



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

JAN 21 1986

Ms. Nina Bell  
Nuclear Information and Resource Service  
1616 P Street, NW, Suite 160  
Washington, DC 20036

IN RESPONSE REFER  
TO FOIA-85-629

Dear Ms. Bell:

This is in further response to your letter dated September 10, 1985, in which you requested, pursuant to the Freedom of Information Act (FOIA), three categories of records related to source materials licenses.

The staff has located and reviewed additional records which are subject to categories one and two of your request. The records identified on the enclosed Appendix C are being placed in the NRC's Public Document Room (PDR) in file folder FOIA-85-629 under your name.

The records identified on the enclosed Appendix D are being withheld in their entirety because they contain the predecisional legal analyses, opinions, and recommendations of the Office of the General Counsel for the Commissioners' consideration of agency policy regarding notice of materials license applications, the conduct of materials license adjudication, or a proposed rule concerning informal hearing procedures. Because the documents reflect the predecisional process between the Office of the General Counsel, members of staff offices, and the Commissioners, the documents are exempt from mandatory disclosure pursuant to Exemption 5 of the FOIA, 5 U.S.C. 552(b)(5). Release of these documents could tend to inhibit the open and frank exchange of ideas essential to the deliberative process. The documents do not contain any reasonably segregable factual portions.

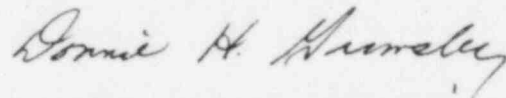
Pursuant to 10 CFR 9.15 of the Commission's regulations, it has been determined that the information withheld is exempt from production or disclosure and that its production or disclosure is contrary to the public interest. The person responsible for the denial of these records is Mr. James A. Fitzgerald, Assistant General Counsel.

40-8027

This denial may be appealed to the Secretary of the Commission within 30 days from the receipt of this letter. Any such appeal must be in writing, addressed 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."

The staff is continuing to search for and review additional records subject to your request. We will notify you when these actions are completed.

Sincerely,

A handwritten signature in cursive script, reading "Donnie H. Grimsley".

Donnie H. Grimsley, Director  
Division of Rules and Records  
Office of Administration

Enclosures: As stated

APPENDIX C

1. 09/05/85 Letter to Carmie Henry, Office of Senator David Pryor, from James A. Fitzgerald, OGC, regarding hearing requests on the Sequoyah facility. (2 pages) (NOTE: The referenced Order is identified at number 7 on Appendix B.)
2. 09/05/85 Letter to Senator Dale Bumpers from James A. Fitzgerald, OGC, regarding the hearing on the Sequoyah facility. (2 pages)

APPENDIX D

1. 12/16/81 Memo to the Commissioners from Leonard Bickwit, Jr., General Counsel, Subj: Limitation on Hearing Requests in "Proceedings" Under Section 189a of the Atomic Energy Act (9 pgs.)
2. 1 /14/82 Memo to Commissioners from L. Bickwit, General Counsel, Subj: Commissioner Questions With Regard to ALAB-682 (1 pg.)
3. 01/05/83 Memo to the Commissioners from Martin Malsch, Deputy General Counsel, Subj: Notice and Standing in Materials Licensing Cases (15 pgs.)
4. 02/02/83 Memo to W. J. Dircks, EDO; G. Cunningham, ELD; and J. Davis, NMSS from Martin Malsch, Deputy General Counsel, Subj: Revision to Jan. 5, 1983 OGC Memorandum Concerning Materials Licensing (1 pg.)
5. 02/02/83 Memo to Commissioners from Martin Malsch, OGC, Subj: Revision to Jan. 5, 1983 OGC Memorandum Concerning Materials Licensing (1 pg.)
6. 02/02/83 Memo to Commissioners from Martin Malsch, OGC, Subj: Talking Paper--Notice and Standing In Materials Licensing Cases (15 pgs.)
7. 03/24/83 Draft memo to Commissioners from Martin Malsch, Deputy General Counsel, Subj: SECY-83-101 (7 pgs.)
8. 04/08/83 SECY-83-129, to the Commissioners from H. Plaine, General Counsel, Subj: Hearing Requests on Renewal of Special Nuclear Materials License of Rockwell International's Energy Systems Group, w/att. (1) ESGRI ltr. to Davis, dtd. 08/20/82; (2) ESGRI ltr. to Page, dtd. 12/17/82; (3) Postcard Petition; (4) Sept. 13, 1982 Hearing Request of Alliance for Survival; (5) CLI-82-21; and (6) Proposed Order. Attachments 1 thru 5 are available in the PDR, Docket No. 70-25. (11 pages)
9. 05/06/83 Memo to John Davis, NMSS from Sheldon Trubatch, OGC, Subj: Minimal Notice for Materials Licensing Actions, w/att. - 2 draft Fed. Reg. Notices (10 pgs.)

APPENDIX D

(CONTINUED)

10. 03/24/85 Draft Talking Points - Notice of Materials Licenses (8 pgs.)
11. 04/16/85 SECY-85-139, to the Commissioners from Martin Malsch, OGC, Subj: Disposition of Hearing Requests Regarding Nuclear Materials Licenses, with 3 draft orders attached (28 pgs.)
12. 05/09/85 Memo to John Philips, Rules & Procedures Branch from Paul Bollwerk, OGC, Subj: Review of Draft Notice of Proposed Rulemaking Regarding Materials Licensing Adjudicatory Procedures (1 pg) w/att. Draft Federal Register Notice (21 pgs.)
13. 06/26/85 SECY-85-227, to Commissioners from H. Plaine, OGC, Subj: Proposed Rule on Informal Hearing Procedures for Materials Licensing Adjudications; w/att. Draft Notice of Proposed Rulemaking (37 pgs.)
14. 06/27/85 SECY-85-139C, to the Commissioners from Martin Malsch, OGC, Subj: Disposition of Hearing Request Regarding Materials License Amendment for Kerr-McGee Sequoyah Fuel Facility; w/att. (1) Hearing Request (Note - available in PDR); and (2) draft order (12 pgs.)
15. Undated Six draft versions of Fed. Reg. Notice--10 C.F.R. Part 2--Informal Hearing Procedures for Materials Licensing Proceedings (totalling approx. 100 pgs.)
16. Undated Three draft versions of SECY paper to the Commissioners from H. Plaine, General Counsel, Subj: Proposed Rule on Informal Hearing Procedures for Materials Licensing Adjudication (12 pgs.) w/att. Draft Fed. Reg. Notice of Proposed Rule (3 copies totalling approx. 120 pgs.)
17. Undated Draft memo to Commission from L. Bickwit, General Counsel, Subj: Sholly Amendments (3 pgs.) Note - Attachments - S. 1207, H.R. 4255 and Senate Rpt. No. 97-113 are publicly available.
18. Undated Documents entitled "Response to Question No. 13" (12 pgs.)

APPENDIX D

(CONTINUED)

19.      Undated      Draft memo to Commissioners from L. Bickwit,  
General Counsel, Subj: Proposed Rule Change to  
Provide Public Notice of Licensing Actions;  
Unresolved Legal Issue Regarding Notice of  
Licensing Actions; w/att. proposed staff  
requirements memo (13 pgs.)
  
20.      Undated      Draft memo to Martin Malsch, OGC from C. Jourdan,  
OGC, Subj: Review and Update of OGC Paper  
Concerning Notice and Hearing for Materials  
Licensing (3 pgs.)





## Nuclear Information and Resource Service

1616 P Street, N.W., Suite 160, Washington, D.C. 20036 (202) 328-0002

September 10, 1985

James M. 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-85-629*  
*Rec'd 9-13-85*

### FREEDOM OF INFORMATION ACT REQUEST

Dear Mr. Felton:

Pursuant to the Freedom of Information Act, 5 U.S.C. 522, as amended, and 10 CFR 9.8 of the Commission's regulations, the Nuclear Information and Resource Service requests the following documents regarding NRC treatment of source materials licenses and amendments. Please consider "documents" to include reports, studies, test results, correspondence, memoranda, meeting notes, meeting minutes, working papers, graphs, charts, diagrams, notes and summaries of conversations and interviews, computer records, and any other forms of written communication, including internal NRC Staff memoranda. In your response, please identify which documents correspond to which requests below. Also, please provide a list of offices to which this request was forwarded.

Pursuant to this request, please provide all documents prepared or utilized by, in the possession of, or routed through the NRC related to:

1. Use of City of West Chicago v. NRC, 701 F.2d 632 (7th Cir. 1983) to support NRC policy on providing opportunity for informal hearings;
2. NRC policy for noticing applications for source materials licenses, and amendments to source materials licenses to the public; and
3. Charts or records indicating the number of source materials licenses and source materials license amendments applied for and/or issued since 1980 and NRC's treatment (public notice, public hearing, requests for hearing, issuance, denial, etc.) thereof.

In our opinion, it is appropriate in this case for you to waive search charges, pursuant to 5 U.S.C. 522(a)(4)(A) "because furnishing the information can be considered as primarily benefiting the general public." The Nuclear Information and

*85-1070319 2pp*

Resource Service is a non-profit organization serving local organizations concerned about nuclear power and providing information to the general public. Information required by 10 CFR 9.14a was provided by letter dated August 3, 1984. The information requested by this letter will be provided to petitioners before the NRC on the amendment application for Source Materials License No. SUB-1010 (Sequoyah Fuels Corporation).

Sincerely,

A handwritten signature in dark ink, appearing to read 'Nina Bell', with a stylized flourish at the end.

Nina Bell  
Assistant Director

cc: File