

February 17, 1988

Executive Director of Operations
U.S. Nuclear Regulatory Commission
Washington D.C. 20555

APPEAL OF INITIAL FOIA DECISION
88-A-17E (87-828)
Rev'd 2-22-88

Re: Appeal From an Initial FOIA

Dear Sir or Madam:

On February 4, 1988, I was denied information listed on the attached Appendix B of FOIA-87-828, for the following reasons:

Exemption 6: Its disclosure would result in a clearly unwarranted invasion of privacy.

Exemption 7: Consists of investigatory records compiled for law enforcement purposes and would constitute an unwarranted invasion of privacy.

As I was the sole recipient of any action subsequent to this investigation, I submit that it would not result in an invasion of privacy, and disclosure of this information would remain valid under the provisions of The Freedom of Information Act.

I am positive that with this new information to consider, you will find in my favor, and your consideration would be greatly appreciated.

Sincerely,

Christopher Sharpe

Christopher Sharpe
3213 12th. Street
Bay City, Texas 77414

cc:NP

8803310304 880217
PDR FOIA
SHARPE88-A-17 PDR



FOIA-87-828

RESPONSE TYPE

☒ FINAL☐ PARTIAL

DATE

FEB - 4 1988

DOCKET NUMBER(S) (if applicable)

RESPONSE TO FREEDOM OF
INFORMATION ACT (FOIA) REQUEST

REQUESTER

Mr. Christopher Sharpe

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 A* 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

* The non-exempt portions of the documents listed on enclosed Appendix B are also being placed in the PDR in file FOIA-87-828 under your name.

SIGNATURE, DIRECTOR, DIVISION OF FILES AND RECORDS

*Norm H. [Signature]**88-07-296/76 4 PP*

FREEDOM OF INFORMATION ACT RESPONSE

FOIA NUMBER(S)

FOI 87-828

DATE FEB - 4 1988

PART II B - APPLICABLE FOIA EXEMPTIONS

Records subject to the request that are described in the enclosed Appendices B 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 12356 (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)(1)

The information was submitted and received in confidence from a foreign source 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. 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)

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

X 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))

X 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
Robert D. Martin	Regional Administrator NRC Region IV	All Appendix B		X

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."

APPENDIX A

RECORDS MAINTAINED IN THE PDR UNDER THE ABOVE REQUEST NUMBER

<u>NUMBER</u>	<u>DATE</u>	<u>DESCRIPTION</u>
1.	11/4/87	Exceptions to Referrals sheet, Case #RIV-87-A-081 Lic/APP/Vendor, South Texas Project (1 page)
2.	12/9/87	Allegation Management System information sheet for allegation number RIV-87-A-0081, 50-498/499 re missing weapon at site (1 page)
3.	Undated	Memorandum, G. L. Constable to R. E. Hall, thru J. E. Gagliardo, subject: HL&P Use of NRC Inspector's Weapon To Test HL&P Security System. (1 page)
4.	Undated	Memorandum, D. R. Carpenter to G. L. Constable, subject: Event Surrounding Missing Weapon. (1 page)

APPENDIX B
RECORDS PARTIALLY WITHHELD

<u>NUMBER</u>	<u>DATE</u>	<u>DESCRIPTION & EXEMPTION</u>
1.	10/29/87	Handwritten note, initials M E (1 page) Withheld in part pursuant to FOIA Exemptions 6 and 7(C)
2.	11/4/87	Handwritten note, no initials (1 page) Same as above

December 8, 1987

Freedom Of Information Officer
Nuclear Regulatory Commission
6111 Ryan Drive
Arlington, Texas 76011

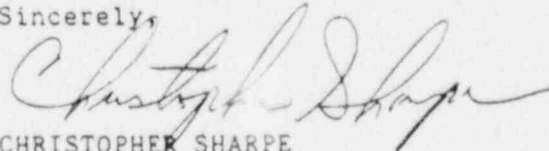
Re: Reportable Event- South Texas Project

Dear Sir:

In August of 1987, a weapon being used to test security equipment at the South Texas Project in Bay City, Texas was reported as missing. This weapon is described as a Colt 25 automatic pistol, and is alleged to belong to a NRC inspector.

Under the provisions of the Freedom of Information Act, I am requesting copies of any records submitted to the NRC by the licensee, Houston Lighting and Power Co., and any information relevant to this event that the NRC inspectors involved might have in their possession.

Sincerely,



CHRISTOPHER SHARPE
2508 16th. St.
Bay City, Texas 77414

c: NEAL PASTER
ATTORNEY AT LAW
4409 Montrose, Suite 214
Houston, Texas 77006

DEC 14 1987
FREEDOM OF INFORMATION

ACT REQUEST
FOIA-87-828
Rec'd 12-15-87

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