



Department of Energy

Washington, DC 20585

September 26, 2014

Mr. Tom Clements
Friends of the Earth
1112 Florence Street
Columbia, SC 29201

Via email: tomclements329@cs.com

Re: HQ-2014-00405-F

Dear Mr. Clements:

This is in response to the request for information that you submitted to the Department of Energy (DOE) under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. You requested:

- 1) Any "memorandum of understanding" or "memorandum of agreement" or similar document(s) between DOE (any entity of DOE) and any German governmental agency, including the federal government and any state government (including North Rhine-Westphalia) concerning any aspect of management, import or disposal of AVR experimental reactor spent fuel.
- 2) Any contract(s) and attachment(s) to it between DOE (any entity of DOE) and any German governmental agency, including the federal government and any state government (including North Rhine-Westphalia) concerning any aspect of management, import or disposal of the AVR experimental reactor spent fuel. This request includes any contract or other documents or attachments reflecting the amount of the contract, in US dollars or Euros.
- 3) Any DOE determination concerning DOE's requirements about preparation of legally required environmental documents under the National Environmental Policy Act (NEPA). This part of the request covers the determination that a full Environmental Impact Statement (EIS) with public participation will need to be prepared, as required by NEPA.

Your request was assigned to the Office of Environmental Management (EM) of DOE, Savannah River Operations Office (SROO), and the National Nuclear Security Administration's (NNSA) Office of the General Counsel at the Albuquerque Complex for a search of their files. SROO responded to your request on January 13, 2014. NNSA will respond to you in a separate letter. This is the final response for EM.



DOE started its search in January 2014, which is the cutoff date for responsive documents. DOE searched its files and located seven (7) documents responsive to your request. DOE determined that one of the seven responsive documents originated with the NNSA. That document was transferred to NNSA for review and direct response to you.

Upon review of the remaining six documents, DOE has determined that certain information in one document should be withheld in part pursuant to Exemptions 4 and 6 of the FOIA, 5 U.S.C. § 552(b)(4) and (b)(6), and five documents are being released to you in full. The documents are being provided to you as described in the accompanying index.

Exemption 4 of the FOIA protects "trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential." 5 U.S.C. § 552 (b)(4). This exemption is intended to protect the interests of both the government and submitters of information. This exemption affords protection to submitters who provide commercial or financial information to the government by safeguarding them from the competitive disadvantages that could result from disclosure. The exemption covers two broad categories of information in Federal agency records: 1) trade secrets, and 2) information that is (a) commercial or financial, and (b) obtained from a person, and (c) privileged or confidential.

The information being withheld under Exemption 4 consists of sensitive commercial and/or financial data and chemical process information that could be a part of a patent application. Disclosing this information could enable competitors to enhance their own operations to the detriment of the submitter company. Furthermore, disclosure may curtail the company from providing such information to the government in the future. Therefore, this information is being withheld under Exemption 4.

Exemption 6 generally is referred to as the "personal privacy" exemption; it provides that the disclosure requirements of FOIA do not apply to "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." 5 U.S.C. § 552(b)(6). In applying Exemption 6, DOE considered: 1) whether a significant privacy interest would be invaded; 2) whether the release of the information would further the public interest by shedding light on the operations or activities of the Government; and 3) whether in balancing the privacy interests against the public interest, disclosure would constitute a clearly unwarranted invasion of privacy.

The information withheld under Exemption 6 consists of a pager number. This information qualifies as "similar files" because it is information in which an individual has a privacy interest. Moreover, releasing the information could subject the individual to unwarranted or unsolicited communications. Since no public interest would be served by disclosing the information, and since there is a viable privacy interest that would be threatened by such disclosure, Exemption 6 authorizes withholding the information. Therefore, we have determined that the public interest in the information's release does not outweigh the overriding privacy interests in keeping it confidential.

This satisfies the standard set forth in the Attorney General's March 19, 2009 memorandum that the agency is justified in not releasing material that the agency reasonably foresees would harm an interest protected by one of the statutory exemptions. Accordingly, we will not disclose this information.

Pursuant to 10 C.F.R. § 1004.7(b)(2), I am the individual responsible for the determination to withhold the information described above. The FOIA requires that "any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt," 5 U.S.C. § 552(b). As a result, a redacted version of the document is being released to you in accordance with 10 C.F.R. § 1004.7(b)(3).

This decision, as well as the adequacy of the search, may be appealed within 30 calendar days from your receipt of this letter pursuant to 10 C.F.R. § 1004.8. Appeals should be addressed to Director, Office of Hearing and Appeals, HG-1, L'Enfant Plaza, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington DC 20585-1615. The written appeal, including the envelope, must clearly indicate that a FOIA appeal is being made. The appeal must contain all the elements required by 10 C.F.R. § 1004.8. Thereafter, judicial review will be available to you in the Federal district court either (1) in the district where you reside, (2) where you have your principal place of business, (3) where the Department's records are situated, or (4) in the District of Columbia.

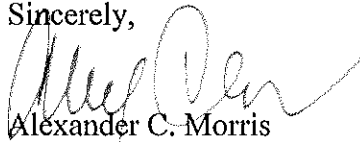
The FOIA provides for the assessment of fees for the processing of requests. *See* 5 U.S.C. § 552(a)(4)(A)(i); *see also* 10 C.F.R. § 1004.9(a). In our January 13, 2014, letter, you were advised that your request was placed in the "other" category for fee purposes, which provides for two free hours of search time. However, since you were also advised in the aforementioned letter that your request for a fee waiver was granted, no fees will be assessed for processing your request.

If you have any questions about the processing of the request or this letter, you may contact Ms. Danyele Coffey at:

MA-90/ Forrestal Building
1000 Independence Avenue, S.W.
Washington, DC 20585
(202) 586-5955

I appreciate the opportunity to assist you with this matter.

Sincerely,



Alexander C. Morris
FOIA Officer
Office of Information Resources

Enclosures

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Final response for request from Tom Clements for the following records:

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- 3) Any DOE determination concerning DOE's requirements about preparation of legally required environmental documents under the National Environmental Policy Act (NEPA). This part of the request covers the determination that a full Environmental Impact Statement (EIS) with public participation will need to be prepared, as required by NEPA.

The Office of Environmental Management conducted a search of its files and identified seven documents responsive to your request.

- Five (5) documents are *being released in their entirety*.
- One (1) document is *being withheld in part pursuant to Exemption (b)(4) and (b)(6)* – Exemption 4 information consists of confidential commercial information. Exemption 6 information consists of a pager number.
- One (1) document was transferred to NNSA for review and direct response to you.