



RESPONSE TO FREEDOM OF
INFORMATION ACT (FOIA) REQUEST

FOIA — 92-188

RESPONSE TYPE

FINAL

☒

PARTIAL

DATE

JUN - 3 1992

DOCKET NUMBER(S) (if applicable)

REQUESTER

Ted Wendling

PART I.—AGENCY RECORDS RELEASED OR NOT LOCATED (See checker)

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 direct 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

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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

*Agency records subject to your FOIA request that are identified on the enclosed Appendix E and the releasable portions of the records identified on the enclosed Appendix F are enclosed.

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

9301080201 920603
PDR FOIA
WENDLIN92-188 PDR

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

Donna H. Chumley

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

FOIA NUMBER(S)

FOIA -- 92-188

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PART II B - APPLICABLE EXEMPTIONS

Records subject to the request that are described in the enclosed Appendix(es) F 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 2.790(d)(1).

The information was submitted and received in confidence pursuant to 10 CFR 2.790(d)(2).

5. The withheld information consists of interagency or intraagency records that are not available through discovery during litigation. (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 F	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 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 E

DOCUMENTS BEING RELEASED IN ENTIRETY

NUMBER	DATE	DESCRIPTION
1.	08/02/89	OI Investigation Report, ROI No. 1-88-010 (17 pages)
2.	07/31/89	OI Investigation Report, ROI No. 1-88-012 (20 pages)
3.	06/20/91	OI Investigation Report, ROI No. 1-91-002 (22 pages)
4.	06/09/89	OI Investigation Report, ROI No. 1-88-011 (23 pages)

APPENDIX F

DOCUMENTS BEING WITHHELD IN PART

NUMBER	DATE	DESCRIPTION
1.	11/12/85	OI Investigation Report, ROI No. 1-85-014 (26 pages) Exemptions 6 & 7 (C)
2.	08/11/87	OI Investigation Report, ROI No. 1-87-001 (32 pages) Exemptions 6 & 7 (C)
3.	04/18/17	OI Investigation Report, ROI No. 2-87-017 (24 pages) Exemptions 6 & 7 (C)
4.	02/27/90	OI Investigation Report, ROI No. 1-88-011S (13 pages) Exemptions 6 & 7 (C)

United States
Nuclear Regulatory Commission



Report of Investigation

Milford Memorial Hospital:

Falsification of Records

Office of Investigations

Reported by OI: RI

Information in this record was deleted
in accordance with the Freedom of Information
Act, exemptions 6, 7, (C)
FOIA- 92-188

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first arrived at MMH approximately 1970 but the people who were supposed to attend refused to do so. Subsequently, he gave up asking them to attend. Dr. DELGADO also made the following revelation: "It was like this at my last place of employment [REDACTED] No Committees met there either." (NOTE: The Region II Staff and Ol:RII have been notified of this possible wrongdoing.) When asked if the alleged attendees were aware that their names were being listed on the minutes of the non-existent RSC meetings, Dr. DELGADO answered, "Probably not. Maybe not. I'm not sure." Dr. DELGADO attempted to mitigate this apparent violation by explaining that although the form was wrong, the substance was right. He stated that he was a one-man committee and that he did oversee the MMH Nuclear Medicine Department and perform the tasks listed in the RSC minutes he produced. When asked why he continued to list names of people at a non-existent meeting, Dr. DELGADO said, "Well, it was either that or cancel the whole program." Dr. DELGADO acknowledged that when he was confronted "last week" by REINHARDT, the AHA of MMH, he readily admitted to REINHARDT that he had been falsifying the minutes. 67C

Dr. DELGADO claimed that one of the secretaries who typed the RSC minutes, told him that someone (nfi) on the distribution list did not want to be copied. When asked if any of the distributees of RSC minutes ever made that statement directly to him, he indicated that they had not. Dr. DELGADO was specifically asked if one of his partners in Sussex Radiology, P.A., the MMH radiology group, Dr. STRAUSS, knew that no RSC meetings were being held and that his name was being used on the falsified document. Dr. DELGADO responded, "I would think so. I also think he got copies of the report."

Dr. DELGADO admitted that when WURTZ conducted an inspection at MMH on behalf of the NRC in December 1986, he provided a copy of the RSC minutes to WURTZ for review even though he knew the documents were false. When asked if he told WURTZ that the documents were false, Dr. DELGADO replied, "No. That would be like opening up a can of worms."

After being apprised of the provisions of 18 U.S.C. 1001 (False Statements), Dr. DELGADO was asked, "Did you actually do the audits that you say you have done?" He responded, "Yes. I checked things. I conducted an audit using a checklist." Dr. DELGADO was asked if he ever requested the previous hospital administrators to attend his meetings, specifically Joseph AHLSCHIER and Jeffrey M. JUDD. Dr. DELGADO responded, "I did not specifically ask anyone to attend meetings at this hospital in fifteen years. I scheduled them and notified them but no one ever showed up." [REDACTED] 67C

Dr. DELGADO acknowledged that Dr. STRAUSS had been appointed the new RSO following his suspension. He was again asked if Dr. STRAUSS specifically knew his name was being used on the falsified RSC minutes. Dr. DELGADO responded, "I know Dr. Strauss knew his name was being used and that he knew no meetings were taking place." When asked if it ever bothered him that he was falsifying such documents, Dr. DELGADO replied, "Not really." When asked if it ever crossed his mind that he was doing something wrong, he said, "Yes, sure it did."