



FOIA — 96-322

RESPONSE TYPE

FINAL

☒

PARTIAL (5th)

DATE

OCT 17 1996

DOCKET NUMBER(S) (If applicable)

REQUESTER

Dennis Dums

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 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

☒ 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. ~~Agency records subject to the request that are identified in Appendix(es) _____ are being withheld from public disclosure pursuant to the exemptions described in and for the reasons stated in Part II. B, C, and D.~~

COMMENTS

The record identified on enclosed Appendix F is responsive to your request. However, this record is being withheld in its entirety pursuant to Exemption 5 of the FOIA.

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

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PDR FOIA
DUMS96-322 PDR

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

FOIA NUMBER(S)

FOIA — 96-322

DATE

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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).

X 5. The withheld information consists of interagency or intraagency records that are not available through discovery during litigation. (Exemption 5). Applicable Privilege:

X 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.)

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

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))

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
A. Bill Beach	Regional Administrator,	App. F	X		
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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."

Re: FOIA-96-322

APPENDIX F

DOCUMENTS BEING WITHHELD IN THEIR ENTIRETY

NUMBER	DATE	DESCRIPTION/EXEMPTION/PAGES
1.	8/1/96	Enforcement Board Briefing for Point Beach Nuclear Plant, Units 1 and 2, (29 pgs.) - EX. 5.



CITIZENS' UTILITY BOARD

• 16 N. Carroll St., Suite 300 • Madison, WI 53703 • (608) 251-3322 • FAX (608) 251-7609 •

August 5, 1996

Mr. Russell Powell
Branch Chief FOIA/LPDR
Nuclear Regulatory Commission
Washington, D.C.
20555

FREEDOM OF INFORMATION
ACT REQUEST

FOIA-96-322
Rec'd 8-12-96

Re: Freedom of Information Act Request

Dear Mr. Powell:

Pursuant to the Freedom of Information Act, 5 U.S.C. 522, as amended and 10 C.F.R. Part 9.41, the Wisconsin Citizens' Utility Board (CUB) requests the following documents:

1. Please provide any and all documents that make a specific reference to the event at the Point Beach nuclear power plant, Dockets 50-266 and 50-301, involving a gaseous ignition incident during the welding of a spent fuel cask. This event was identified by the NRC in Preliminary Notification of Event or Unusual Occurrence PNO-III-96-033 on May 28, 1996;
2. Please provide any and all documents that address the generation of explosive gases during any phase of operation of the VSC-24 system;
3. Please provide any and all documents that address the ignition of explosive gases during any phase of operation of the VSC-24 system.

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¹ On June 4, 1996 CUB submitted a FOIA request to the NRC requesting documents responsive to items 1-3. The NRC completed its response to CUB's June 4, 1996 FOIA, identified by the NRC as FOIA-96-244/June 10, 1996, on July 25, 1996. CUB is re-submitting its FOIA request for items 1-3 to obtain documents in the agencies possession for the period of time following the date the NRC received CUB's June 4, 1996 FOIA to the date the NRC receives this FOIA request.

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MAY 1996

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4. Please provide any and all documents that address increased neutron multiplication in the fuel in a cask because of boron precipitation from a chemical reaction among the borated water and cask materials.
5. Please provide any and all documents that address the effect of a precipitate formed by a chemical reaction of zinc with acidic borated water from a spent fuel pool on fuel cladding integrity.
6. Please provide any and all documents that address the effect of a precipitate formed by a chemical reaction of zinc with acidic borated water from a spent fuel pool on the heat transfer characteristics of a VSC dry storage cask.
7. Please provide any and all documents that address the behavior of a precipitate formed by a chemical reaction of zinc with acidic borated water from a spent fuel pool under long-term exposure to neutron and gamma radiation.
8. Please provide any and all documents that address the behavior of a precipitate formed by a chemical reaction of zinc with acidic borated water from a spent fuel pool under high temperatures.
9. Please provide any and all documents that address the effect of a zinc reaction with the acidic borated water from a spent fuel pool on the characteristics of MSB anti-corrosion coatings.
10. Please provide any and all documents that address the effect of a zinc reaction with the acidic borated water from a spent fuel pool on the retrievability of spent fuel.
11. Please provide any and all documents that address the effect of a zinc reaction with the acidic borated water from a spent fuel pool on the reactor coolant system.

For purposes of this request, please consider "documents" to include reports, studies, test results, correspondence, memoranda, meeting notes, meeting minutes, working papers, graphs, charts, diagrams, notes and summaries of conversations and interviews, computer records, and any other form of written communications including internal NRC memoranda.

Pursuant to and in compliance with 10 C.F.R. 9.41 of the agency's regulations and 5 U.S.C. 552 governing requests for waiver of fees, CUB puts forth the following information.

CUB was incorporated pursuant to Chapter 181, 1979, of the

Wisconsin Statutes. CUB is exempt from Federal income tax under Section 501(c)(4) of the Internal Revenue Code. CUB is also exempt from Wisconsin franchise tax.

The restricted fund (public interest fund) is exempt from Federal income tax under Section 501(c)(3) of the Internal Revenue Code. The fund is also exempt from Wisconsin income taxes. The restricted fund (public interest fund) was established on February 1, 1981, and reorganized on April 28, 1986 to correspond to the new structure of the CUB. The fund engages in charitable, scientific, literary and educational activities on behalf of CUB.

CUB has 20,000 members who are residential ratepayers in Wisconsin. CUB represents the more than two million residential ratepayers in the state. CUB's purpose continues to be the statutory purpose set forth under sec. 199.02, Wis. Stats.:

:...to promote the health, welfare and prosperity of all the citizens of this state by ensuring effective and democratic representation of individual farmers and other individual residential utility consumers before regulatory agencies, the legislature and other public bodies and by providing for consumer education on utility service costs and on benefits and methods of energy conservation.

CUB seeks the requested information to become informed of the causes, consequences, and remedies of and for an incident which took place on May 28, 1996 involving the use of the VSC-24 storage system for spent nuclear fuel.

CUB intends to use the information to assist in its participation in any proceedings before the NRC, before state regulatory agencies, and as part of CUB's ongoing effort to educate the public on nuclear waste storage issues in Wisconsin.

The information sought, is not, to the best of our knowledge, in the public domain. The general public in Wisconsin has displayed great interest in nuclear waste issues and have a direct interest in NRC actions regarding the VSC-24 dry cask storage system.

CUB has demonstrated its ability and commitment to inform the public on all important nuclear waste storage issues in Wisconsin. CUB provides this information free of charge through newsletters, educational pamphlets, and correspondence to its members, other residential ratepayers, legislators, and policy makers, and has neither a commercial nor a private interest in the agency records sought.

Under the amended fee waiver standard, CUB is clearly entitled to a full waiver of all search, review and duplication fees. This standard calls for such a waiver, "if disclosure of the information is in the public interest because it is likely to contribute significantly to the public understanding of the operation or

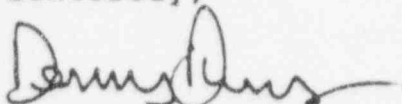
activities of the government and is not primarily in the commercial interest of the requester." 5 U.S.C. 552 (1)(4)(A)(iii).

In light of the foregoing, CUB meets this standard on its face. CUB has no commercial interest in this matter, but rather seeks this information to help the general public better understand the role of government in regulating the nuclear industry's radioactive waste storage activities.

For the reasons cited above, CUB's request falls squarely within the Congressional intent in enacting the Freedom of Information Act and the fee waiver provision. CUB, therefore, asks that the NRC grant a full fee waiver for this FOIA request.

Thank you for your anticipated cooperation. If you have any questions in regards to this request, please feel free to contact me at your earliest convenience. Please contact me before acquiring and sending the requested information if the fee waiver is not applied.

Sincerely,

A handwritten signature in dark ink, appearing to read "Dennis Dums", with a stylized flourish at the end.

Dennis Dums
Research Director