



72-0005

# RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

NRC FOIA REQUEST NUMBER(S)

FOIA — 96-444

RESPONSE TYPE

FINAL

☒

PARTIAL

(9th)

DATE

FEB 20 1997

DOCKET NUMBER(S) (if applicable)

REQUESTER

Lawrence English

## 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

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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

FOIA  
0/1

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

9702210105 970220  
PDR FOIA  
ENGLISH96-444 PDR

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

FOIA NUMBER(S)

**FOIA — 96-444**

DATE

**FEB 20 1997**

**PART II. B — APPLICABLE EXEMPTIONS**

Records subject to the request that are described in the enclosed Appendix(es) Q 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 2.790(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 checked="" type="checkbox"/> | Attorney-client privilege. (Confidential communications between an attorney and his/her client.)  |
| <input 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 |
| Stephen G. Burns | Associate General Counsel for Hearings, Enforcement and Administration | Appendix Q     |                    | 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."

APPENDIX Q  
RECORDS BEING WITHHELD IN THEIR ENTIRETY

| <u>NO.</u> | <u>DATE</u> | <u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>  |
|------------|-------------|---|
| 1          | 12/19/94    | EPA Sewage Regulation. (3 pages). <b>Exemption 5 Attorney Work-Product</b>  |
| 2          | 12/29/94    | Note from Steve Crockett to John and Leo regarding Sewer District. (1 page). <b>Exemption 5, Attorney-Client.</b>   |
| 3          | 02/22/95    | Notes from Steve Crockett for Steve Lewis on court actions involving NEORSD and AMS. (1 page). <b>Exemption 5, Attorney-Client.</b>   |
| 4          | 02/22       | Notes from Feb. 22nd Meeting from Steve Crockett. (1 page). <b>Exemption 5, Attorney-Client.</b>  |
| 5          | 03/01/95    | Summary of Pending AMS/NEORSD Matters. (7 pages). <b>Exemption 5, Attorney Work Product</b>   |
| 6          | 03/07/95    | Note from Chuck Mullins to Steve Crockett on Toughy Requirements in Response to Inquiry from Counsel for Advanced Medical Systems. (1 page). <b>Exemption 5, Attorney-Client.</b>   |
| 7          | 03/08/95    | Note from Steve Crockett to Marian Zobler and Mike Stein on AMS case: Notes from a conversation with Paperiello. (2 pages). <b>Exemption 5, Attorney-Client.</b>  |
| 8          | 08/95       | Note from Michael Stein to Karen Cyr on Legal Issues related to Off-site Contamination caused by an NRC Licensee who Discharges Licensed Materials within NRC Regulatory Limits. (19 pages). <b>Exemption 5, Attorney-Client.</b> |
| 9          | 10/05/95    | Email from Jack Goldberg to SHL (Steve Lewis) on AMS. (1 page). <b>Exemption 5, Attorney-Client.</b>  |

APPENDIX Q  
RECORDS BEING WITHHELD IN THEIR ENTIRETY

| <u>NO.</u> | <u>DATE</u> | <u>DESCRIPTION/ (PAGE COUNT)/EXEMPTIONS</u>   |
|------------|-------------|---|
| 10         | 12/05/95    | Legal Issues related to Off-Site Contamination caused by Discharges of Licensed Material Within NRC Regulatory Limits. (13 pages). <b>Exemption 5, Attorney Work Product.</b> (3 sets).                           |
| 11         | 03/13/96    | Email Message from Stephen Lewis to NCD2.ch2.jlc1, twd2.TWP8.JXD1 on AMS. (1 page). <b>Exemption 5, Attorney-Client.</b>  |
| 12         | 05/23/96    | Notes from Steve Lewis a Meeting with Joe DeCicco. (1 page). <b>Exemption 5, Attorney-Client.</b>   |
| 13         | 04/29/96    | Note from Stephen Lewis to SXV(Sandy Vora) on April 29, 1996 NEORS petition - reply. (1 page). <b>Exemption 5, Attorney-Client.</b>   |
| 14         | 05/02/96    | Draft of Legal Issues Related to Off-Site Contamination Caused by Discharges of Licensed Material Within NRC Regulatory Limits. (14 pages). <b>Exemption 5, Attorney Work Product</b>                             |
| 15         | 08/96       | Draft of Memorandum from Jack Goldberg to Karen Cyr on Legal Issues Related to Off-Site Contamination Caused by Discharges of Licensed Materials within NRC Limits. (14 pages). <b>Exemption 5, Predecisional</b> |
| 16         | 12/12/96    | OGC Enforcement Control Sheet attached to a draft Commission Paper on Advanced Medical Systems (2 copies of Commission Paper attached). (19 pages). <b>Exemption 5, Predecisional.</b>                            |

APPENDIX Q  
RECORDS WITHHELD IN THEIR ENTIRETY

- |    |         |   |
|----|---------|---|
| 17 | undated | Legal Issues Related to Off-Site Contamination Caused by Discharges of Licensed Materials within NRC Regulatory Limits. (15 pages). <b>Exemption 5, Attorney Work Product</b>                                   |
| 18 | undated | Note from Steve Burns to Hugh Thompson on Disposition of Petition filed pursuant to 10 CFR 2.206 by NEORSD on AMS in view of License Renewal Proceeding. (3 pages). <b>Exemption 5, Attorney-Client</b> .       |
| 19 | undated | Memorandum from Jack Goldberg to Karen Cyr on Legal Issues Related to Off-Site Contamination caused by Discharges of Licensed Materials within NRC Limits. (2 pages). <b>Exemption 5, Attorney Work Product</b> |
| 20 | undated | Letter from Carl Paperiello to William Schatz enclosing the Director's Decision. (23 pages). <b>Exemption 5, Predecisional</b>  |





# Northeast Ohio Regional Sewer District

3826 Euclid Avenue • Cleveland, Ohio 44115-2504

216 • 881 • 6600

FAX: 216 • 881 • 9709

October 18, 1996

## FOIA/PA REQUEST

Case No:

96-444

Date Rec'd:

10-24-96

Action Off:

Related Case:

Director, Division of Freedom of Information  
and Publications Services  
Office of Administration  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Re: FOIA Request for Documents

Dear Director:

The Northeast Ohio Regional Sewer District (NEORSD) hereby requests copies of all documents of any kind or description regarding your licensee, Advanced Medical Systems, Inc. in any way whatsoever developed since representatives of the Northeast Ohio Regional Sewer District (NEORSD) visited the Lisle, Illinois, headquarters of the Nuclear Regulatory Commission's Region III pursuant to FOIA-94-494.

The above request is made pursuant to the Freedom of Information Act and 10 CFR Sec. 9.15. The NEORSD has no commercial interest in the requested documents and requests a waiver of all fees pursuant to 10 CFR Sec. 9.41.

Please call me at (216) 881-6600, ext 826, if you have any questions about the foregoing. Thank you in advance for your assistance.

Very truly yours,

Lawrence K. English  
Assistant General Counsel

9702040098 1P.

The mission of the Northeast Ohio Regional Sewer District is to enhance public health and welfare through the efficient, cost-effective conveyance and treatment of wastewater. This is accomplished by an organization dedicated to professionalism, fairness and consistency that anticipates and responds to the changing environmental needs of the community.