



NUOR

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

FOIA — 96-380

RESPONSE TYPE

☒ FINAL

☐ PARTIAL

DATE

NOV 14 1996

DOCKET NUMBER(S) (if applicable)

REQUESTER

W. Brad Sims

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) A 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) B 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. Appendix B and the releasable portions of Appendix C documents

☐ Records subject to the request have been referred to another Federal agency(ies) for review and direct response to you. are enclosed.

☒ Fees

☒ You will be billed by the NRC for fees totaling \$ 101.49 [2 hours search, 1.5 hours review, 56 pages duplication].

☐ 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

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

FOIA

9611270116 961114

PDR FOIA

SIMS96-380

PDR

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

FOIA NUMBER(S)

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PART II.B — APPLICABLE EXEMPTIONS

Records subject to the request that are described in the enclosed Appendix(es) C 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.)

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, Reg. III	Appendix C	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."

Re: FOIA-96-380

APPENDIX A
RECORDS ALREADY AVAILABLE IN THE PDR

<u>NO.</u>	<u>DATE</u>	<u>ACCESSION NUMBER</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1.	10/12/95	9510240110	Letter from Robert Berlin to Jack Parrott, subject: Radiological Health and Safety Plan for Remediation of the Magnesium-Thorium Slag Piles at the Dow Chemical Company's Midland and Bay City, Michigan Sites. (238 pages)
2.	2/5/96	9602120215	Letter from M. Weber to Dow Chemical. (8 pages)
3.	March/1996	9603250251	Response to Comments of February 5, 1996 on Health & Safety Plant (October 1995), Decommissioning Work Plan (October, 1993), and Supplement to Decommissioning Work Plant (December, 1995). (158 pages)
4.	4/30/96	9606050082	Letter from L. Giebelhaus to M. Weber regarding Financial Assurance for Decommissioning Costs. (17 pages)
5.	5/24/96	9607180026	Letter to Jack Parrott from Robert Berlin. (5 pages)
6.	6/27/96	9607230345	Letter to Robert Nelson from Larry Giebelhaus. (15 pages)
7.	7/12/96	9607250199	Note to Michael Weber from Jack Parrott. (7 pages)
8.	7/12/96	9607250070	Note to Michael Weber from Jack Parrott. (8 pages)

9. 7/19/96 9607260211 Letter from M. Weber to L. Giebelhaus, subject: Issuance of License Amendment to the Dow Chemical Company to Allow the Removal of Thorium Contaminated Slag Storage Piles at the Dow Chemical Company's Sites in Midland and Bay City, Michigan. (28 pages)
10. 8/14/96 9608280266 Note from Colleen Fitzgibbon. (17 pages)

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APPENDIX B
RECORDS BEING RELEASED IN THEIR ENTIRETY
(If copyrighted identify with *)

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1.	Undated	Unsigned letter from Michael Weber to Hayden Schoen. (8 pages)
2.	11/30/95	News Release - dow Contracts with Envirocare to Dispose of Low-Level Radioactive Waste in Utah. (8 pages)
3.	12/6/95	Letter from Hayden Schoen to J. Parrott. (3 pages)
4.	1/17/96	Letter from J. McCormick-Barger to Hayden Schoen regarding meeting on 2/7/96. (2 pages)
5.	2/7/96	Dow Chemical/USNRC Meeting Agenda for 2/7/96. (3 pages)
6.	2/7/96	Thorium Decommissioning at Bay City & Midland Sites - NRC Region III Overview. (7 pages)
7.	5/8/96	Unsigned letter from L. Giebelhaus to M. McCann. (1 page)
8.	6/19/96	Memo from L. Bykoski to J. Parrott, subject: The Office of the General Counsel and Contractor Comments on Non-Standard Financial Assurance Submittal. (17 pages)
9.	Undated	Survey Plan for August 5-9, 1996, inspection. (6 pages)

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APPENDIX C
RECORD BEING WITHHELD IN PART

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	4/20/95	Letter from M. Anderson to USNRC regarding letter of credit. (1 page) EX. 4