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DOC-SEARCH ASSOCIATES
P.O. Box 7
Cabin John, MD 20818
February 11, 1988

Donnie H. Grimsley, Director
Division of Rules and Records
Office of Administration
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

APPEAL OF INITIAL FOIA DECISION
88-A-10E(87-857)
Rec'd 2-12-88

Dear Mr. Grimsley:

This an appeal pursuant to subsection a(6) of the Freedom of Information Act as amended (5 U.S.C. 522), of the actual denial to release documents, requested by Lynn Connor, Doc-Search Associates.

By letter dated January 22, 1988 you informed us that records subject to our FOIA request 87-857 described in Appendix A are being withheld in their entirety under FOIA Exemption 7 A, because disclosure would interfere with an enforcement proceeding because it could reveal the scope, direction, and focus of enforcement efforts, and thus could possibly allow them to take action to shield potential wrongdoing or a violation of NRC requirements from investigators.

We believe we are entitled to the release of the documents being withheld. In any event, we would request a meeting with the Office of Administration of the Division of Rules and Records and the Office of General Counsel to discuss the merits of our appeal.

We look forward to your response to this appeal within 20 working days of your receipt so that we can determine whether to take legal action.

Sincerely,

Colleen Noonan Amoroso
FOR Lynn Connor

FOIA-87-857

RESPONSE TYPE

☒ FINAL☐ PARTIAL

DATE

JAN 24 1988

DOCKET NUMBER(S) (if applicable)

REQUESTER

Ms. LYNN CONNER

PART I - 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.☐ Agency records subject to the request that are identified in Appendix _____ are already available for public inspection and copying in the NRC Public Document Room, 1717 H Street, N.W., Washington, DC.☐ Agency records subject to the request that are identified in Appendix _____ are being made available for public inspection and copying in the NRC Public Document Room, 1717 H Street, N.W., Washington, DC, in a folder under this FOIA number and requester name.☐ 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, 1717 H Street, N.W., Washington, DC, in a folder under this FOIA number and requester name.☐ Enclosed is information on how you may obtain access to and the charges for copying records placed in the NRC Public Document Room, 1717 H Street, N.W., Washington, DC.☐ Agency records subject to the request are enclosed. Any applicable charge for copies of the records provided and payment procedures are noted in the comments section.☐ Records subject to the request have been referred to another Federal agency(ies) for review and direct response to you.☐ In view of NRC's response to this request, no further action is being taken on appeal letter dated _____.

PART II.A - INFORMATION WITHHELD FROM PUBLIC DISCLOSURE

☒ Certain information in the requested records is being withheld from public disclosure pursuant to the FOIA exemptions described in and for the reasons stated in Part II, sections 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, 1717 H Street, N.W., Washington, DC, in a folder under this FOIA number and requester name.

Comments

SIGNATURE, DIRECTOR, DIVISION OF RULES AND RECORDS

Lynn H. Conner

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PART II B - APPLICABLE FOIA EXEMPTIONS

Records subject to the request that are described in the enclosed Appendices A are being withheld in their entirety or in part under FOIA Exemptions and for the reasons set forth below pursuant to 5 U.S.C. 552(b) and 10 CFR 9.5(a) of NRC Regulations.

1. The withheld information is properly classified pursuant to Executive Order 12756 (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)

Section 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)(11).

The information was submitted and received in confidence from a foreign source pursuant to 10 CFR 2.790(d)(12).

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

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 investigatory records compiled for law enforcement purposes and is being withheld for the reason(s) indicated: (EXEMPTION 7)

☒ Disclosure would interfere with an enforcement proceeding because it could reveal the scope, direction, and focus of enforcement efforts, and thus could possibly allow them 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 would reveal identities of confidential sources. (EXEMPTION 7(D))

PART II C - DENYING OFFICIALS

Pursuant to 10 CFR 9.9 and/or 9.15 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 Rules and Records, 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	
			SECRETARY	EDO
<u>BEN B. HAYES</u>	<u>DIRECTOR, OI</u>	<u>A-1</u>	<input checked="" type="checkbox"/>	

PART II D - APPEAL RIGHTS

The denial by each denying official identified in Part II.C may be appealed to the Appellate Official identified in that section. Any such appeal must be in writing and must be made within 30 days of receipt of this response. Appeals must be addressed as appropriate to the Executive Director for Operations or to the Secretary of the Commission, 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- 87-857

APPENDIX A

RECORDS TOTALLY WITHHELD

NUMBER

DATE

DESCRIPTION & EXEMPTION

1.

Various

The Office of Investigations
file (7A)

DOC-SEARCH ASSOCIATES
P.O. Box 7
Cabin John, MD 20812
December 16, 1987

Donnie H. Grimsley, Director
Division of Rules and Records
Office of Administration
U.S. Nuclear Regulatory Commission
Washington, D.C. 20535

**FREEDOM OF INFORMATION
ACT REQUEST**

FOIA-87-857
Rec'd 12-22-87

Dear Mr. Grimsley:

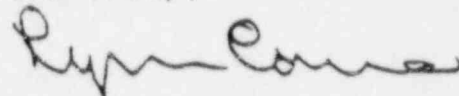
This is an update to Freedom of Information Act Request 87-782.

Pursuant to the Freedom of Information Act, I request that you make available by placement in the Public Document Room at 1717 H Street, N.W., any and all documents associated with the January, 1987 memorandum from Victor Stello to Ben Hayes, which was referenced in the November 9, 1987 issue of Inside NRC. The date of the memorandum is on or around January 3, 1987.

For the purposes of this request, "document" is defined to include, but not be limited to, drafts and final versions of memoranda, meeting and trip reports, reports of telephone conversations, transcripts, notes, letters, records, graphs and charts.

Thank you.

Sincerely,



Lynn Connor

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