



FOIA - 97-105

RESPONSE TYPE

FINAL

☒ PARTIAL (12th)

DATE

OCT 08 1997

DOCKET NUMBER(S) (if applicable)

RESPONSE TO FREEDOM OF  
INFORMATION ACT (FOIA) REQUEST

REQUESTER

Maria Webb

## 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) 0 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 this 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 \$ \_\_\_\_\_.☐ 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. I 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. ~~Agency records subject to the request that are identified in Appendix(es) \_\_\_\_\_ are being withheld from public inspection and copying at the NRC Public Document Room, 2120 L Street, N.W., Washington, DC, in a folder under this FOIA number.~~

## COMMENTS

The records identified on enclosed Appendices O and P are responsive to your request. Copies of Appendix O records are enclosed. Appendix P records are being withheld in their entirety.

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F2A1



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

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PDR FOIA  
WEBB97-105

PDR

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

FOIA NUMBER(S)

**FOIA — 97-105**

DATE

**OCT 08 1997**

**PART II B — APPLICABLE EXEMPTIONS**

Records subject to the request that are described in the enclosed Appendix(es) P 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 wrongdoers 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
Stephen G. Burns	Assoc. General Counsel for Hearings, Enforcement, and Administration	App. P/1 & 2		X	

**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 O

RECORDS MAINTAINED IN THE PDR UNDER THE ABOVE REQUEST NUMBER

NUMBER	DATE	DESCRIPTION/PAGES
1.	3/17/93	Note to Commissioner's Assistants from J. Blaha, subject: Information on State of Utah's Actions on Envirocare Land Ownership, (1 pg.).
2.	1/24/97	E-Mail from S. Gagner to OPA14, subject: Envirocare, (4 pgs.).
3.	3/11/97	E-Mail from S. Gagner to H. Lefevre, subject: Envirocare, (1 pg.).
4.	3/11/97	E-Mail from S. Gagner to H. Lefevre, subject: Envirocare, (1 pg.).
5.	3/11/94	Memo for R. Bernero from L. Chandler, subject: Decision by the Presiding Officer Denying Request for Hearing by Envirocare of Utah, Inc. Concerning an Amendment to the Umetco License, (2 pgs.) with enclosure: Memorandum and Order dtd. 3/4/94, (7 pgs.).

Re: FOIA-97-105

APPENDIX P

DOCUMENTS BEING WITHHELD IN THEIR ENTIRETY

NUMBER	DATE	DESCRIPTION/EXEMPTION/PAGES
1.	1/6/97	Allegation Review Board Summary, (2 pgs.) - EX. 5.
2.	1/14/97	Allegation Review Board Summary, (2 pgs.) - EX. 5.

SHAW PITTMAN  
POTTS & TROWBRIDGE  
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

2300 N Street, N.W.  
Washington, D.C. 20037-1128  
202.663.8000  
Facsimile 202.663.8007

FOIA/PA REQUEST

Case No:

77-105

Date Rec'd:

3-18-97

Action Off:

Robert Pugh

Retained Case:

New York  
Virginia

March 12, 1997

Mr. Carlton C. Kammerer,  
Director  
Freedom of Information & Publications Services  
U.S. Nuclear Regulatory Commission  
Mail Stop T-6E4  
Washington, D.C. 20555-0001

**Re: Freedom of Information Act (FOIA) Request**

Dear Mr. Kammerer:

Pursuant to 5 U.S.C. § 552 (a)(3) and 10 C.F.R. § 9.23, I am requesting the following materials.

- (1) Any and all records which constitute, refer and/or relate to the byproduct materials license issued by the Nuclear Regulatory Commission (NRC) pursuant to Section 11e.(2) of the Atomic Energy Act (AEA) to Envirocare of Utah, Inc. for its Clive, Utah site.
- (2) Any and all records which constitute, refer and/or relate to any allegations concerning Larry F. Anderson, former Director of the Utah Division of Radiation Control.

I agree in advance to pay the fees associated with this request.

Please contact me at 202-663-8302, if necessary.

Thank you for your prompt attention to this request. I look forward to your response within ten (10) days, as required by FOIA and NRC regulations.

Very truly yours,

*Maria D. Webb*

Maria D. Webb  
Legal Assistant

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