



Department of Energy
National Nuclear Security Administration
Office of the General Counsel
P. O. Box 5400
Albuquerque, NM 87185



April 4, 2024

SENT VIA EMAIL

Tom Clements
Director, Savannah River Site Watch
1112 Florence Street
Columbia, SC 29201
tomclements329@cs.com

Dear Mr. Clements:

This letter is the final response to your July 16, 2021, Freedom of Information Act (FOIA) request.

Your request stated the following:

“The comprehensive, integrated ten-year research program for pit and plutonium aging plan that was required to be submitted to Congress by NNSA 180 days after the entrance into law of the Appropriations Act for Fiscal Year 2021, or on approximately June 27, 2021; Any attachments to the requested pit and plutonium aging plan.”

Your request was received in our office on July 20, 2021. Upon receipt, we contacted the Office of Defense Programs (NA-10) to conduct a search for responsive records. NA-10 conducted a thorough search of their records.

The following responsive records were located:

Document: 1: (U) Research Program Plan for Plutonium and Pit Aging, Report to Congress, National Nuclear Security Administration, September 2021, 28 pgs.

The enclosed document contains the information you requested, with redactions pursuant to 5 U.S.C. § 552(b)(3), Exemption 3, 5 U.S.C. § 552(b)(4), Exemption 4, 5 U.S.C. § 552(b)(6), Exemption 6 and 5 U.S.C. § 552(b)(7)(F), Exemption 7 of the FOIA.

Title 5, United States Code, section 552(b)(3) (5 U.S.C. 552(b)(3)) (**Exemption 3**), exempts from disclosure information “specifically exempted from disclosure by statute (other than section 552(b) of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld.” The Atomic Energy Act (AEA) of 1954, as amended, 42 U.S.C. 2011 et seq., is an Exemption 3 statute. Sections 141-146 of this Act (42 U.S.C. 2161-2166) prohibit the disclosure of information concerning atomic energy defense programs that is classified as either RD or FRD pursuant to the AEA, as amended.

The portions deleted from the subject document(s) pursuant to Exemption 3 contain information about weapon design that has been classified as RD and/or nuclear weapons that has been classified as FRD. Disclosure of the exempt data could jeopardize the common defense and the security of the nation. To the extent permitted by law, pursuant to 10 C.F.R 1004.1, the DOE will make available records it is authorized to withhold under the FOIA whenever it determines that such disclosure is in the public interest. With respect to the information withheld from disclosure pursuant to Exemption 3, the DOE has no further discretion under the FOIA or DOE regulations to release information currently and properly classified pursuant to the AEA, as amended.

Pursuant to 10 C.F.R. 1004.6(d), Ms. Edith Chalk, Director, Office of Classification, Office of Environment, Health, Safety and Security, is the official responsible for the denial of the DOE classified information identified as “DOE (b)(3).”

Exemption 4 of the FOIA protects trade secrets and commercial or financial information obtained from a person that is privileged or confidential. This exemption is intended to protect the interests of both the government and submitters of information. The exemption covers two distinct categories of information in federal 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 withheld pursuant to Exemption 4 pertains to laboratory prioritization and strategy information reflecting programmatic sensitivities, as well as detailed statements reflecting individual or joint laboratory technical details, designs, and strategies of Los Alamos National Laboratory (LLNL) and Lawrence Livermore National Laboratory (LLNL) submitted to the National Nuclear Security Administration (NNSA) that is not available for release. LANL and LLNL considers this information to be confidential business information and does not release this information to the public and customarily keeps the information confidential. Therefore, it is considered confidential information for purposes of Exemption 4. Release of this information would cause competitive harm by revealing the laboratory’s proprietary business information and would provide competitors with information regarding how the laboratory determines its current and future programmatic strategy.

Exemption 6 permits the withholding of personnel and medical files and similar files when the disclosure of such information would constitute a clearly unwarranted invasion of personal privacy. The purpose of Exemption 6 is to protect individuals from the injury and embarrassment that can result from the unnecessary disclosure of personal information. To determine whether disclosure would constitute a clearly unwarranted invasion of personal privacy, the public interest in disclosure, if any, must be balanced against the privacy interests that would be invaded by disclosure of the information. In this case, the names and contact information of employees have been withheld. Release of the information pertaining to these individuals will cause inevitable harassment and unwarranted invasion of personal privacy for this individual and could cause unwarranted scrutiny by persons or entities harboring political, philosophical, or other objections to the mission of the Nuclear Security Enterprise and our agency. NNSA has experienced a rise in phishing attempts as threat actors aim to obtain access to sensitive information as well as to Information Technology (IT) and Operational Technology (OT) networks, and release of employee names/email addresses will assist these threat actors in their efforts to gain access and exploit the agency’s IT and OT systems.

In addition, release of this information would not shed light on the operations of the federal government since the underlying information related to the agency's actions is being provided. Since its release will not reveal anything of significance to the public, the interest in protecting against the invasion of privacy that would result to the individuals in question far outweighs the public interest in such disclosure.

Exemption 7(F) of the FOIA protects from disclosure records or information compiled for law enforcement purposes to the extent that disclosure "could reasonably be expected to endanger the life or physical safety of any individual." The ordinary meaning of law enforcement includes not just the investigation and prosecution of offenses already committed but also proactive steps designed to maintain security. The portions redacted pursuant to Exemption 7(F) contain information about sensitive information regarding the research plans for plutonium pits and key components for nuclear weapons. Specifically, the information redacted includes details about the Nuclear Security Enterprise and its capabilities to protect assets that are sensitive to its national security missions. This information could enable anyone, including terrorists, to more easily plan operations that would target these facilities. Without question, uncontrolled release, or access to this information by an unauthorized person could endanger the life or physical safety of employees as well as the general public.

The Department of Energy (DOE) regulations 10 CFR § 1004.1 provides that documents exempt from mandatory disclosure under the FOIA shall be released regardless of their exempt status, unless DOE determines that disclosure is contrary to public interest. For the reasons described above, NNSA has determined that release of the information described above is not in the public interest.

Pursuant to 10 CFR § 1004.7(b)(2), I am the individual responsible for the withholding of the information mentioned above pursuant to Exemptions 4, 6 and 7(F) of the FOIA.

You may appeal the withholding of information pursuant to 10 CFR § 1004.8. Such an appeal must be made in writing within 90 calendar days after receipt of this letter, addressed to the Director, Office of Hearings and Appeals, HG-1, U.S. Department of Energy, 1000 Independence Avenue SW, L'Enfant building, Washington, DC 20585. Your appeal must contain a concise statement of the grounds for the appeal and a description of the relief sought. Please submit a **copy of this letter with the appeal** and clearly mark both the envelope and the letter "Freedom of Information Appeal." You may also submit your appeal by email (preferred method) to OHA.filings@hq.doe.gov, including the phrase "Freedom of Information Appeal" in the subject line. Thereafter, judicial review will be available to you in the District of Columbia or in the district where (1) you reside, (2) you have your principal place of business, or (3) the Department's records are situated.

You may contact me, NNSA's FOIA Public Liaison, Office of the General Counsel, at 1-866-747-5994, or by mail to Department of Energy, National Nuclear Security Administration, Office of the General Counsel, PO Box 5400, Albuquerque, NM 87185, for 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.

There are no fees chargeable to you for processing this request. If you have questions, please contact Mr. Roberto Marquez by e-mail at Roberto.Marquez@nnsa.doe.gov, or write to the address above. Please reference Control Number FOIA 21-00276-R.

Sincerely,

**Christina H.
Hamblen**

Digitally signed by
Christina H. Hamblen
Date: 2024.04.04
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Christina H. Hamblen
FOIA Officer

Enclosure