



Savannah River Site Watch

November 21, 2022

Freedom of Information Officer
NNSA Service Center
Office of Public Affairs
P.O. Box 5400
Albuquerque, NM 87185-5400
FOIOfficer@nnsa.doe.gov, foiofficer@doeal.gov

Dear FOIA Officers:

Pursuant to the Freedom of Information Act, Savannah River Site Watch (SRS Watch) requests:

- 1) All National Nuclear Security Administration (NNSA) FY 2020 Performance Evaluation Reports (PERs), full and complete, including attachments, and**
- 2) All NNSA FY 2020 Performance Evaluation Report Summaries, Fee Determination Letters and any attachments.**

This request is for all documents associated with NNSA's FY 2020 Performance Evaluation Reports (PERs). This would include, but not be limited to, FY 2020 PERs on contractor performance at the Los Alamos National Laboratory, Sandia National Laboratories, Lawrence Livermore National Laboratory, the Pantex and Y-12 Plants, the Savannah River Site, the Kansas City Plant, the Nevada National Security Site, the Office of Secure Transportation and the MOX Fuel Fabrication Facility termination and proposed "repurposing" into a Plutonium Bomb Plant (PBP).

If you regard this information as exempt from required disclosure under the Act, SRS Watch requests that you exercise your discretion to disclose them. If the documents include classified or otherwise restricted information and the volume of this material makes a lengthy declassification review necessary, SRS Watch requests the prompt release of all elements of the document portions marked 'Unclassified,' 'For Official Use Only,' or 'Declassified.' Additionally, SRS Watch requests that the remaining classified portions undergo a careful review for the purpose of declassification, in whole or in part, and that you release all reasonably segregated portions of the classified record, except those portions which would actually damage national security.

SRS Watch further requests that you disclose these materials to us as they become available to you without waiting until all the documents have been assembled.

Should you elect to invoke an exemption to the FOIA, SRS Watch requests in any full or partial denial letter sufficient information to appeal the denial. In accordance with the minimum requirements for administrative due process, this information should include:

1. Basic factual material, including the originator, date, length, and addresses of the withheld items.

2. Explanations and justifications for denial, including the identification of the procedural category of E.O. 12356 under which the withheld document or portions of the document was found to be subject to classification, at what level the entire document was ultimately classified and the nature and variety of the document's portion-marking and, most importantly, explanations of how each exemption fits the withheld material.

SRS Watch is a duly registered non-profit, tax-exempt, public policy research and information organization. SRS Watch makes information available to the public, media and elected officials by various means of distribution, including via our website, social media and public programs. The information disclosed pursuant to the request will be made available to the public and others engaged in policy analysis and research, including historians, area specialists, and journalists. The documents obtained will likely contribute significantly to public understanding of the operations and activities of NNSA.

We hereby request a waiver of any fees that might be associated with this request. The Freedom of Information Act provides that DOE/NNSA may waive fees "if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." (5 U.S.C. Section 552(a)(4)(A)(iii) and 10 CFR 1004.9(a)(8)) SRS Watch has a demonstrated ability to interpret and publicly distribute information obtained under FOIA requests. We believe our request clearly meets the fee-waiver requirements and thus request that you waive all fees in connection with this request. We have never been charged for a FOIA request to NNSA or DOE and I expect the same standard to be applied with this request.

Per DOE's FOIA regulations, we request a determination in response to this request within 20 days and if the documents are not provided by then we expect to be notified as to a specific date by which the documents will be provided.

The Freedom of Information Act states that "[e]ach agency, upon any request for records made under paragraph . . . (3) . . . shall determine within 20 [working] days . . . whether to comply with such request and shall immediately notify the person making such request of . . . such determination and the reasons therefor." 5 U.S.C. § 552(a)(6)(A)(i). "[I]n order to make a

determination,” an agency must, inter alia, “determine and communicate the scope of the documents it intends to produce and withhold, and the reasons for withholding any documents.” *Citizens for Responsibility and Ethics in Washington v. Fed. Election Comm’n*, 711 F.3d 180, 188 (D.C. Cir. 2013).

In “unusual circumstances,” an agency may extend FOIA’s 20 working-day deadline by up to ten additional working days, but the agency must also provide written notice to the requester including “the date on which a determination is expected to be dispatched.” 5 U.S.C. § 552(a)(6)(B)(i). Similarly, FOIA requires agencies to “provide[] information about the status of a request,” “including . . . an estimated date on which the agency will complete action on the request.” *Id.* § 552(a)(7)(B). DOE’s regulations recognize these requirements. *See* 10 C.F.R. § 1004.5(d)(1) (stating that DOE will act “within 20 days of a request for DOE records being received”); *id.* § 1004.5(d)(1)(iii) (recognizing that if DOE invokes “unusual circumstances” it may “take an extension not to exceed ten days” and must provide “the date on which a determination is expected to be dispatched”).

If you have questions about this request, please contact me at tel. 803-834-3084 or via email at tomclements329@cs.com. Your prompt response to this request is appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Tom Clements".

Tom Clements
Director, Savannah River Site Watch (SRS Watch)
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Columbia, SC 29202
tomclements329@s.com