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March 3, 2009

Mr. Alexander C. Morris
Freedom of Information Act Officer
Office of Information Resources
U.S. Department of Energy
Mailstop MA-90
1000 Independence Ave., SW
Washington, D.C. 20585
By Fax to: (202) 586-0575

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Re: Freedom of Information Act Request

Dear Mr. Morris:

On behalf of Texans for a Sound Energy Policy ("TSEP"), and pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and Department of Energy ("DOE") regulations, 10 C.F.R. Part 1004, I respectfully request the following records that are related to contracts executed between DOE and various utilities for the disposal of spent nuclear fuel and/or high-level radioactive waste pursuant to § 135(b) of the Nuclear Waste Policy Act of 1982, as amended. 42 U.S.C. § 10155(b). *See also* 10 C.F.R. § 961 and Press Release, U.S. Dept. of Energy, U.S. Department of Energy Announces the Availability of Disposal Contracts for New Nuclear Reactors (Oct. 31, 2008) (*available at* http://www.energy.gov/news/6704.htm):

1) A copy of the new reactor amendment to the standard contract for disposal of spent nuclear fuel and/or high-level radioactive waste;

2) Copies of all contracts executed between DOE and any utility pursuant to the new reactor amendment that commit DOE to possess, take title to, transport, and/or dispose of spent fuel and/or high-level radioactive waste from existing or proposed nuclear reactors.

3) Copies of all standard contracts executed at any time between DOE and any utility that is currently in the process of applying to the U.S. Nuclear Regulatory Commission ("NRC") for a combined license to construct and operate a new nuclear power plant that commit DOE to possess, take title to, transport, and/or dispose of spent fuel and/or high-level radioactive waste from existing or proposed nuclear reactors;

For purposes of this request:

The term "record" means: (1) any written, printed, or typed material of any kind, including without limitation all correspondence, memoranda, notes, messages, letters, cards, telegrams,

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teletypes, facsimiles, papers, forms, records, telephone messages, diaries, schedules, calendars, chronological data, minutes, books, reports, charts, lists, ledgers, invoices, worksheets, receipts, returns, computer printouts, printed matter, prospectuses, statements, checks, statistics, surveys, affidavits, contracts, agreements, transcripts, magazines or newspaper articles or press releases; (2) any electronically, magnetically, or mechanically stored material of any kind, including without limitation all electronic mail or e-mail, meaning any electronically transmitted text or graphic communication created upon and transmitted or received by any computer or other electronic device, and all materials stored on compact disk, computer disk, diskette, hard drive, server, or tape; (3) any audio, aural, visual, or video records, recordings, or representations of any kind, including without limitation all cassette tapes, compact disks, digital video disks, microfiche, microfilm, motion pictures, pictures, photographs, or videotapes; (4) any graphic materials and data compilations from which information can be obtained; (5) any materials using other means of preserving thought or expression; and (6) any tangible things from which data or information can be obtained, processed, recorded, or transcribed. The term "record" also includes any drafts, alterations, amendments, changes, or modifications of or to any of the foregoing.

The term "utility" means any entity that has applied, or anticipates that it will apply, to the U.S. Nuclear Regulatory Commission ("NRC") for a license to construct and/or operate a new or existing nuclear power plant.

The term "new reactor amendment" means the amended version of the standard contract that was drafted by DOE in 2008. *See* 73 Fed. Reg. 59,570 (Oct. 9, 2008).

The term "standard contract" means a contract executed between DOE and the owner or generator of spent nuclear fuel and/or high-level radioactive waste whereby DOE takes title to, transports, and/or disposes of such spent fuel or high-level waste, as laid out in 10 C.F.R. Part 961.

If it is your position that records exist that are responsive to this request, but that those records (or portions of those records) are exempt from disclosure pursuant to 10 C.F.R. § 1004.10, please identify the records that are being withheld and state the basis for the denial for each record being withheld. In addition, please provide the non-exempt portions of the records.

Request for Waiver of Fees

TSEP hereby requests that all fees in connection with this FOIA request be waived in accordance with the provisions of 10 C.F.R. § 10004.9(a)(8), which state that "[t]he DOE will furnish documents without charge or at reduced charges 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 disclosure is not primarily in the commercial interest of the requester." The requested documents will significantly contribute to the public's understanding of the amount of spent fuel and high-level radioactive waste that DOE is or will be contractually obligated to take possession of, take title to, and/or dispose of and the terms on which DOE has obligated itself to perform these functions. In addition, these documents will inform TSEP as to whether the public interest in protecting the environment and managing public funds is being protected by DOE. The materials will not be used for TSEP's commercial use or gain.

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TSEP is a nonprofit organization that supports a Texas energy supply policy that is reasonable, sustainable and environmentally-sound. TSEP seeks to inform the public of the environmental, economic, and public health risks associated with the proposed construction and operation of a nuclear power plant in Victoria, Texas. TSEP is particularly concerned that the process for managing waste from new nuclear reactors is being carried out by DOE in a rushed and secretive manner that purposefully casts a shroud on the government's decisionmaking process and potentially jeopardizes the public's health and safety. TSEP intends to use the requested information in furtherance of its goal of educating the public on the risks associated with nuclear energy. TSEP will disseminate the disclosed information to the public through both its website and its extensive media campaign, as well as through educational programs and events in the Victoria community.

Accordingly, we request that you waive all fees for locating and duplicating the requested records. If, however, a waiver is not granted, then please advise us of the amount of any proposed search, review, and reproduction charges before those activities are carried out.

We will expect a response within 10 working days, as provided by 10 C.F.R. § 1004.5(d). If you have any questions regarding this request, please contact me at (202) 328-3500.

Thank you very much for your attention to this matter.

Sincerely,

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