

FOIA/PA REQUEST

May 19, 1998

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| Case No: | 98-A-009 |
| Date Recd: | 5-20-98 |
| Action Off: | Pool |
| Related Case: | 98-149 |

Mr. Russell A. Powell
Freedom of Information Act/Privacy Act Officer
U.S. Nuclear Regulatory Commission
Mail Stop T-6 D8
Washington D. C. 20555-0001

adequacy of search

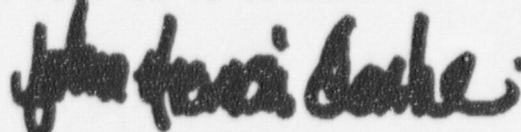

FOIA/PA APPEAL FOIA 98-149

Pursuant to 10 CFR 9.29, recognizing that the undersigned has elsewhere commented upon the manner in which undersigned's April 4, 1998, FOIA request was responded to by the U.S. Nuclear Regulatory Commission (NRC), would herein respectfully, again request NRC records or categories of records which were requested by the undersigned on April 4, 1998.

The sole, and final, response to FOIA 98-149, dated May 6, 1998, received by the undersigned, did not reflect the records or categories of records requested by the April 4 FOIA request.

The content of the May 6 final response (see Appendix A to the May 6 final response and Part 1. C "Comments") was not dispositive, given the April 4 request.

Would respectfully request a prompt response to this appeal in the manner allowed by 10 CFR Part 9, and a stamped as received copy of this appeal within such time as is allotted.

John F. Darke


Enclosures:

Appendix A and Appendix B

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PDR FOIA
DARKE98-A-9 PDR

9000-10-1

April 4, 1998

Freedom of Information Act Branch
U.S. Nuclear Regulatory Commission
Washington, D. C.

FOIA REQUEST
Case No: 98-149
Date Recd: 4-9-98
Action Off: Pool
Related Cases: _____

FREEDOM OF INFORMATION ACT REQUEST

Pursuant 5 U.S.C. 552 whatever (The Freedom of Information Act) and the various implementations thereof found within 10 CFR Part 9, would respectfully request all versions of unredacted NRC official records which pertain to, and/or include, the "Supplemental Modeling and Analysis Report, Atlas Corporation Moab Mill, Moab Utah", dated February 5, 1998, referenced in the attached document, Applicant/Licensee contractor report, February 13, 1998, page 1, at bullet 3 (see Exhibit 1). Please refer to the above as Category 1.

In addition, would request, if not included in the response to the above, all fee related documentation relevant to the February 13, 1998, NRC staff letter (see Exhibit 2) which forwards a February 13, 1998, Applicant/Licensee transmittal which includes the February 13, 1998, Applicant/Licensee contractor report (supra). This should be considered Category 2 of the requested documents.

Would also request all meeting summaries, minutes, or other official non-exempted artifacts of meetings (including telephonic conferences), in any form whatsoever, which bear directly upon the above attached transmittals or letter reports, in the possession of the NRC and its contractors, and/or consultants. This should be considered Category 3 of the requested documents.

Would request any non-exempted artifact in the possession of the NRC, its contractors or consultants, that would indicate that the text of the February 5, 1998, Supplemental Report (supra) was released on public or non-public information hiway (Internet, etc.) by any person or entity whatsoever. Please consider this Category 4.

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Would request all routing appertainences or ephemera which accrued to the February 5, 1998, Supplemental Report (supra) while in the possession of the NRC, its contractors or consultants, including fee management memorabilia. This request should be considered Category 5.

John F. Darke

John F. Darke

[REDACTED]

Enclosures As Stated

ATLAS CORPORATION



Republic Plaza, 370 Seventeenth Street, Suite 3050
Denver, CO 80202
Telephone: (303) 629-2440 Fax: (303) 629-2445

RICHARD E. BLUBAUGH
Vice President Environmental
and Governmental Affairs

February 13, 1998

Via Facsimile:(301)415-5397

Joseph J. Holonich, Chief
U.S. Nuclear Regulatory Commission
High-Level Waste and Uranium Recovery
Projects Branch (MS-T7J9)
Division of Waste Management
Office of Nuclear Material Safety and Safeguards
Washington, D.C. 20555-0001

Re: License No. SUA-917, Docket No. 40-3453, Section 7 Consultation on Atlas Corporation's Proposed Reclamation Plan, Comments on ORNL-GJ Studies

Dear Mr. Holonich:

As you know, last summer the United States Fish and Wildlife Service (FWS or the Service), as part of its Endangered Species Act (ESA) Section 7 consultation process, issued a draft Biological Opinion (BO) for the Atlas Corporation (Atlas) mill tailings pile in Moab, Utah. Since that time, FWS, Atlas and the Nuclear Regulatory Commission (NRC or the Commission) have been involved in a cooperative effort to resolve a variety of issues concerning the draft BO. Atlas has been very supportive of this cooperative approach, and remains hopeful that the process will lead to a resolution that will make sense to NRC, FWS and Atlas. We appreciate the effort the agencies are making to promote this cooperative approach.

As FWS prepares its next draft of the BO for discussion, Atlas has several specific recommendations for consideration at this time. By this letter, we are asking the NRC to communicate those issues to FWS and to assist in establishing a collaborative process by which they can be addressed.

Atlas incorporates by reference the comments of Harding Lawson Associates (HLA) attached hereto. These comments address Atlas' concerns with the conclusions and assumptions employed in the recent testing and modeling performed by Oak Ridge National Laboratories-Grand Junction (ORNL).

1. The next draft of the BO should analyze the NRC action for which consultation was requested. Specifically, NRC requested FWS to consult on Atlas' proposed

Enclosure

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Dear Mr. Blubaugh:

HLA's comments are based on our review of these reports and discussions at a meeting with ORNL-GJ, U.S. Fish and Wildlife Service (FWS), Nuclear Regulatory Commission (NRC), and Atlas Corporation on February 5, 1998. HLA's comments on the ORNL-GJ studies are presented as follows:

HLA concurs with the majority of the conclusions presented in the ORNL-GJ studies with the exception of those items discussed in this letter. Importantly, HLA concurs with the ORNL-GJ conclusion regarding the physical separation between the tailings and the alluvial aquifer and the conclusion which

EXHIBIT 2



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

February 18, 1998

Mr. Reed Harris
U.S. Fish and Wildlife Service
Lincoln Plaza, Suite 404
Salt Lake City, Utah 84115

SUBJECT: ATLAS CORPORATION COMMENTS ON OAK RIDGE NATIONAL
LABORATORY STUDIES RELATED TO THE PROPOSED RECLAMATION
FOR THE ATLAS MILL TAILINGS SITE IN MOAB, UTAH

Dear Mr. Harris:

By letter to me dated February 13, 1998, Atlas Corporation transmitted its comments on studies performed by Oak Ridge National Laboratory, Grand Junction. These studies were performed, at the request of the U.S. Fish and Wildlife Service (FWS), in its consultation with the Nuclear Regulatory Commission under Section 7 of the Endangered Species Act. At Atlas' request, we are formally submitting these comments to FWS. The cc list on Atlas' letter indicates that you should already have a copy of the comments.

We have not reviewed Atlas' comments in detail and, thus, have no position on their technical merits. However, we request that in preparing the revised draft Biological Opinion, you consider all of Atlas' comments in addition to NRC's views on issues, transmitted to you in my letter of February 13, 1998. If you have any questions, please contact me at (301) 415-7233 or Dr. Myron Fliegel, NRC's project manager, at (301) 415-6629.

Sincerely,

A handwritten signature in dark ink, appearing to read "Joseph J. Holonich", is written over the typed name.

Joseph J. Holonich, Chief
Uranium Recovery Branch
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards

Docket No.: 40-3453
License No.: SUA-917

Enclosure: Atlas comments

cc: See attached list

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