NRC's files pertaining to any studies, investigations, inquiries (formal or informal), agency documents, internal memoranda, reports, complaints, citations and orders which pertain to Brown & Root, Inc., a Texas corporation involved in the construction of nuclear power plants.

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ROGOVIN, HUGE & LENZNER
A PROFESSIONAL CORPORATION

Joseph Felton
June 12, 1984
Page 2

Please call the undersigned as soon as the documents are available and please notify us if you anticipate that the expense of complying with this request exceeds \$200.00.

Thank you for your cooperation.

Sincerely,

ROGOVIN, HUGE & LENZNER

By: Harry Huge
Harry Huge