



Savannah River Site Watch

September 15, 2023

Freedom of Information Office
Savannah River Operations Office
P.O. Box A
Aiken, SC 29802

**FOIA Request for Contract or Agreement with Edlow International concerning
“Work for Others Agreement” between JEN and SRNL**

To Whom it Concerns:

This is a request filed under the Freedom of Information Act, as amended. Per applicable law and Department of Energy regulations, I anticipate a response to this request within 20 days. If the requested documents are not provided within 20 days please provide the reason why and provide a date by which they will be provided.

This request is being filed on behalf of Savannah River Site Watch (SRS Watch), a corporation duly registered with the State of South Carolina and a registered 501(c)(3) non-profit organization. In addition to many FOIA requests filed on behalf of SRS Watch, I have filed many FOIA requests with DOE on behalf of other non-profit organizations, including Friends of the Earth, the Alliance for Nuclear Accountability, Greenpeace and the Nuclear Control Institute.

I request that any fees that may be associated with this request be waived. The information obtained in response to this request will be used solely for non-profit purposes in South Carolina, the United States and Germany. The information will contribute to the public's understanding of the manner in which DOE conducts its business and will specifically be used to inform the public about DOE's efforts to import spent nuclear fuel from Germany. The information obtained via this request will be provided to not only the public but also the media, the Savannah River Site Citizens Advisory Board (a duly embodied federal advisory panel) and members of the German government at both the state and federal levels. Over the years, I have demonstrated an ability to use information gathered via FOIA requests in a manner so as to educate the public about DOE and issues it is addressing. I request that the fee-waiver standard that has been applied to my requests in the past be applied to this request.

This request is a follow-up to earlier FOIA requests on the same matter. For those requests, from which documents were obtained, no fee was charged.

If any claim is made that any portion of any located documents are sensitive in nature or meet FOIA exclusions, I request that redacted copies of such documents be provided to me and that a full explanation be provided as to the reasons for any redactions. I request that documents be provided to me as they become available to staff and that the documents not be withheld until all pertinent documents are obtained. I further request, per FOIA regulations, that an “adequate search” for responsive documents be conducted.

I request that an Estimated Date of Completion of the request be provided to me. Concerning the period of response to this request, I note that the FOIA 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”).

This request applies to research and development at SRS concerning spent fuel from two closed German commercial, experimental reactors - the AVR and THTR gas-cooled reactors - both of which used graphite fuel. The highly radioactive spent fuel from those reactors, contained in Castor casks, is now stored at two facilities located in Jülich and Ahaus, Germany. The focus of research at SRS has been on the AVR spent fuel and the processing and disposal of it.

The SRS-Jülicher Entsorgungsgesellschaft für Nuklearanlagen (JEN) “Work for Others” agreement, modification number 9, dated February 21/23, 2022 is posted here on the SRS Watch website: <https://srswatch.org/wp-content/uploads/2022/04/2022-02-21-WFO-13-021-Mod-No.-9-received-23-March-2022.pdf>. That agreement, related to the AVR spent fuel, remained in effect until February 28, 2023 was not renewed despite efforts by DOE/SRNL or those seemingly representing DOE or SRNL.

Based on documents obtained on September 11, 2023, under an earlier FOIA request, it appears that SRNL and DOE were in conversation with JEN about extending the WFO agreement but that effort was fruitless. Obtained documents indicate that Mr. Jack Edlow and Mr. Russell Neely, of the company Edlow International, were in the loop on those discussions. According to the Edlow website (<https://www.edlow.com/edlow-team>), Mr. Edlow is the president of Edlow International Company and Mr. Neely is the chief operating officer.

Documents indicate that Mr. Jack Edlow may have been a lead negotiator with German entities, either on behalf of DOE or SRNL or on behalf of his company. Emails indicate that Mr. Edlow was also in back and forth communication about the status of the project with NNSA (Corey Hinderstein, Deputy Administrator, Defense Nuclear Nonproliferation, NA-20). It has long been known that Edlow International has been interested in a role in shipping AVR spent fuel from Germany to the US but it has not been known until FOIA-response documents were obtained on September 11, 2023 that Edlow International was actually involved in discussion concerning the status of SRNL-JEN research cooperation and any new agreement post-February 28, 2023.

This request applies to DOE and any contractors working for DOE, including Savannah River Nuclear Solutions and the Savannah River National Laboratory (SRNL). This request applies to the DOE's Savannah River Operations Office and DOE's Office of Environmental Management (EM). The time period of this request is 2012 - around the time of the beginning of the project - to the date of filing of this request, September 15, 2023.

I suggest that contacts at SRNL from whom to request any documents would be Bill Bates, Deputy Assistant Laboratory Director, and Robert Pierce. Emails recently obtained under FOIA from both of them reveal communication with Mr. Jack Edlow and Mr. Russell Neely of Edlow International concerning AVR spent managed in Germany by JEN. Given that I had to appeal an inadequate search of documents concerning SRNL and JEN, I reiterate that an "adequate search" for pertinent documents must be performed this time.

For the record of this request, I note that I won the aforementioned appeal, as determined by DOE's Office of Hearings and Appeals. See the August 1, 2023 decision posted at <https://www.energy.gov/sites/default/files/2023-08/FIA-23-0022.pdf> and summary of the decision on the Office of Hearings and Appeals webpage (<https://www.energy.gov/oha/articles/fia-23-0022-matter-savannah-river-site-watch>):

On August 1, 2023, the Office of Hearings and Appeals (OHA) granted the Freedom of Information (FOIA) Appeal filed by Savannah River Site Watch (Appellant) from a determination letter issued by the Department of Energy's (DOE) Savannah River Field Office (SRO). On appeal, the Appellant challenged the redaction of portions of an email provided with the second determination letter and the adequacy of the search in regard to its request for communications. After reviewing the redacted records, we found that there was no justification for the redaction of the email. After reaching out to SRO and the SMEs who completed the search, we also determined that they had not conducted a search reasonably calculated to uncover all relevant documents. Therefore, we remand to SRO, which shall reconsider the redactions made in the released email, clarify the

scope of the request with the Appellant, conduct a new search, and issue a new determination. (OHA Case No. FIA-23-0022).

I hereby request:

- **Any copies of any formal contract(s) or formal agreement(s) between SRNL and/or EM and Mr. Jack Edlow and/or Mr. Russell Neely and/or the private entity Edlow International which designate authority to the above-named individuals or the above-named company to formally negotiate or communicate on behalf of or for SRNL or DOE with JEN or any agency or entity in the German federal government or in the North Rhine-Westphalia (NRW) state government concerning the SRNL-JEN agreement on research into processing the AVR spent fuel;**
- **Any copies of any informal agreement(s), including emails, memos, notes and other documents, between SRNL and/or EM and Mr. Jack Edlow and/or Mr. Russell Neely and/or Edlow International which states the named individuals or named company may informally negotiate or communicate on behalf of or for SRNL or DOE with JEN or any agency or entity in the German federal government or in the North Rhine-Westphalia (NRW) state government concerning the SRNL-JEN agreement on research into processing the AVR spent fuel.**
- **Any attachments to documents described above.**

I underscore that this request is not for any personal information concerning the named individuals but rather only for information related to negotiations about the mentioned WFO or export from Germany to SRS of the AVR spent fuel or unirradiated graphite balls or other graphite material.

Please get in touch if you have questions about this request. My email is: tomclements329@cs.com. Thank you for your timely response.

Sincerely,



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