

January 23, 2020

FOIA Officer^[SEP]
Mail Stop T-2 F43^[SEP]
U.S. Nuclear Regulatory Commission
Washington, DC 20555^[SEP]
BY EMAIL: foia.resources@nrc.gov and
BY FOIAOnline

SUBJECT: *Freedom of Information Act Request*

Dear FOIA Officer:

On behalf of the C-10 Research and Education Foundation (“C-10”), and pursuant to the Freedom of Information Act (“FOIA”) (5 U.S.C. § 552 et seq.) and U.S. Nuclear Regulatory Commission (“NRC”) FOIA regulations, I am writing to request you to provide access to documents that are related to the following documents:

- (a) Federal Register Notice: *Improved Identification Techniques Against Alkali-Silica Reaction (ASR) Concrete Degradation at Nuclear Power plants: Petition for Rulemaking; denial*, 84 Fed. Reg. 65,023 (Nov. 26, 2019) (“Denial Notice”);
- (b) Letter from Sandra Gavutis, C-10 Research and Education Foundation, to Annette L. Vietti-Cook, NRC re: Petition for Rulemaking (Sept. 25, 2014) (NRC Agency-Wide Documents Access and Management System (“ADAMS”) Accession No. ML14281A124) (“C-10 Rulemaking Petition”);
- (c) Memorandum from Angela R. Buford, NRC, to James M. Trapp, NRC, re: Position Paper: In Situ Monitoring of Alkali-Silica Reaction (ASR) Affected Concrete: a Study on Crack Indexing and Damage Rating Index to Assess the Severity of ASR and to Monitor ASR Progression (Apr. 30, 2013) (ADAMS Accession No. ML13108A047) (“Buford Memo”).

We request the following documents:

1. All documents recording or otherwise discussing the “internal technical discussion(s)” and/or “staff review” referred to in the Denial Notice, 84 Fed. Reg. at 65,028, Col. 1.
2. The names of all NRC Staff members who participated in the “internal technical discussion(s)” and/or “staff review” referred to in the Denial Notice, 84 Fed. Reg. at 65,028, Col. 1.
3. With respect to any individual identified in response to par. 2 above, all documents reflecting that individual’s expertise with respect to ASR.
4. All “current ASR literature and case history” on which the Denial Notice relies for the

specific proposition that “visual inspections are sufficient to identify manifestations of potentially damaging ASR before there would be significant structural impacts.” *See* Denial Notice, 84 Fed. Reg. at 65,028, Col. 1.

5. All internal NRC correspondence and/or meeting records regarding the C-10 Rulemaking Petition and/or the Denial Notice. This request covers the period between September 25, 2014 (the date of the C-10 Rulemaking Petition) and today’s date.
6. All outside correspondence received by the NRC or sent by the NRC, and all records of meetings between NRC officials and non-NRC individuals, regarding the C-10 Rulemaking Petition and/or the Denial Notice. This request covers the period between September 25, 2014 and today’s date.
7. All internal NRC correspondence and meeting records regarding the Buford Memorandum. This request covers the period between April 30, 2013 and today’s date
8. All outside correspondence received by the NRC or sent by the NRC, and all records of meetings between NRC officials and non-NRC individuals, regarding the Buford Memorandum. This request covers the period between April 30, 2013 and today’s date.

Please note that the documents requested above do *not* include (a) public comments on the C-10 Rulemaking Petition, (b) documents identified in the Denial Notice, or (c) documents previously produced by the NRC in response to FOIA/PA-2013-0332.

If it is your position that records exist that are responsive to this request, but that those records (or portions of those records) are exempt from disclosure pursuant to the FOIA and NRC implementing regulations, please identify the records the records that are being withheld and state the basis for the denial for each record being withheld. In addition, please provide the non-exempt portions of the records.

Definition of “Records”

The term "record" should be construed to mean any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone calls, meetings or other communications, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any

attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, voicemails, microfiche, microfilm, videotape, recordings and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, memory sticks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind of nature. A record bearing any notation not a part of the original text is to be considered a separate record. A draft of a non-identical copy is to be construed as a separate record.

The terms "relating" and "regarding" with respect to any given subject, should be construed to mean anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is in any manner whatsoever pertinent to that subject. The inclusion and description of particular records in this request should not be construed to eliminate other records that are not described in particular detail if they should exist in another format.

Request for Documents in Electronic Format

If possible, please provide the requested documents in electronic (pdf) format.

Request for Waiver of Fees

Pursuant to 10 C.F.R. § 9.41, C-10 requests that any searching and copying fees incurred as a result of this search be waived. As follows, C-10 satisfies all of the NRC's regulatory criteria for a waiver:

- 1) *Purpose of request:* The purpose of the request is to gather information on the NRC's oversight and regulation of the operational safety and reliability of nuclear power generating stations suffering from ASR, which may degrade concrete in safety systems. ASR was discovered at the Seabrook nuclear power plant in 2009. Its effects on the safety of the reactor's operation has been studied by the NRC and have been the subject of regulatory action. See <https://www.nrc.gov/reactors/operating/ops-experience/concrete-degradation.html>.

C-10 is an intervenor in a license amendment proceeding for review of the licensee's ASR assessment and monitoring program. The NRC Staff has already approved the program and issued a license amendment; and it has also incorporated the program into a 20-year license renewal for the Seabrook plant. In the license amendment hearing in September 2019, C-10 presented a significant body of highly-qualified expert testimony demonstrating that the program is sub-standard and fails to protect public health and safety. In addition, C-10 demonstrated that the NRC lacks any standards that would ensure the timely and effective detection of ASR in nuclear power plant structures.

Shortly after the hearing concluded, the NRC issued the Denial Notice in a separate proceeding, concluding that the existing regulatory scheme is adequate to address ASR. The

reference documents listed in the Denial Notice do not provide technical support for the NRC's conclusion, thus raising the question of what authorities the NRC *did* rely on for its conclusion. Through this FOIA request, C-10 seeks a full listing of the individuals and documents on which the NRC relied for its determination, including unacknowledged evidence and/or arguments from internal or external sources. The requested information is currently not publicly available through the agency's public document room.

- 2) *Extent to which C-10 will extract and analyze the substantive content of the records:* For ten years, C-10 has actively monitored, commented on, and challenged the NRC's regulatory activities with respect to ASR at Seabrook. C-10's actions include obtaining a license amendment hearing on the adequacy of the licensee's program for ASR assessment and monitoring at Seabrook, submitting an enforcement petition regarding ASR at Seabrook, and submitting the Rulemaking Petition that is a subject of this FOIA request. Throughout these processes, C-10 has received assistance from qualified experts, including Dr. Paul Brown and Dr. Victor Saouma. Dr. Saouma, C-10's current expert, is the world's foremost authority on ASR. C-10 and its experts have thoroughly analyzed all records obtained so far recording ASR, including the submittal by Dr. Saouma of lengthy expert testimony and expert reports in recent legal proceedings before the NRC. The information obtained through this FOIA request will be thoroughly reviewed and analyzed by C-10 and Dr. Saouma.
- 3) *Nature of the specific activity or research in which the records will be used and C-10 qualifications to utilize the information for the intended use in such a way that it will contribute to public understanding:* C-10 will use the requested information in its ongoing advocacy for effective regulation of ASR at Seabrook, before the NRC, before Congress and before state and local officials, and before the press. As it has done for the past ten years, C-10 will continue its tireless efforts to ensure that all relevant information regarding the NRC's regulation of ASR at Seabrook is publicly available and fully analyzed. C-10 also intends to publish relevant information on its website and share it with the press.
- 4) *Likely impact on the public understanding of the subject as compared to the level of understanding of the subject prior to disclosure:* The public understanding of the issues regarding NRC oversight and enforcement of requirements for the protection of public safety will be enhanced by the contribution of this information.
- 5) *Size and nature of the public to who's understanding a contribution will be made:* C-10 has a membership of 1,500 people who periodically receive communications from C-10. C-10 provides resource material to electronic and print media outlets with very broad outreach to a constituency and the interested public. Additionally, C-10 maintains a web site at <https://www.c-10.org/>, where postings on this issue will be made available.
- 6) *Means of distribution of the requested information:* C-10 will use its publications and media contacts in both electronic and print media outlets to provide very broad outreach to the public regarding the information obtained through this FOIA request. C-10 will also share information with other interested parties concerned about NRC oversight and enforcement of

public safety requirements. Additionally, C-10 will post information on its web site.

- 7) *Whether free access to information will be provided:* C-10 will provide the information without charge to all members of the public. Information from the FOIA requested will be prepared for printed material and electronically posted on the web site for downloading free of charge.
- 8) *No commercial interest by C-10 or any other party:* C-10 is a nonprofit charitable organization and therefore has no commercial interest in obtaining the requested information. This information is provided to all public requests without charge. The sole interest of C-10 is to promote an open policy debate on the quality of NRC oversight, operational licensing and enforcement of requirements for the protection of public safety.

Thank you very much for your prompt attention to this request. We look forward to receiving your response within 20 working days, as required by 10 C.F.R. § 9.25(a). In the meantime, please call me at 240-393-9285 if you have any questions regarding this request.

Sincerely,



Diane Curran
Counsel to C-10 Research and Education Foundation

CC: Natalie Hildt Treat, Executive Director, C-10