



Department of Energy

Washington, DC 20585

August 23, 2021

Kenneth Klippenstein

Noelle Llamas

Re: HQ-2021-00319-F

Dear Mr. Klippenstein and Ms. Llamas:

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

We respectfully request records sufficient to show descriptions of all Mandatory Declassification Review requests received by your agency from January 1, 2017 to January 23, 2021.

Your request was assigned to DOE's Office of Environment, Health, Safety & Security (AU) to conduct a search of its files for responsive documents. AU started its search on April 7, 2021 which is the cut-off date for responsive documents. AU has completed its search and identified one (1) document responsive to your request. This document is being released to you as described in the accompanying index.

Upon review, DOE has determined that certain information should be withheld from the document pursuant to Exemption 5 of the FOIA, 5 U.S.C. § 552(b)(5).

Exemption 5 protects "inter-agency or intra-agency memorandums or letters that would not be available by law to a party other than an agency in litigation with the agency." 5 U.S.C. § 552(b)(5). Exemption 5 incorporates the deliberative process privilege which protects recommendations, advice, and opinions that are part of the process by which agency decisions and policies are formulated. This exemption has been construed to exempt those documents normally privileged in the civil discovery context, such as attorney-client communications, attorney-work product documents, and deliberative process material.



The withheld portions of the documents in question are pre-decisional and deliberative. The information is both pre-decisional, because it was developed before the agency adopted a final policy, and deliberative, in that it reflects the opinions of individuals who were consulted as part of the decision-making process. DOE may consider these preliminary views as part of the process that will lead to the agency's final policy decision about these matters. The documents and discussions do not represent a final agency position, and their release would compromise the deliberative process by which the government makes its decisions. Thus, portions of the documents are being withheld under Exemption 5 of the FOIA as pre-decisional material that is part of the agency's deliberative process.

With respect to the discretionary disclosure of deliberative information, the quality of agency decisions would be adversely affected if frank, written discussion of policy matters were inhibited by the knowledge that the content of such discussion might be made public. For this reason, DOE has determined that discretionary disclosure of the deliberative material is not in the public interest because foreseeable harm could result from such disclosure.

This satisfies the standard set forth at 5 U.S.C. § 552(a)(8)(A) that agencies shall withhold information under FOIA "only if (I) the agency reasonably foresees that disclosure would harm an interest protected by an exemption...; or (II) disclosure is prohibited by law..." 5 U.S.C. § 552(a)(8)(A) also provides that whenever full disclosure of a record is not possible, agencies shall "consider whether partial disclosure of information is possible...and (II) take reasonable steps necessary to segregate and release nonexempt information." Therefore, we have determined that, in certain instances, a partial disclosure is proper.

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 documents is being released to you in accordance with 10 C.F.R. § 1004.7(b)(3).

This determination, as well as the adequacy of the search, may be appealed within 90 calendar days from your receipt of this letter pursuant to 10 C.F.R. § 1004.8. Appeals should be addressed to Director, Office of Hearings and Appeals, HG-1, L'Enfant Plaza, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585-1615. The written appeal, including the envelope, must clearly indicate that a FOIA appeal is being made. You may also submit your appeal to OHA.filings@hq.doe.gov, including the phrase "Freedom of Information Appeal" in the subject line (this is the preferred method by the Office of Hearings and Appeals). The appeal must contain all of the elements required by 10 C.F.R. § 1004.8, including a copy of the determination letter. 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 DOE's records are situated; or 4) in the District of Columbia.

You may contact DOE's FOIA Public Liaison, Alexander Morris, FOIA Officer, Office of Public Information, at 202-586-5955, or by mail at MA-46 Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, for any further assistance and to discuss

any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

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 26, 2021 letter, you were advised that your request was placed in the “news media” category for fee purposes. Requesters in this category are charged fees for duplication only and are provided 100 pages at no cost. Additionally, in that letter you were advised that your request for a fee waiver was granted. Therefore, no fees will be charged for the processing of your request.

If you have any questions about the processing of the request or this letter, you may contact Mr. Jason Eliaser or me at:

MA-46/Forrestal Building
1000 Independence Avenue, S.W.
Washington, D.C. 20585
(202) 586-5955

I appreciate the opportunity to assist you with this matter.

Sincerely,

ALEXANDER MORRIS
Digitally signed by
ALEXANDER MORRIS
Date: 2021 08.23
11:53:00 -04'00'

Alexander C. Morris
FOIA Officer
Office of Public Information

Enclosures

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Request #: HQ-2021-00319-F

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**We respectfully request records sufficient to show descriptions of all
Mandatory Declassification Review requests received by your agency from
January 1, 2017 to January 23, 2021.**

DOE's Office of Environment, Health, Safety & Security (AU) completed its search and located one (1) document responsive to your request.

- One (1) document *is being released in part pursuant to Exemption (b)(5)*.

Type of Action	Title	Requester Incoming Letter date	Requester	AUCT Date Received	Summary	Sent	Rcvd.	Status
M	2017-0005	1/4/2016	Greenewald	1/6/2017	Independent Oversight Inspection of Safeguards and Security of the Los Alamos Site Office and Los Alamos National Laboratory, February 2003	11-28-18 (AU63)	9-11-19	(b) (5)
M	2017-0006	3/31/2016	Greenewald	2/23/2017	Nuclear Weapon Implications of Cold Fusion By Thurman L. Talley			
M	2017-0007	6/5/2017	Burr	6/6/2017	Glenn Seaborg Diary dated January 21, 1965 - Gilpatric committee			
M	2017-0008	6/30/2017	Burr	6/30/2017	"Permanently withdrawn by Robert Anders" 20 September 1991	10-8-18	XXX	
M	2017-0009	6/28/2017	Pfeiffer	7/14/2017	Final Development Report B61-0 - SNL			
M	2014-0008	3/24/2014	Shan	10/19/2017	LA-02869-ms "Physics in xw-59 and xw-50-x1", LA-03165 "Lethal radii for neutron kill", LA-04331 "Design and development of W-66"	10-11-17 NNSA FOIA	XXXX	
M	2014-0011	3/24/2014	Shan	10/19/2017	LA-08426-ms "W50 neutron and gamma ray output", LA-CP-06-1328 "Nuclear Weapon Design Barrier ---Part 1 and 2", LA-05183 "Vertically Stacked sprint bursts"			
M	2014-0009	3/24/2014	Shan	10/19/2017	LA-03177, "Structural response of a hardened reentry vehicle", LA-cp-97-0219, "Brief technical history of W-76", LA-cp-89-0315 "Theoretical design of implosion weapons 1952-1958"	10-11-17 NNSA FOIA	XXXX	
M	2018-0001	6/12/2018	Burr	6/12/2018	Goldsboro Revisited - SNL Oct 22, 1969			
M	2018-0002	6/28/2018	Burr	6/28/2018	Proliferation of Weapons of Mass Destruction and Missile Systems			
M	2018-0003	8/27/2018	Burr	8/27/2018	Leslie Powers report on mission to Western Europe, 7-12 February 1979			
M	2019-0001	12/3/2018	Burr	12/4/2018	Joint ERDA-DOD Stockpile Nuclear Safety Evaluation; Joint DOE/DOD Study of Alternatives for the Nuclear Weapons Program "Starbird Study"			
M	2019-0002	4/23/2019	Vaughn	5/15/2019	Project Public: Counter-forensic Investigation of US Gaseous Diffusion Plants, E. Randich	LLNL AU-63		
M	2019-0003	5/22/2019	Burr	5/23/2019	AEC Intelligence Review for 17 Nov 1960			
M	2019-0004	6/26/2019	Burr	6/26/2019	Briefing Book: The Nuclear Facilities of South Africa, COVD-2306, May 1983			
M	2019-0005	9/4/2019	Burr	9/16/2019	Vela Incident, September 22, 1979			
M	2019-0006	9/25/2019	Hughes	9/25/2019	Final Development Report for the Mk54 Warhead System SC4632(WD)			
M	2020-0001	11/8/2019	Burr	11/8/2019	Los Alamos report on the Vela Event Alert 747 by Henry G. Horak, LA-8364-MS issued in May 1980			
M	2020-0002	3/4/2020	Pikas	3/4/2020	Ruark- Nuclear Powered Flight			
M	2020-0003	5/9/2020	Ravnitzky	5/11/2020	mid-1970s, Edward Teller compiled a book on fusion research at Lawrence Livermore National Laboratory (LLNL)			

Type of Action	Title	Requester	Incoming Letter date	Requester	AUCT Date Received	Summary	Sent	Rcvd.	Status
M	2020-0004		9/2/2020	Ravnitzky	9/22/2020	IG Reports on the loss of enriched uranium at NUMEC in Apollo and Parks Township, PA			(b) (5)
M	2021-0001		10/15/2020	Burr	10/19/2020	UK General			
M	2021-0002		10/24/2020	Ravnitzky	10/26/2020	Declassification Review request for DOE Classified Matter that may include RD/FRD			
M	2021-0003		11/18/2020	Burr	11/19/2020	LLL/DISA Proliferation Study, Quarterly Progress Report July-September 1977, Report Number QL-1093 (1977).			
M	2021-0004		11/22/2020	Ravnitzky	12/15/2020	NEST Exercise 'Eligible Receiver' (2000) After Action Rerpot			
M	2021-0008		11/30/2020	Ravnitzky	12/17/2020	NEST Exercise: 'Eclipse Foxtrot' 97 Bold Endeavor After Action Report			
M	2021-0009		12/8/2020	Ravnitzky	1/5/2021	NEST Exercise: '3-99 CPX' After Action Report June 11, 1999			
M	2021-0005		11/26/2020	Ravnitzky	12/14/2020	NEST Exercise: 'Gauged Strength' After Action Report			
M	2021-0006		12/2/2020	Ravnitzky	12/14/2020	NEST Exercise: JRX 2-98 Bright Victory (After Action Report)			
M	2021-0007		12/5/2020	Ravnitzky	12/14/2020	NEST Exercise: 'Errant Foe' After Action Report			