



March 1, 2022

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

Request for "Modification Number 9" to "Work for Others" Agreement between SRS and Germany, Concerning Import and Processing of German AVR Spent Fuel at SRS; Documentation on Plans to Import Irradiated and Unirradiated Graphite Material to SRS; Date Certain for Response Required Under FOIA Act

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 highly radioactive 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 DOE/SRS staff and that the documents not be withheld until all pertinent documents are obtained.

The FOIA 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”). Thus, I expect a date to be provided to me by which this request will be fully responded to.

This request applies to research and development at SRS concerning management of highly radioactive 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 over 450 Castor casks, is now stored at two facilities located at the research center in Jülich, Germany - which I have visited and can thus document the presence of the material in question - and the storage facility at Ahaus, Germany (which I have observed from outside the facility).

In communication dated February 24, 2021, from the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety to a member of the Bundestag concerning the status of the appeal of possible export from Germany to the US of 33 unirradiated graphite pebbles it was stated:

At the instigation of the Federal Government, the Federal Office of Economics and Export Control filed an application on December 15, 2020, for permission to appeal against the judgment of the Administrative Court of Frankfurt a. M. of November 20, 2020, regarding the license applied for by JEN Jülicher Entsorgungsgesellschaft für Nuklearanlagen mbH for the Export of 33 fresh fuel assemblies from the AVR Arbeitsgemeinschaft Versuchsreaktor Jülich, served on November 23, 2020, Case No.: 6 K 3862/18.F filed with the Hessian Administrative Court in Kassel. No further information is currently available on the status of this approval procedure.

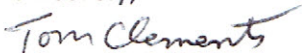
This request applies to DOE and any contractors working for DOE, including Savannah River Nuclear Solutions and the Savannah River National Laboratory (SRNL). This request applies to the DOE's Savannah River Operations Office and DOE's Office of Environmental Management.

I hereby request:

- Any modification to the original Work for Others (WFO) agreement between DOE/Savannah River Nuclear Solutions and Jülicher Entsorgungsgesellschaft für Nuklearanlagen (JEN) - located at the Forschungszentrum Jülich (FZJ) in Germany - and the Savannah River Site, Savannah River Nuclear Solutions and/or the Savannah River National Laboratory after February 26, 2021. Modification Number 7 to the Work for Others agreement terminated on or around February 26, 2022, so this request covers any "modifications" or new agreements subsequent to Modification Number 8. The requested modification(s) may be called Modification Number 9 (or higher);
- Any attachments to Modification 9 (or higher) requested above;
- Any documentation in the hands of DOE, SRS, SRNL or SRNS from 2020 or 2021 on plans to import irradiated or unirradiated graphite fuel "pebbles" - perhaps the 33 unirradiated pebbles mentioned above - from Germany to SRS, for research purposes and any documents indicating that the importation may have taken place;
- Any documents, including reports and memos, from any SRS entity that were provided to Germany in 2020 or 2021 under the Work for Others agreement, Modification Number 8.

Please get in touch if you have questions about this request. Thank you for your timely response.

Sincerely,



Tom Clements

Director, SRS Watch

tomclements329@cs.org