



7/11/96

NRC FOIA REQUEST NUMBER(S)
FOIA - 96-434

RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

RESPONSE TYPE
 FINAL PARTIAL *2nd*

DATE
MAR 24 1997

DOCKET NUMBER(S) (if applicable)

REQUESTER
Ms. Brenda Squis

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) *D* 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. 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
The search for and review of additional records subject to your request is continuing.

FOIA %

SIGNATURE, DIRECTOR, DIVISION OF FREEDOM OF INFORMATION AND PUBLICATIONS SERVICES
[Signature]

9704020060 970324
PDR FOIA
SAURO96-434 PDR



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

FOIA NUMBER(S)

FOIA - 96-434

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PART II B - APPLICABLE EXEMPTIONS

Records subject to the request that are described in the enclosed Appendix(es) E 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
<i>J. Dyer</i>	<i>Acting Administrator, Region 4</i>	<i>Appendix E</i>	<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 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 D
RECORDS BEING RELEASED IN THEIR ENTIRETY**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1.	Various Dates	OI Case Chronology (1 page)
2.	Various Dates	Investigation Status Record (2 pages)
3.	04/18/95	Fascimile Sheet to S. Chesnutt from J. Armenta, with attached note (2 pages)
4.	08/17/95	Memorandum to L. J. Callan from E. L. Williamson, Subject: Fort St. Vrain: Alleged Deliberate Failure of Contract Employee to Perform Daily Response Checks on Portable Contamination Monitor (Case No. 4-95-015) (1 page)
5.	12/29/95	Memorandum from E. Williamson to L. Callan, Subject: Assist to Inspection Closure (1 page)
6.	08/17/95	OI Report of Investigation 4-95-015, Fort St. Vrain, Alleged Deliberate Failure of Contract Employee to Perform Daily Response Checks on Portable Contamination Monitor with Exhibit 1 (12 pages)
7.	02/28/94	Memo to All WT Employees from H. Carson Calton, Subject: Group Sessions Feedback and Actions (2 pages)
8.	03/25/94	Preliminary Notification of Event or Unusual Occurrence, PNO-IV-94-012 (2 pages)
9.	04/05	Handwritten Notes of Interview of M. Malone by R. Evans, Subject: Third Falsified Record (3 pages)
10.	05/05/94	Memorandum For Russ Wise from Samuel J. Collins, Subject: Review of OI Transcripts for Safety/Technical Issues with interviews from K. L. Zahrt, C. Calton, M. H. Holmes, F. J. Borst, M. E. Niehoff, M. J. Fisher, J. E. Parsons, D. W. Warembourg, and M. Kachun (12 pages)
11.	07/15/94	Letter to Public Service Company of Colorado from Samuel J. Collins, Subject: Management Meeting for August 4, 1994 (3 pages)

APPENDIX D
(Continued)
RECORDS BEING RELEASED IN THEIR ENTIRETY

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
12.	04/12/95	Memorandum for Charles L. Cain from Robert J. Evans, Subject: Summary of Meeting Held at Fort St. Vrain (4 pages)
13.	06/03/95	Note to multiple addressees, including Joe Callan, from Gary Sanborn, Enforcement Officer with annotations, Subject: OI 4-94-010 (Fort St. Vrain), issued 5/26/95 (1 page)
14.	06/16/95	Letter to Public Service Company of Colorado from Samuel J. Collins, Subject: Enforcement Conference with Fort St. Vrain scheduled for June 1, 1995 with attachments for Meeting Summary (76 pages)
15.	08/18/95	Notice of Licensee Meeting, Subject: Predecisional enforcement conference to discuss the apparent violation of 10 CFR 50.5 and 50.9 during decommissioning activities at Fort St. Vrain (4 pages)
16.	08/25/95	Note to multiple addresses from William Jones, Subject: OI 4-95-015 Alleged deliberate failure of Contract Employee to Perform Daily Response Checks on Portable Contamination Monitor (Fort St. Vrain) (2 pages)
17.	08/29/95	Predecisional Enforcement Conference Agenda with annotations (2 pages)
18.	10/30/95	Letter to Roland Sawyer from L. J. Callan, Regional Administrator, Subject: Notice of Violation (NRC Investigation 4-94-010) (5 pages)
19.	10/30/95	Letter to Michael Miles from L. J. Callan, Regional Administrator, Subject: NRC Investigation No. 4-94-010 (2 pages)
20.	10/30/95	Letter to James Bixby from L. J. Callan, Regional Administrator, Subject: NRC Investigation No. 4-94-010 (2 pages)
21.	10/30/95	Letter to Robert Rankin from L. J. Callan, Regional Administrator, Subject: NRC Investigation No. 4-94-010 (2 pages)
22.	10/30/95	Letter to Craig Thorp from L. J. Callan, Regional Administrator, Subject: NRC Investigation No. 4-94-010 (2 pages)

APPENDIX D
(Continued)
RECORDS BEING RELEASED IN THEIR ENTIRETY

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
23.	10/30/95	Letter to David Hatch from L. J. Callan, Regional Administrator, Subject: NRC Investigation No. 4-94-010 (2 pages)
24.	10/30/95	Letter to Dennis Beierle from L. J. Callan, Regional Administrator, Subject: NRC Investigation No. 4-94-010 (2 pages)
25.	10/30/95	Letter to John Ray from L. J. Callan, Regional Administrator, Subject: NRC Investigation No. 4-95-015 (2 pages)
26.	11/12/95	Letter to U.S. NRC from Kenneth L. Zahrt, Subject: Reply to Notice of Violation (NRC No. 4-94-010) (2 pages)
27.	11/17/95	Note to multiple addresses from Gary Sanborn, Subject: Zahrt Response to NOV (IA 95-046) (1 page)
28.	11/22/95	Note to Bill Brown, Dwight Chamberlain and Office of Enforcement/IA File from Gary Sanborn, Subject: Transcripts of Interviews with Zahrt and Sawyer (IAs 95-046; 95-047) with attached 11/21/95 memo to G. Sanborn from E. L. Williamson (2 pages)
29.	01/08/96	Letter to U.S. NRC, Document Control Desk, from Roland E. Sawyer, Subject: Reply to Notice of Violation (NRC Inv No. 4-94-010) (2 pages)
30.	04/02/96	Letter to Mr. Roland Sawyer from L. J. Callan, Regional Administrator, Subject: Revision of Notice of Violation Issued October 30, 1995 (5 pages)

APPENDIX E
RECORDS BEING WITHHELD IN PART

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	11/27/95	Letter to L. J. Callan from James M. Bixby, Subject: Reply to NRC Investigation No. 4-94-010 (2 pages) EX. 6
2.	12/94	Report of Independent Counsel Investigation Concerning Issues at the Fort St. Vrain Nuclear Generating Station Decommissioning Project, <u>APPENDIX A</u> , Detailed Analysis of Backdated 1992 Release Survey Forms (128 pages) RELEASED <u>APPENDIX B</u> , Detailed Analysis of Backdated 1993 RWP Survey Forms (251 pages) RELEASED <u>APPENDIX C</u> , Analysis of Hot Service Facility Block Survey Form - September 27, 1993 (230 pages) EX. 6 <u>APPENDIX D</u> , Comments by MKF and Westinghouse Team and Responses (24 pages) RELEASED

Haligman and Lottner

A Professional Corporation
Attorneys at Law

FOIA/PA REQUEST

Case No:
Date Rec'd:
Action Off:
Related Case

96-434
10-23-96
ker

First Interstate Tower North
633 Seventeenth Street
Suite 2700
Denver, Colorado 80202-3635

Telephone (303) 292-1200
Fa (303) 292-1300

Edward I. Haligman
Alan B. Lottner
Richard I. Brown
Rick J. Rubin
Marshall H. Fishman
Richard J. Saul
Anthony J. Rechitz II
Scott L. Levin
Jeffrey A. Hyman
Michael L. Glaser
Curt Todd
Janet E. Perstein
Steven B. Epstein
Joseph P. Benkert
Michael D. Murphy
Mary Jo Dougherty
Brenda M. Sauro
Terri Beth Cohen
Michael S. Friedman
K. Harsha Krishnan
Jennifer S. Fox

October 15, 1996

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

Re: Freedom of Information Act Request

To the Director:

Pursuant to the Freedom of Information Act and Federal Regulations, we request copies of the following records:

1. All files, records, correspondence, documents, exhibits, transcripts, witness statements, witness interview transcripts or any other information relating to:

(a) Notice of Violation dated October 30, 1995 addressed to Scientific Ecology Group regarding NRC Inspection Report 50-267/94-03 and Office of Investigations Reports 4-94-010 and 4-95-015.;

(b) NRC Inspection Report 50-267/94-03 (issued June 15, 1994);

(c) Office of Investigations Reports 4-94-010 and 4-95-015;

(d) Notice Of Violation addressed to Kenneth Zahrt dated October 30, 1995, IA 95-046, NRC Investigation No. 4-94-010; and

(e) Any other information relating to Case Nos. EA 95-185 and EA 95-164.

2. All files, records, documents, exhibits, correspondence, transcripts, witness statements, witness interview transcripts or any other information related to the Revised Notice of Violation sent to Scientific Ecology Group, Inc., EA 95-164, NRC Inspection Report 50-267/94-03 and Office of Investigations Report 4-94-010 and 4-95-015 dated April 2, 1996.

93467.1/23340-1/MBWI
Washington D.C. Office
1026 Sixteenth Street, N.W.
Washington, D.C. 20036

Telephone (202) 393-7800
Fax (202) 393-4449

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Haligman and Lottner

A Professional Corporation
Attorneys at Law

Director
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October 15, 1996

3. Letter from the NRC dated August 8, 1995 to Scientific Ecology Group, Inc. (to the attention of Don Neely, Vice President, 628 Gallaher Road, Oak Ridge, Tennessee 37763).

4. Any communication between the NRC and Kenneth Zahrt and/or his attorney regarding the Notice of Violation issued to Mr. Zahrt or appeal thereof.

5. All documents delivered to NRC by Kenneth Zahrt or his counsel regarding the Notice of Violation IA 95-046, NRC Investigation No. 4-94-010, or any appeal thereof.

Please forward copies of these records to Jeffrey A. Hyman, Esquire and Brenda M. Sauro, Esquire, Haligman and Lottner, P.C., 633 Seventeenth Street, Suite 2700, Denver, Colorado 80202.

If the amount of fees involved to process this request is in excess of \$250.00, please contact Jeffrey A. Hyman or Brenda M. Sauro at (303) 292-1200. Any amount less than \$250.00 is acceptable and we agree to pay such amount when required.

Thank you for your cooperation.

Very truly yours,

HALIGMAN AND LOTTNER, P.C.

By 
Brenda M. Sauro

BMS:cg



UNITED STATES
NUCLEAR REGULATORY COMMISSION
OFFICE OF INVESTIGATIONS FIELD OFFICE, REGION IV
611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-8064

August 17, 1995

MEMORANDUM TO: L. J. Callan, Regional Administrator
Region IV

FROM: E. L. Williamson, Director *ELW*
Office of Investigations Field Office, Region IV

SUBJECT: FORT ST. VRAIN: ALLEGED DELIBERATE FAILURE OF CONTRACT
EMPLOYEE TO PERFORM DAILY RESPONSE CHECKS ON PORTABLE
CONTAMINATION MONITOR (CASE NO. 4-95-015)

Attached, for whatever action you deem appropriate, is the Office of Investigations (OI) Report of Investigation concerning the above matter. Neither this memorandum nor the report may be released outside the NRC without the permission of the Director, OI. Internal NRC access and dissemination should be on a need-to-know basis. Treat as "Official Use Only."

Attachment:
Report w/exhibits

cc w/attachment:
J. Lieberman, OE

4703100200 1P

Release *014*