

**RESPONSE TO FREEDOM OF
INFORMATION ACT (FOIA) / PRIVACY
ACT (PA) REQUEST**

99-377,00-219,00-257

17

RESPONSE
TYPE☐

FINAL

☒

PARTIAL

REQUESTER

Ms. Kimberly Boggiatto

DATE

AUG 15 2000

PART I. -- INFORMATION RELEASED

- ☐ No additional agency records subject to the request have been located.
- ☐ Requested records are available through another public distribution program. See Comments section.
- ☐ **APPENDICES**
☐ Agency records subject to the request that are identified in the listed appendices are already available for public inspection and copying at the NRC Public Document Room.
- ☒ **APPENDICES**
CC,EE Agency records subject to the request that are identified in the listed appendices are being made available for public inspection and copying at the NRC Public Document Room.
- ☐ 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, NW, Washington, DC.
- ☒ **APPENDICES**
CC,EE Agency records subject to the request are enclosed.
- ☐ Records subject to the request that contain information originated by or of interest to another Federal agency have been referred to that agency (see comments section) for a disclosure determination and direct response to you.
- ☒ We are continuing to process your request.
- ☐ See Comments.

PART I.A -- FEES

AMOUNT *

\$

* See comments
for details☐

You will be billed by NRC for the amount listed.

☐

None. Minimum fee threshold not met.

☐

You will receive a refund for the amount listed.

☐

Fees waived.

PART I.B -- INFORMATION NOT LOCATED OR WITHHELD FROM DISCLOSURE

- ☐ No agency records subject to the request have been located.
- ☒ Certain information in the requested records is being withheld from disclosure pursuant to the exemptions described in and for the reasons stated in Part II.
- ☒ This determination may be appealed within 30 days by writing to the FOIA/PA Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Clearly state on the envelope and in the letter that it is a "FOIA/PA Appeal."

PART I.C COMMENTS (Use attached Comments continuation page if required)**Copyrighted Record(s):**

Please note that a portion of document number two identified on Appendix CC is a "copyrighted" document and is not enclosed. However, you may obtain access to this document by accessing the newspaper's website @ www.uniontrib.com/news/daily_index.html, or you may view a paper copy at NRC's Public Document Room located at 2120 L Street, NW, Washington, DC.

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

Carol Ann Reed

(6-1998)

**RESPONSE TO FREEDOM OF INFORMATION
ACT (FOIA) / PRIVACY ACT (PA) REQUEST**

99-377,00-219,00-257

AUG 15 2000APPENDICES
CC,DD**PART II.A -- APPLICABLE EXEMPTIONS**

Records subject to the request that are described in the enclosed Appendices are being withheld in their entirety or in part under the Exemption No.(s) of the PA and/or the FOIA as indicated below (5 U.S.C. 552a and/or 5 U.S.C. 552(b)).

- ☐ Exemption 1: The withheld information is properly classified pursuant to Executive Order 12958.
- ☐ Exemption 2: The withheld information relates solely to the internal personnel rules and procedures of NRC.
- ☐ Exemption 3: The withheld information is specifically exempted from public disclosure by statute indicated.
- ☐ 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).
- ☐ 41 U.S.C., Section 253(b), subsection (m)(1), prohibits the disclosure of contractor proposals in the possession and control of an executive agency to any person under section 552 of Title 5, U.S.C. (the FOIA), except when incorporated into the contract between the agency and the submitter of the proposal.
- ☒ Exemption 4: The withheld information is a trade secret or commercial or financial information that is being withheld for the reason(s) indicated.
- ☒ The information is considered to be confidential business (proprietary) information.
- ☐ The information is considered to be proprietary because it concerns a licensee's or applicant's physical protection or material control and accounting program for special nuclear material pursuant to 10 CFR 2.790(d)(1).
- ☐ The information was submitted by a foreign source and received in confidence pursuant to 10 CFR 2.790(d)(2).
- ☒ Exemption 5: The withheld information consists of interagency or intraagency records that are not available through discovery during litigation. Applicable privileges:
- ☐ 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)
- ☒ Exemption 6: The withheld information is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy.
- ☐ Exemption 7: The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated.
- ☐ (A) Disclosure could reasonably be expected to interfere with an enforcement proceeding (e.g., it would reveal the scope, direction, and focus of enforcement efforts, and thus could possibly allow recipients to take action to shield potential wrongdoing or a violation of NRC requirements from investigators).
- ☐ (C) Disclosure would constitute an unwarranted invasion of personal privacy.
- ☐ (D) The information consists of names of individuals and other information the disclosure of which could reasonably be expected to reveal identities of confidential sources.
- ☐ (E) Disclosure would reveal techniques and procedures for law enforcement investigations or prosecutions, or guidelines that could reasonably be expected to risk circumvention of the law.
- ☐ (F) Disclosure could reasonably be expected to endanger the life or physical safety of an individual.
- ☐ OTHER (Specify)

PART II.B -- DENYING OFFICIALS

Pursuant to 10 CFR 9.25(g), 9.25(h), and/or 9.65(b) 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 person responsible for the denial are those officials identified below as denying officials and the FOIA/PA Officer for any denials that may be appealed to the Executive Director for Operations (EDO).

DENYING OFFICIAL	TITLE/OFFICE	RECORDS DENIED	APPELLATE OFFICIAL		
			EDO	SECY	IG
Ellis W. Merschoff	Regional Administrator, RIV	CC/1	<input checked="" type="checkbox"/>		
Dennis K. Rathbun	Director, Office of Congressional Affairs	CC/2		<input checked="" type="checkbox"/>	
William Kane	Director, Office of Nuclear Material, Safety & Safeguards	DD/1	<input checked="" type="checkbox"/>		

Appeal must be made in writing within 30 days of receipt of this response. Appeals should be mailed to the FOIA/Privacy Act Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, for action by the appropriate appellate official(s). You should clearly state on the envelope and letter that it is a "FOIA/PA Appeal."

Re: FOIA-99-377

00-219

00-257

APPENDIX CC

DOCUMENTS BEING RELEASED IN PART

NUMBER	DATE	DESCRIPTION/EXEMPTION
1.	2/27/92	Letter to R. Hall from R. Blubaugh, re: Source Material License SUA-917 Moab Mill Site Surety Arrangement License Condition, No. 42, (5 pgs.) RELEASED TO THE PDR, ACC. NO. 9204140243, enclosure: Atlas Job Cost History, (33 pgs.) - WITHHELD IN ENTIRETY, EX. 4.
2.	9/14/98	Letter to D. Rathbun from Randy "Duke" Cunningham enclosing opinions from his constituents regarding possible contamination of the Colorado River, (3 pages), - PORTIONS WITHHELD, EX. 6, Attaching newspaper article from the San Diego Union Tribune, (9 pgs.) *THIS IS A "COPYRIGHTED" article and is not enclosed.

Re: FOIA/PA-99-377
00-219
00-257

APPENDIX DD
RECORDS BEING WITHHELD IN THEIR ENTIRETY

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	4/10/00	E-mail from J. Holonich to J. Cordes, subject: More Moab Difficulties (1 page) EX. 5

Re: FOIA/PA-99-377
00-219
00-257

APPENDIX EE
RECORDS BEING RELEASED IN THEIR ENTIRETY

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1.	4/17/00	E-mail from J. Holonich to Multiple Addressee, subject: Still More on Moab (1 page)

PRIORITY 3

NUDOCS OFFSITE FACILITY) REGULATORY INFORMATION DISTRIBUTION SYSTEM (RIDS)

ACCESSION NBR: 9204140243 DOC. DATE: 92/02/27 NOTARIZED: NO DOCKET # 04003453
 FACIL: 40-3453 Atlas Corp., Denver, CO,
 AUTH. NAME AUTHOR AFFILIATION
 BLUBAUGH, R.E. Atlas Corp.
 RECIP. NAME RECIPIENT AFFILIATION
 HALL, R.E. Uranium Recovery Field Ofc, R4
 MICHAUD, P. Uranium Recovery Field Ofc, R4

SUBJECT: Provides addl info justifying licensee request that current surety fee be extended at current level through 921231. Licensee questions rationale for continued adjustment to surety for plan being modified when other factors involved.

DISTRIBUTION CODE: DF03D COPIES RECEIVED: LTR 1 ENCL 1 SIZE: 5+33
 TITLE: Direct Flow Distribution: Subject Files & 40,70,71 Dkts w/out LPDRs

NOTES:

	RECIPIENT ID CODE/NAME	COPIES LTTR ENCL	RECIPIENT ID CODE/NAME	COPIES LTTR ENCL
INTERNAL:	NUDOCS-ABSTRACT	1 1	REG FILE 01	1 1
EXTERNAL:	NRC PDR	1 1		

NOTE TO ALL "RIDS" RECIPIENTS:

PLEASE HELP US TO REDUCE WASTE! CONTACT THE DOCUMENT CONTROL DESK, ROOM P1-37 (EXT. 504-2083) TO ELIMINATE YOUR NAME FROM DISTRIBUTION LISTS FOR DOCUMENTS YOU DON'T NEED!

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ATLAS CORPORATION



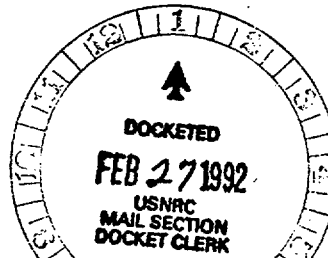
Republic Plaza, 370 Seventeenth Street, Suite 3150
Denver, CO 80202
Telephone: (303) 825-1200 Fax: (303) 892-8808

04003453250R
VIA COURIER

February 27, 1992

Uranium Recovery Field Office
Region IV
U.S. Nuclear Regulatory Commission
730 Simms Street, Suite 100
Golden, CO 80401

Attn: Ramon E. Hall
Paul Michaud



92 FEB 27 PM 2:26

URFO
RECEIVED

Re: Source Material License SUA-917
Moab Mill Site
Surety Arrangement
License Condition No. 42

Gentlemen:

Pursuant to our meeting in December 1991, and later discussed in our meeting of February 7, 1992, I am providing additional requested information which justifies Atlas' request that its current surety of \$6,500,000.00 be extended at the current level through December 31, 1992.

In its submittal of October 2, 1991, Atlas provided a number of reasons for its request. These are briefly summarized as follows:

1. Atlas continues to incur substantial reclamation and decommissioning costs at the Moab Mill Site which should be accounted for in determining appropriate surety. These expenses and the attendant reduction in future required work more than offset any potential inflationary adjustment to the surety.
2. NRC's regulations recognize that decommissioning and reclamation may be phased in through the life of the operation, and that the surety arrangement must account for ongoing activities.

NRC FILE CENTER COPY

OFFICIAL DOCKET COPY

920414 0243 1500

Add Info
92-0297

Uranium Recovery Field Office
Attn: Ramon E. Hall and Paul Michaud
February 27, 1992
Page 2

3. It is appropriate that Atlas' surety be maintained at its current level in light of NRC's delay in reviewing Atlas' modified reclamation plan for the Moab Mill Site. Atlas has incurred significant annual expenditures as a result, which underscores Atlas' acknowledgement of its responsibility for honoring obligations required under its license.
4. More than half of the mill tailings located at the Moab Mill Site were originally generated as a result of U.S. Atomic Energy Commission (AEC) contracts. The federal government acknowledges its responsibility for providing funds to assist in the cleanup of this and similar sites through the "National Energy Security Act of 1992", S.2166, passed by the Senate February 19, 1992. We anticipate enactment by the full Congress this year, at which time the annual surety would be accounted for, in part, by federal funds. It would be unfair and counter productive to require an upward adjustment to Atlas' surety until this issue is addressed in Congress, and until the NRC has reviewed and approved a final reclamation plan for the Moab Mill Site.
5. The severe downturn in gold prices has created considerable financial pressure for Atlas, and other gold mining firms. Atlas provided a copy of its Annual Report for Fiscal 1991 during the December meeting which detailed the difficulties faced by Atlas. Given the economic climate, it is even more appropriate that NRC exercise its discretion to maintain current surety arrangements.

In addition to the reasons reiterated above, Atlas includes the following:

6. The NRC has required the expenditure of additional tens of thousands of dollars through its request for Atlas to have its consulting engineer review and revise the modified reclamation plan. These costs must be incurred immediately and were not included in Atlas' fiscal 1992 budget, thus placing further burden on Atlas' financial resources.

Uranium Recovery Field Office
Attn: Ramon E. Hall and Paul Michaud
February 27, 1992
Page 3

7. The NRC has demanded an annual fee for the Moab Mill License of \$100,100.00 for the federal fiscal year of 1991 and another \$50,050.00 for the first two quarters of fiscal 1992. This increases the difficulties faced by Atlas at this time.

In an effort to provide more detailed economic justification for maintaining the current surety based on expenses incurred by Atlas since the NRC last reviewed Atlas' surety arrangement, Atlas has conducted a thorough review of its records. Also, Atlas conducted a retrospective evaluation of manpower and overhead costs as they relate to the functional areas NRC allows to be considered specifically for decommissioning and reclamation. This ladder effort was necessary because the "Job Cost History" for the Moab Operations does not accurately reflect the actual allocation of labor costs.

Appendix A-1 summarizes the costs incurred for the appropriate functional areas, the costs (other than labor) calculated from the "Job Cost History" for the Moab Operations (Appendix A-2) and the estimated manpower attributed to each function over the period from July 1990 through December 1991. This period does not include Atlas' fiscal year 1990 which was addressed in the surety evaluation covered in our letter of October 8, 1990.

Atlas requests that the NRC consider the enclosed Appendix A-2 to be financial information which is privileged and confidential and that it not be maintained in the public document files pursuant to 10 CFR 9.17(a)(4).

The summary cost table (Appendix A-1) does not include costs incurred for utilities, fuel, insurance, legal fees, taxes and other fees which should be prorated for the various functional areas if all related costs were to be included. Estimating these costs is difficult to do with any accuracy, however, we are confident that several tens of thousands of dollars could be added to the total of \$194,524.00.

In the NRC's response to Atlas' October 8, 1990 submittal, it is stated, "An increase in the surety amount to account for inflation yields a figure of \$6,855,000.00. But this increase of \$355,000.00 is considered to be offset by reclamation activities performed." This reference is included to clarify Atlas' understanding that what NRC is considering at this point is approximately \$245,000 for 1991, not \$600,000 as was briefly discussed in our December meeting.

Uranium Recovery Field Office
Attn: Ramon E. Hall and Paul Michaud
February 27, 1992
Page 4

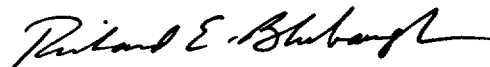
Atlas believes the \$194,524.00 plus the additional costs associated with overhead and support adequately offsets the required surety adjustment in accordance with the NRC's guidelines and regulations. Furthermore, in addition to the reclamation engineering costs discussed in item 6 above, Atlas has recently issued a contract for additional placement of interim cover material on the tailings facility. This work is expected to be completed in March 1992. When completed, the interim cover will encompass approximately 90 percent of the accessible tailings surface. This additional cost as well as those outlined above should clearly offset the required surety adjustment.

In conclusion, Atlas recognizes the value of having financial assurance in place as required by 10 CFR 40 Appendix A. However, we question the rationale for continued adjustment to a surety for a plan which is being modified, especially when so many other factors and financial pressures are involved. Therefore, Atlas respectfully reiterates its request for NRC to maintain the existing surety for now with the understanding that the surety requirement will be reviewed later this year when the modified reclamation plan has been approved and Congress has acted.

We trust that this information meets NRC's needs as outlined by you during our December meeting and requested for justification to maintain the current surety arrangements. Your patience and cooperation on this matter are appreciated. Please contact me at your convenience should you have any questions.

Sincerely,

ATLAS CORPORATION



Richard E. Blubaugh
Vice President of Environmental
and Governmental Affairs

REB:lds

cc: R.R. Weaver
R.A. Sherman
R.L. Freeman, Esq.

APPENDIX A-1

COST SUMMARY for DECOMMISSIONING AND RECLAMATION Performed at the MOAB MILL SITE

(July 1990 - December 1991)

<u>FUNCTIONAL AREA</u>	<u>CATEGORY</u>	<u>COST. (\$)</u>
Decommissioning	Labor ⁽¹⁾	17,500
	Outside Services	9,975
Accelerated Reclamation\ Interim Cover	Labor	15,850
	Outside Services	20,328
Groundwater CAP	Labor	40,000
	Material & Supplies	4,076
	Outside Services	<u>86,795</u>
Total		<u>194,524</u>

(1) All labor (including burden) calculated on basis of average cost of \$25.00/hr.

For hard copy, refer to PDR Folder:

Requester Name: K. Boggiaatto

Response Date: 8-15-2000 ⁰⁰ #17

Record(s): CC/2 (pages 4-12)

RANDY "DUKE" CUNNINGHAM
51ST DISTRICT, CALIFORNIA

COMMITTEE ON APPROPRIATIONS

SUBCOMMITTEES:
NATIONAL SECURITY
LEGISLATIVE
DISTRICT OF COLUMBIA



Congress of the United States

House of Representatives

Washington, DC 20515-0551
September 14, 1998

Mr. Dennis K. Rathbun
Director, Office of Congressional Affairs
Nuclear Regulatory Commission
Washington, DC 20555

PLEASE RESPOND TO:
☐ 2236 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-0551
(202) 225-6462
(202) 225-2668 FAX

☐ 613 WEST VALLEY PARKWAY
SUITE 320
ESCONDIDO, CA 92026
(760) 737-8438
(760) 737-8132 FAX

WORLD WIDE WEB:
<http://www.house.gov/cunningham/>

REC'D BY SECY

Dear Mr. Rathbun:

8 SEP 98 1:56

Enclosed please find an opinion from my constituent, [REDACTED] E46
My constituent has expressed concern regarding the possible contamination of the Colorado River.
Because of the specific nature of this concern, I believe your office would be best suited to answer
this properly.

I have sent a letter to the constituent advising of the referral to you. I hope that you will be
able to provide timely assistance.

Thank you for your attention to this matter. If you have any questions, please feel free to
contact Jeannette Shields in my Washington office.

With best regards,

Sincerely,

Randy "Duke" Cunningham
Member of Congress

RDC:jem

9810230124 981007
PDR ADOCK 04003453
C CF

Shields, Jeannette

Subject:

opinion



F44

He called regarding the August 23 article in the San Diego *Union-Tribune*. He feels that both the NRC and the Dept. of Energy should clean up the site.

Shields, Jeannette

Subject:

opinion



E46

He called regarding the August 23 article in the San Diego *Union-Tribune*. He feels that the NRC should be forced to clean up the site. If they can't do it, the Dept. of Energy should take over the NRC.

From: Joseph Holonich
To: B. Jennifer Davis, Myron Fliegel, Thomas Essig
Date: Mon, Apr 17, 2000 5:53 PM
Subject: Fwd: Re: Still more on Moab

Tom,

You and Fliegel should work to polish the letter, i.e. smooth the transitions, and eliminate dual words, like two sentences together starting with "However." In addition, have Mike look through our letters, and the biological opinion to see if there is any documentation of us raising concerns with Atlas' precarious financial situation. Recall that Carl wanted documentation, not just conversation.

Thanks,

Joe

Ru

EEH
cc/3
BTS/7