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RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

FOIA — 92-188

RESPONSE TYPE

FINAL

☒ PARTIAL

DATE

JUN 25 1992

DOCKET NUMBER(S) (if applicable)

REQUESTER

Ted Wendling

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) _____ 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 the request have been referred to another Federal agency(ies) for review and a 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 on 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. Any released portions of the documents for which only part of the record is being withheld are being made available for public inspection and copying in the NRC Public Document Room, 2120 L Street, N.W., Washington, DC in a folder under this FOIA number.

COMMENTS

*The releasable portions of the agency records subject to your FOIA request that are identified on the enclosed Appendix G are enclosed.

For your information, OI Investigation Report No. A-3-86-011 has already been made available in the NRC Public Document Room (PDR). This report has been filed in PDR folder FOIA-91-387 under the name of Davis. The record is listed at item 9 of Appendix C.

The NRC is continuing to review records subject to your request. We will notify you upon completion of the review.

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

Carl Ann Harris for

9301060058 920625
PDR FOIA
WENDLING92-188 PDR

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

FOIA NUMBER(S)

FOIA — 92-188

DATE

JUN 25 1992

PART II. B — APPLICABLE EXEMPTIONS

Records subject to the request that are described in the enclosed Appendix(es) G 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 2.290(d)(1).

The information was submitted and received in confidence pursuant to 10 CFR 2.290(d)(2).

5. The withheld information consists of interagency or intraagency records that are not available through discovery due to exemption. (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.)

XX 6. The withheld information is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy. (Exemption 6)

XX 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 wrongdoing or a violation of NRC requirements from investigators. (Exemption 7 (A))

XX 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
Mr. Ben B. Hayes	Director, Office of Investigations	Appendix G	XX		

PART II. D — APPEAL RIGHTS

The denial by each denying official identified in Part II, C may be appealed to the Appellate Official identified therein. 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 G

DOCUMENTS BEING WITHHELD IN PART

KUMBER	DATE	DESCRIPTION
1.	04/28/86	OI Investigation Report, ROI No. 3-85-002 (38 pages) Exemptions 6 & 7 (C)
2.	03/29/88	OI Investigation Report, ROI No. 3-87-003S (19 pages) Exemptions 6 & 7 (C)
3.	11/09/89	OI Investigation Report, ROI No. 3-89-005 (17 pages) Exemptions 6 & 7 (C)
4.	06/06/91	OI Investigation Report, ROI No. 3-90-008 (3 pages) Exemptions 6 & 7 (C)

THE PLAIN DEALER

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April 10, 1992

Donnie Grimsley
Director FOIA and Publication Services
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

FREEDOM OF INFORMATION
ACT REQUEST

FOIA-92-188
Rec'd 4-13-92

Dear Mr. Grimsley:

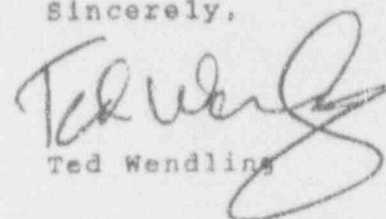
This is a request for access to public records under 5 USC 552, the Freedom of Information Act. Under provisions of that statute, I am asking for copies of the following records:

1. OI investigation reports of the 34 hospitals that have a mark next to the case number on the attached two-page list.
2. A list, similar to the attached document, of all OI investigations of radiopharmaceutical firms and their employees.
3. An EATS system printout of all fines levied against radiopharmaceutical firms. This information, if possible, should include the EA number, name of licensee, location of facility, proposed civil penalty/date and the amount paid/date.

If any of these records are withheld, in whole or in part, I'm requesting a citation of the applicable exemption for each record, or portion thereof, that is being denied. I am also requesting a waiver of search and copying fees, inasmuch as the information gained in this request will be used in stories I am writing for this newspaper.

Thanks for your help. If you have any questions about this request, please call me at (216) 344-4987.

Sincerely,


Ted Wendling

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APPENDIX A

RE: FOIA-92-99

CASE NO.	NAME	DATE CLOSED
1-81-008	College/Osteopathic Med.	01/31/83
1-83-008	Cannonsburg General Hospital	05/18/83
1-84-034	Thomas Jefferson University	05/21/88
1-85-006	Glover Memorial Hospital	03/24/88
1-85-014	Mercy Hospital	11/12/85
1-86-01	St. Barnabas Medical Center	08/27/87
1-86-015	Metro Health Center	10/06/87
1-87-001	Hilford Medical Hospital	08/11/87
1-87-012	Shady Side Hospital	06/06/88
Q1-88-007	St. Agnes Medical Center	09/22/88
1-88-010	United Hospital/Newark	08/02/89
1-88-011	District of Columbia, Govt.	06/09/89
1-88-0115	District of Columbia, Govt.	02/27/90
1-89-012	Mountainside Hospital	07/31/89
Q1-90-009	University Medical Center	04/24/90
1-90-012	General Hospital Center	10/26/90
1-90-018	V. A. Medical Center	04/05/91
1-91-002	St. Josephs Hospital & Medical Center	06/20/91

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2-83-002	Hospital Metropolitano	06/17/83
Q2-83-042	Humana Hospital	02/02/84
Q2-85-005	St. Thomas Hospital	04/19/85
Q2-85-014	V. A. Hospital	06/02/85
2-85-018	Humana Hospital, Greenbrie	07/24/87
Q2-85-022	Jefferson Memorial Hospital	08/14/86
2-87-007	Rappahannoch General Hospital	10/27/88
2-87-011	St. Mary's Hospital	07/01/88
2-87-017	United Hospital Center	04/18/88
Q2-88-006	Lee County Hospital	01/31/89
2-89-012	Potomac Valley Hospital	03/16/90
2-90-002	Virginia Heart Institute	04/11/90
2-90-005	Davis Memorial Hospital	08/04/90
2-91-002	Humana Hospital, Greenbrie	05/28/91
2-91-005	V. A. Medical Center	10/04/91
A2-91-007	Stuart Circle Hospital	08/29/91
A2-91-011	Roanoke Memorial Hospital	11/21/91

7A

3-82-023	Northwest Hospital	07/30/85
3-82-088	Our Lady of Mercy Hospital	01/30/85
Q3-83-031	Research Medical Center	02/20/87
3-85-002	Bloomington Hospital	04/28/86
Q3-85-014	St. Johns Health Center	03/20/87
A3-86-011	Cleveland Clinic	10/09/87
3-86-014	University of Cincinnati Medical Center	10/27/88
3-87-003	Hines V. A. Hospital	11/04/87

CASE NO.

NAME

DATE CLOSED

3-87-0038	Hines V. A. Hospital	03/29/88
3-88-010	Otto C. Epp Memorial Hospital	06/22/89
Q3-88-011	Trinity Lutheran Hospital	12/08/88
3-89-002	Lafayette Clinic	01/22/91
3-89-005	Milwaukee City Medical Complex	11/09/89
3-89-011	University of Cincinnati Medical Center (Ongoing Enforcement Action)	
3-90-005	Ellis Fischel Cancer Center	02/01/91
3-90-007	West Allis Memorial Hospital	11/08/90
3-90-006	St. Mary's Medical Center	06/06/91

7A

4-82-018	Laboratory of Clinical Medicine	02/09/84
Q4-84-015	Darnell Army Hospital	03/12/84
4-88-001	V. A. Medical Center	02/12/88
4-88-003	Memorial Hospital of Sher.	09/01/88
4-89-009	Deaconess Hospital	01/22/90
A4-91-013	V. A. Medical Center	09/09/91
4-91-014	V. A. Medical Center	01/29/92
A4-91-021	Powell Hospital	03/04/92
Q3-88-003	V. A. Medical Center	02/17/89
Q5-89-014	Naval Regional Medical Center,	12/20/89
Q5-90-001	Letterman Army Medical Center	01/25/90
A5-90-007	V. A. Medical Center	11/01/90

THE

7A Portion