



RESPONSE TO FREEDOM OF
INFORMATION ACT (FOIA) REQUEST

FOIA - 92-71

RESPONSE TYPE

☒ FINAL ☐ PARTIAL

DATE

JUL 8 1992

DOCKET NUMBER(S) (if applicable)

Mark S. Mester

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) F 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) G 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 direct response to you.
- ☒ Fees
- ☒ You will be billed by the NRC for fees totaling \$ 112.85
- ☐ 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 In a telephone conversation with Ms. Carol Ann Reed on July 1, 1992, you agreed to pay the additional \$112.85.

Search - 1/2 hr. professional at \$29.10 per hr.	\$ 14.55
22 hrs. clerical at \$13.80 per hr.	303.60
Review - 1/2 hr. SES at \$54.80 per hr.	27.40
8 hrs. professional at \$29.10 per hr.	232.80
3 hrs. clerical at \$13.80 per hour	41.40
Duplication - 500 pages at \$.20 per page	100.00
	\$ 719.75
Less Advance Payment	-606.90
	\$ 112.85

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

Donna H. Munsley

9301080150 920708
PDR FOIA
MESTER92-71 PDR

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

FOIA NUMBER(S)

FOIA — 92-71

DATE

JUL 8 1992

PART II B — APPLICABLE EXEMPTIONS

Records subject to the request that are described in the enclosed Appendix(es) H & I 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.

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | 1. The withheld information is properly classified pursuant to Executive Order. (Exemption 1) |
| <input type="checkbox"/> | 2. The withheld information relates solely to the internal personnel rules and procedures of NRC. (Exemption 2) |
| <input type="checkbox"/> | 3. The withheld information is specifically exempted from public disclosure by statute indicated. (Exemption 3) |
| <input type="checkbox"/> | 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). |
| <input type="checkbox"/> | Section 147 of the Atomic Energy Act, which prohibits the disclosure of Unclassified Safeguards Information (42 U.S.C. 2167). |
| <input type="checkbox"/> | 4. The withheld information is a trade secret or commercial or financial information that is being withheld for the reason(s) indicated. (Exemption 4) |
| <input type="checkbox"/> | The information is considered to be confidential business (proprietary) information. |
| <input type="checkbox"/> | The information is considered to be proprietary information pursuant to 10 CFR 2.790(d)(1). |
| <input type="checkbox"/> | The information was submitted and received in confidence pursuant to 10 CFR 2.73(d)(2). |
| <input checked="" type="checkbox"/> | 5. The withheld information consists of interagency or intraagency records that are not available through discovery during litigation. (Exemption 5). Applicable Privilege: |
| <input checked="" type="checkbox"/> | 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. |
| <input checked="" type="checkbox"/> | Attorney work product privilege. (Documents prepared by an attorney in contemplation of litigation.) |
| <input type="checkbox"/> | Attorney-client privilege. (Confidential communications between an attorney and his/her client.) |
| <input checked="" type="checkbox"/> | 6. The withheld information is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy. (Exemption 6) |
| <input type="checkbox"/> | 7. The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated. (Exemption 7) |
| <input type="checkbox"/> | 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)) |
| <input type="checkbox"/> | Disclosure would constitute an unwarranted invasion of personal privacy. (Exemption 7 (C)) |
| <input type="checkbox"/> | 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)) |
| <input type="checkbox"/> | 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
John Hoyle	Asst. Secy. of Commission	Appendix H		X	
Joseph Scinto	Deputy General Counsel for	Appendix I		X	
	Hearings, Enforcement &				
	Administration				

PART II D — APPEAL RIGHT

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 F

RECORDS MAINTAINED AMONG PDR FILES

<u>NUMBER</u>	<u>DATE</u>	<u>DESCRIPTION</u>
1.	5/1/79	NRC Staff's Response to "State of Illinois Request for Leave to File Reply to Licensee's Post Hearing Brief on Issues Arising During the Oral Argument Before the ASLB on March 27, 1979" (3 pages) ANO 7906050202
2.	6/6/79	Notice of Hearing (3 pages) ANO 7906270191
3.	7/17/80	Prehearing Conference on 6/26/80 by R. P. Lessy with attachment (5 pages) ANO 8007220149
4.	7/30/80	Response of the NRC Staff to the Exception Filed by Intervenor, Chicago Section, American Nuclear Society, to the Licensing Board's May 3, 1979 and May 7, 1980 Orders (30 pages) ANO 8008040046

APPENDIX G

RECORDS BEING PLACED INTO THE PDR UNDER THE ABOVE REQUEST NUMBER

<u>NUMBER</u>	<u>DATE</u>	<u>DESCRIPTION</u>
1.	4/10/78	Letter to J. M. Hendrie from A. E. Stevenson re: Concerns about the possible dangers (2 pages)
2.	4/10/78	Memo to Chief, PDR from S. J. Chilk re: Meeting Records on Sheffield Waste Disposal Case (2 pages)
3.	5/4/78	Letter to A. E. Stevenson from L. V. Gossick re: Response to 4/10/78 letter (2 pages)
4.	5/12/78	Note to L. V. Gossick from R. T. Kennedy re: Low Level Waste Burial Sites (1 page)
5.	6/6/78	Letter to Chairman from J. J. Balocca re: Urging new sites (1 page)
6.	6/26/78	SECY 78-346, <u>People of the State of Illinois v. NRC</u> , U.S.D.C., N.D. Ill., No. 77 C 4190 (1 page)
7.	9/27/78	SECY-A-78-73, Review of ALAB-404 with enclosed ALAB-494 (11 pages)
8.	10/5/78	Memo to J. L. Kelley from S. J. Chilk, re: SECY-A-78-73 (1 page)
9.	6/21/78	Memo to J. L. Kelley from S. J. Chilk, re: SECY-78-51 (1 page)
10.	5/31/79	Letter to J. Hendrie from J. N. Neel re: Objecting to statements in a DOE letter (2 pages) with enclosed excerpt from Inside DOE (1 page) COPYRIGHTED
11.	9/79	Interagency Task Force Report on the Proposed Decommissioning of the Sheffield Nuclear Waste Disposal Site (130 pages)
12.	9/11/81	SECY-81-537, Reconstitution of Atomic Safety and Licensing Board for Sheffield Low-Level Radioactive Waste Disposal Site (1 page)

APPENDIX G
(Continued)

RECORDS BEING PLACED INTO THE PDR UNDER THE ABOVE REQUEST NUMBER

<u>NUMBER</u>	<u>DATE</u>	<u>DESCRIPTION</u>
13.	6/26/84	Memo to L. B. Higginbotham from R. L. Fonner re: Transfer of Sheffield, Illinois, low-level waste disposal site to Department of Energy pursuant to Section 151 of the Nuclear Waste Policy Act (4 pages)
14.	6/13/85	Letter to E. B. Moran from R. L. Fonner re: Flow of Information with enclosures (3 pages)
15.	6/19/87	Memo to H. L. Thompson and H. S. Denton from J. P. Murray re: Appeal Board Decision Terminating the Sheffield Enforcement Proceeding with attached Order (4 pages)
16.	8/17/87	Letter to L. W. Zech from T. S. Baer re: Extending invitation to visit facilities (1 page)
17.	9/29/87	Letter to T. S. Baer from F. M. Bernthal re: Response to 8/17/87 letter (1 page)

APPENDIX H

RECORDS PARTIALLY WITHHELD

<u>NUMBER</u>	<u>DATE</u>	<u>DESCRIPTION & EXEMPTION</u>
1.	4/6/78	<p>SECY-78-194, <u>People of the State of Illinois v. NRC, et al.</u>, U.S.D.C., N.D. Ill., No. 77 C 4190 (3 pages) EX. 5 with enclosures</p> <p>a. State's motion (16 pages) Ex. 5</p> <p>b. Motion to Dismiss (2 pages) EX. 5</p> <p>c. Affidavit in Support of Defendant NRC's Motion to Dismiss (10 pages) RELEASED</p> <p>d. Byproduct, Source and Special Nuclear Material License, Docket No. 27-39 (5 pages) RELEASED</p> <p>e. Amendment No. 9 to Byproduct, Source and Special Nuclear Material License (2 pages) RELEASED</p> <p>f. Amendment No. 10 to Byproduct, Source and Special Nuclear Material License (1 page) RELEASED</p> <p>g. Amendment No. 10 to Nuclear Engineering Company, Inc. license (1 page) RELEASED</p> <p>h. Amendment No. 11 to Byproduct, Source and Special Nuclear Material License (2 pages) RELEASED</p> <p>i. Federal Register Notices (8 pages) RELEASED</p> <p>j. Notice of Opportunity for Hearing (4 pages) RELEASED</p> <p>k. 3/15/78 Letter to NECO from NRC re: Proposed investigative program (2 pages) RELEASED</p> <p>l. 3/30/78 Letter to NRC from NECO re: Response to 3/15/78 letter (1 page) RELEASED</p>

Re: FOIA-92-71

APPENDIX H
(Continued)

RECORDS PARTIALLY WITHHELD

<u>NUMBER</u>	<u>DATE</u>	<u>DESCRIPTION & EXEMPTION</u>
2.	9/5/86	Letter to a Senator from NRC re: Selection of US Ecology as contractor (1 page) RELEASED with enclosed
		a. 8/4/86 letter to NRC from a Senator re: Constituent's concern (1 page) PORTION EX. 6
		b. 6/29/86 letter to Congress from a constituent (1 page) PORTION EX. 6

Re: FOIA-92-71

APPENDIX I

RECORDS TOTALLY WITHHELD

<u>NUMBER</u>	<u>DATE</u>	<u>DESCRIPTION & EXEMPTION</u>
1.	6/20/79	Memo to H. K. Shapar from J. P. Murray re: Commission Memorandum and Order of 6/6/79 (NECO-Sheffield) (3 pages) EX. 5

LATHAM & WATKINS

PAUL R. WATKINS (1999-1973)
DANA LATHAM (1999-1974)

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February 11, 1992

BY FEDERAL EXPRESS

Mr. Donnie Grimsley
United States Nuclear
Regulatory Commission
FOIA Office
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FREEDOM OF INFORMATION
ACT REQUEST

FOIA-92-71
Rec'd 2-12-92

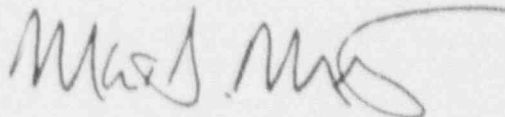
Re: Freedom of Information Act Request

Dear Mr. Grimsley:

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, we are requesting any and all documents within the possession, custody or control of the United States Nuclear Regulatory Commission that refer or relate to the following: In the Matter of US Ecology, Inc., (Sheffield, Illinois Low-Level Radioactive Waste Disposal Site) 25 N.R.C. 98 (1987) (Docket No. 27-39-SC).

We will reimburse the USEPA for all reasonable costs incurred in complying with this request.

Sincerely,



Mark S. Mester
of LATHAM & WATKINS

MSM:bld

92-2070219
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