102 22 VM

IRmep Calvert Station P.O. Box 32041 Washington, DC 20007 http://www.irmep.org info@irmep.org Phone: 202-342-7325 Fax: 202-318-8009

06/13/2011



Susan Viscuso, Information and Privacy Coordinator Central Intelligence Agency Washington, D.C. 20505

RE: NUMEC diversion files – CIA FOIA and MDR Unresponsiveness

Dear Susan Viscuso,

Thank you for your phone call on June 9, 2011 to discuss the theft and diversion of highly enriched uranium from the Nuclear Materials and Equipment Corporation. Reporters and public accountability organizations have long been trying to obtain CIA files about the 1960s diversions of weapons grade material from NUMEC. Records already publicly released from other agencies reveal that:

- 1. NUMEC was a center for Israeli intelligence operations, receiving visits from Raphael Eitan (who later handled spy Jonathan Pollard) and Abraham Bendor as well as top Israeli nuclear weapons scientists Ephraim Beigon and Avraham Hermoni. (FBI files released under FOIA, Attachment A).
- 2. NUMEC's chief venture capitalist, David Lowenthal, was heavily connected to Israeli intelligence and the leaders of the Israeli government. This may have led the CIA's Tel Aviv station chief to publicly comment that NUMEC was "an Israeli operation from the beginning."
- 3. During key Congressional and GAO investigations in the 1970s, the CIA refused to cooperate in providing publicly releasable information. (1979 GAO report "Nuclear Diversion in the US? 13 Years of Contradiction and Confusion") This led the GAO to conclude that "We believe a timely, concerted effort...would have greatly aided and possibly solved the NUMEC diversion questions, if they desired to do so."
- 4. NUMEC had twice the rate of "materials unaccounted for" as other nuclear reprocessing facilities (Department of Energy report¹).

Since the 1970s the CIA has repeatedly blocked public release of equity content it holds in a large number of federal agency reports and documents, some of it held in presidential libraries of the National Archives. On 8/9/1978 reporter John Fialka requested FOIA release of testimony former CIA director of operations Carl Duckett gave to the Nuclear Regulatory Commission. (Attachment B) The request was denied. In 2009, we requested release of CIA equity in the report "Nuclear Division in the US? 13 Years of Contradiction and Confusion" through the GAO. Former NRC commissioners Victor Galinsky and Roger Mattson have made repeated requests for CIA equity content about NUMEC over the years—all of which were denied. In 2009-2010 CIA was unresponsive to the GAO and our requests for NUMEC content release.

¹ http://www.fas.org/sgp/othergov/doe/heu/

A publicly released NRC report of Carl Duckett's (Attachment C) analysis reveals that from the CIA's perspective the NUMEC diversion matter was "academic" since the CIA believed Israel had many avenues for securing materials and know-how for building nuclear weapons in beyond stealing key taxpayer funded material from the US.

However the NUMEC matter has never been "academic" for Americans.

The core purpose of FOIA and MDR is government accountability through transparency. The CIA's blanket ban over releasing material about NUMEC serves to thwart accountability because:

- The CIA is the only agency believed to have matched the Portsmouth signature of NUMEC uranium to material found outside Dimona, providing definitive proof of the diversion to nuclear weapons production. Yet this confirmation has not been formally released.
- A network of US operatives that assisted in the uranium heist and were likely observed by CIA during frequent travels to Israel but have gone unexposed in the US, creating the likelihood the similar smuggling networks will be created in the future.
- 3. There is a massive taxpayer funded cleanup now underway at Apollo, PA. This cleanup cost matter is not "academic" if the NUMEC operation really was "an Israeli operation from the beginning."
- 4. There is a growing public perception that matters related to Israel occur on a higher plane, above rule of law and accountability. This could be disastrous to long term societal cohesion and governance.

On September 10, 2010 we requested **all** CIA files "relating to uranium diversion from the Nuclear Materials and Equipment Corporation (NUMEC) to Israel" (Attachment D). In subsequent correspondence CIA indicated confusion about the scope of the request, and even terminated the FOIA.

The scope of our FOIA is all CIA NUMEC material.

We believe NUMEC documents are now releasable under the guidance of Executive Order 13526 issued December 29, 2009² because:

- Under Section 1.5 Duration of Classification provisions no document may remain classified indefinitely. Documents must usually be marked for declassification within 10 or 25 years of the original classification decision. Under these new standards, the NUMEC files are overdue for public release.
- 2. Under Section 1.7 Classification Prohibitions and Limitations it is no longer permissible to maintain classifications to "conceal violations of law, inefficiency, or administrative error" or "prevent embarrassment." Outside experts maintain NUMEC material is classified because it would reveal US taxpayer funded uranium ended up in a foreign nuclear weapons program. Aver Cohen, in his book "Israel and the Bomb" documents that LBJ associate and fundraiser Abraham Feinberg was the funding coordinator for the Israeli nuclear weapons program. Keeping documents classified that confirm embarrassing findings such as those mentioned above is no longer permissible.
- 3. Under Section 3.3 "the Secretary of Energy shall determine when information concerning foreign nuclear programs that was removed from the Restricted Data category in order to carry out provisions of the National Security Act of 1947, as amended, may be declassified. Unless otherwise determined, such information shall be declassified when

Approved for Release: 2021/10/21 C05695277

² http://www.fas.org/irp/offdocs/eo/eo-13526.htm

comparable information concerning the United States nuclear program is declassified." The US has recently begun to declassify reports about HEU diversion such as the GAO report "Nuclear Diversion in the US? 13 Years of Controversy and Confusion" and the DOE's "Highly Enriched Uranium: Striking a Balance" that contain information we believe to be similar to what we are seeking.

We believe the CIA files and equity content held at NARA libraries will confirm the following:

- Israel stole nuclear materials and technologies from the United States. Later US
 administrations and political appointees were determined to keep discussions of Israeli nuclear
 weapons "off the table" to maintain access to campaign contributions.
- 2. Israel used the materials to develop its clandestine nuclear weapons arsenal which is still used to coerce both regional actors and the US.
- 3. The Symington and Glenn amendments to the Foreign Aid Act have long been violated, since the amendments prohibit aid to nuclear weapons states operating outside the NNPT.
- 4. CIA secrecy about NUMEC across many presidential administrations has cumulatively subverted advice and consent governance since there has never been a basis for informed public discussions about critical public policy issues.

These are obviously all reasons the CIA would continue to maintain a wall of "national security" denials around all NUMEC files. CIA release of its NUMEC files would clearly have a large impact on public debate and offend many elite lobbyists and organizations.

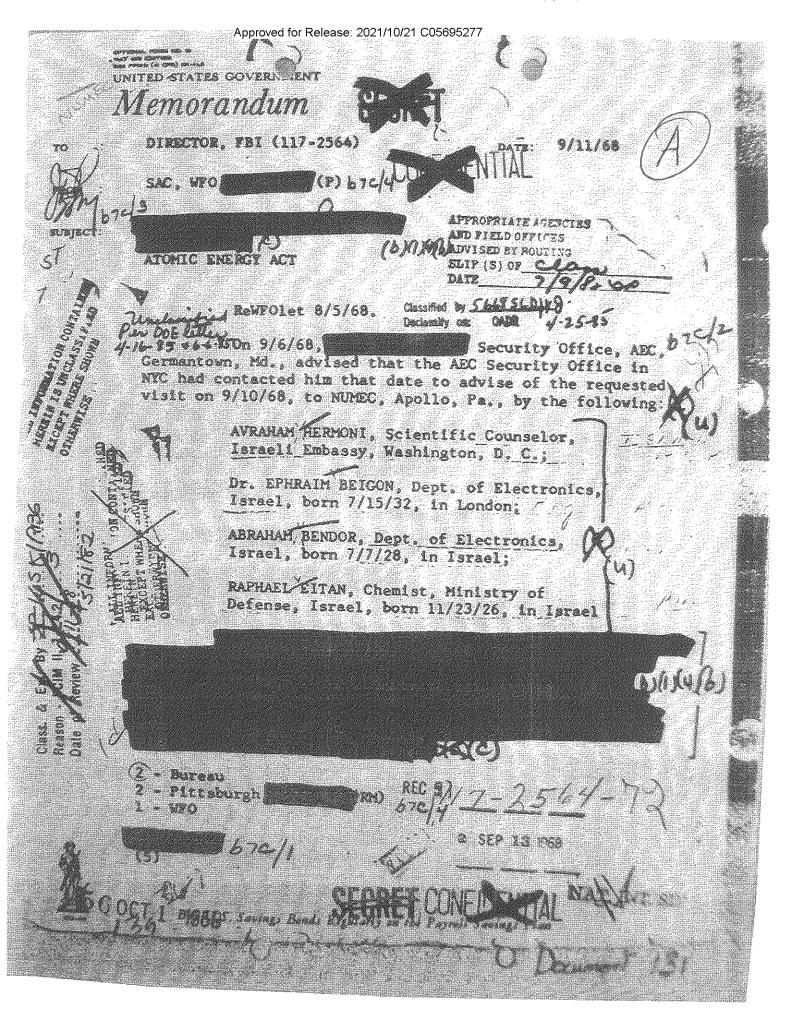
But we insist that release is in the public interest, and that the CIA "national security" wall is maintained in error. CIA Director of Operations Carl Duckett was right to disclose NUMEC to other government agencies and concerned members of the public. Accountability is long overdue as new questions of US regional policy and nuclear realities can only be advanced through informed debate. This is not a privileged area of presidential/Israel/CIA/lobbyist discussions, but an area of vital public discussion made poorer for lack of relevant, publicly funded information kept under lock and key.

(b)(6)

Sincerely,
Grant F. Smith Director of Research
Enclosures.
Cc:
President Barak Obama CIA Director Leon Panetta FBI Director Robert Mueller Archivist of the United States David Ferriero

GAO Timothy Bowling

Approved for Release: 2021/10/21 C05695277



NRC FORM 464 Part I U.S. NUCLEAR REGULATORY COMMISSION	FOIA/PA	RESPONSE NUMBER			
NRC FORM 464 Part I U.S. NUCLEAR REGULATORY COMMISSION (6-1998) RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) / PRIVACY ACT (PA) REQUEST	2011-0131	1.			
RESPONSE TO FREEDOM OF	2200 CONTROL OF THE PROPERTY O				
INFORMATION ACT (FOIA) / PRIVACY	RESPONSE FINAL	PARTIAL			
ACT (PA) REQUEST	TYPE	\			
REQUESTER	DATE APR 1 9 2	111			
Grant Smith		y 1 (
PART I. – INFORMATION RELEASED)				
No additional agency records subject to the request have been located.					
Requested records are available through another public distribution program.					
Agency records subject to the request that are identified in the public inspection and copying at the NRC Public Document Ro	listed appendices are alread om.	y available for			
Agency records subject to the request that are identified in the public inspection and copying at the NRC Public Document Ro	listed appendices are being om.	made available for			
Enclosed is information on how you may obtain access to and the charges for obcument Room, 11555 Rockville Pike, Rockville, MD 20852-2738.	copying records located at th	e NRC Public			
Appendices A, B Agency records subject to the request are enclosed.					
Records subject to the request that contain information originated by or of inter referred to that agency (see comments section) for a disclosure determination	Records subject to the request that contain information originated by or of interest to another Federal agency have been referred to that agency (see comments section) for a disclosure determination and direct response to you.				
We are continuing to process your request.					
See Comments.					
PART I.A FEES					
AMOUNT * You will be billed by NRC for the amount listed.	None. Minimum fee thresho	old not met.			
\$ You will receive a refund for the amount listed. *See comments	Fees waived.				
for details PART I.B INFORMATION NOT LOCATED OR WITHHELD		N			
<i>p</i>	TROM DISCLOSURE				
No agency records subject to the request have been located. Certain information in the requested records is being withheld from disclosure in the requested records is being withheld from disclosure in the requested records is being withheld from disclosure in the requested records is being withheld from disclosure in the requested records is being withheld from disclosure in the request have been located.	nureuant to the averantions of	secribed in and for			
the reasons stated in Part II.	,				
This determination may be appealed within 30 days by writing to the FOIA/PA (Washington, DC 20555-0001. Clearly state on the envelope and in the letter the					
PART I.C COMMENTS (Use attached Comments continu	ation page if required)				
The incoming request is in ADAMS at ML11081A006.					
The records identified on enclosed Appendix A are already available in the NRC Public Document Room (PDR). We have enclosed a notice which provides procedures for obtaining records from the PDR. Records with a ML Accession number are available in the NRC electronic public reading room (ADAMS) at http://www.nrc.gov/reading-rm.html. If you need assistance in reviewing records in the electronic public reading room, please contact the PDR at (301) 415-4737, or toll free at (800) 397-4209.					
SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER W. M. W. J. S. C.					
		A Company			

NRC FORM 464 Part 1 (6-1998)

PRINTED ON RECYCLED PAPER

This form was designed using InForms

Re: FOIA/PA-2011-0131

APPENDIX A RECORDS ALREADY PUBLICLY AVAILABLE

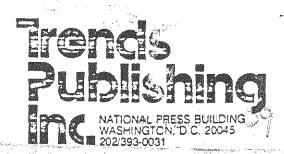
<u>NO.</u>	DATE	ACCESSION NUMBER	DESCRIPTION/(PAGE COUNT)
1.	03/02/78	7912180109	Freedom of Information Act (FOIA) Request from A. Kranish, Editor, Trends Publishing, Inc., to the FOIA Officer, USNRC; FOIA Request for records relating to the Commission's inquiry into the testimony of the Executive Director for Operations, for reports not included in the three volume s of material relating to this inquiry released to Congress and the press. (1 page)
2.	08/09/78	8003030015	Freedom of Information Act Appeal Letter from J. Fialka, The Washington Star to the USNRC; re: FOIA 78-143. (1 page)
3.	08/07/78	8003030029	USNRC Appeal Response letter to J. Fialka, The Washington Star; re: FOIA-78-143. (1 page)
4.	05/12/78	8003030034	Freedom of Information Act (FOIA) Request from J. Fialka, The Washington Star; FOIA Request for all of the deleted material from Volume III of "Inquiry Into the Testimony of the Executive Director of Operations," as released on February 1978. (1 page)
5.	10/13/78	7811030238	USNRC Discussion of OIA/OGC Inquiry in Testimony of the Executive Director of Operations. (62 pages)
6.	10/13/78	7811060005	USNRC Discussion of OIA/OGC Inquiry in Testimony of the Executive Director of Operations. (1 page)
7	06/12/78	7811060027	USNRC Discussion of OIA/OGC Inquiry in Testimony of the Executive Director of Operations. (34 pages)
8.	07/13/78	7811060028	USNRC Discussion of OIA/OGC Inquiry in Testimony of the Executive Director of Operations. (1 page)

9.	07/13/78	7811060029	USNRC Discussion of OIA/OGC Inquiry in Testimony of the Executive Director of Operations. (70 pages)
10.	07/25/78	7811070280	USNRC Discussion of OIA/OGC Inquiry in Testimony of the Executive Director of Operations. (60 pages)

Re: FOIA/PA-2011-0131

APPENDIX B RECORDS BEING RELEASED IN THEIR ENTIRETY (If copyrighted identify with *)

<u>NO.</u>	DATE	DESCRIPTION/(PAGE COUNT)
1,	11/01/78	SECY-78-425A -Response to Recommendation from the OIA/OGC "Inquiry into the Testimony of the Executive Director for Operations," Volume 1, Summary Report, Dated February 1978. (91 pages)



March 2, 1978

Freedom of Information Officer Nuclear Regulatory Commission Washington, DC 20555

FOI Request

Dear Sir:

Under the terms of the Freedom of Information Act, I hereby request access to all material, including documents, memos and other records, in draft or final form, relating to the Commission's inquiry into the testimony of the Executive Director for Operations, insofar as such reports were not included in the three volumes of material relating to this inquiry released to Congress and the press.

Please consider this request to include all material deleted from the unclassified versions of the three volumes in question, though not limited to such material.

Should any of the requested information be withheld in whole or in part, please specifically identify such material and the names of the individuals reconsible. Please include the statutory basis for any such denials.

Since the material is requested for news dissemination purposes, I request that are fees be waived in the public interest. I anticipate that the requested material will be supplied within 10 working days, as specified by the Act.

A. Kranish, Editor

1613 245

FREEDOM OF INFORMATION ACT REQUEST

78 - 60

Rec'a in DER

march 6,1978

7912180 /09

The Washington Star

27 Virginia Avenue, S.E.

Washington, D.C. 20061

APPEAL OF INITIAL FOIA DECISION

FOIA-78-A-2/(78-143) ice 1 8 14-78

United States --Wicles Regulatory Commission Freedom of Information Appeals Machington, D. C. 20555

Dear Sirs:

I hereby appeal the denial of the above captioned Freedom of Information Act request.

I request that in reviewing this appeal that you use the standards set forth in the newly issued executive order, Executive Order 12065 of June 28, 1978, governing the classification and declassification of documents. As you know, the new Executive Order substantially alters the justifications average le to an agency withholding documents on national security production and all the security productions are all the security productions and the security production and the security productions are all the security productions and the security production and the security productions are all the security Exc Order do south time formally effective until December 31, I'm it livery view that the review of this FOIA appeal should be r its province A refusal to do so will inevitably lead to a to ally unnecessary, time-concuming and duplicative review upon the after live date of the ear Executive Order.

I there also vouest the in orting the disposition of my Appeal you at whether you the provisions of Executive

8003030

eligine may 1

NUCLEAN REGULATORY COGMISSION WASHINGTON, D. C. 20055

August 7, 1978

Mr. John J. Fialka
The Washington Star
225 Virginia Avenue, S.E.
Washington, D.C. 20061

IN RESPONSE REFER TO FOIA-78-143

Dear Mr. Fialka:

This is in regard to your letter dated May 12, 1978, in which you requested, pursuant to the Ereedom of Information Act, a copy of all deleted material from Volume 111 of the "Inquiry Into the Testimony of the Executive Director for Operations", as released in February, 1978.

Certain portions of Volume III have been classified pursuant to Executive Order 11652 by the U.S. Nuclear Regulatory Commission. These classified portions are being withheld from public disclosure, pursuant to exemption (1) of the Freedom of Information Act (5 U.S.C. 552(b)(1)) and 10 CFR 9.5(a)(1) of the Commission's regulations.

Pursuant to 10 CFR 9.9 and 9.15 of the Commission's regulations, it has been determined that the information withheld by NRC is exempt from production or disclosure, and that its production or disclosure is contrary to the public interest. The persons responsible for this denial are 0. Gene Abston, Acting Director, Office of Inspector and Auditor, Raymond J. Brady, Director, Divison of Security, Office of Administration, and the undersigned.

Other portions of Volume III were classified by the Central Intelligence Agency (CIA). In response to your request, NRC has requested that the CIA review the portions classified by CIA to determine if any material may be declassified. This is in accordance with Section 3(A) of Executive Order 11652 which permits only the agency which classifies information to declassify it. NRC has not received a response from CIA as yet.

When the CIA does respond, we will promptly provide you with any material which they determine may be disclosed.

Sincerely

J. M. Felton, Director
Division of Rules & Records
Office of Administration

8003030 029

A/3

智能**是到数** 1981年10月20日,1985年10月 Alphan - The grander

225 Virginia Avenue, S.E.

Washington, D.C. 20061

May 12, 1978

Joseph M. Felton Freedom of Information Officer Nuclear Regulatory commission

一日 1000 1000 1000 1000

Dear Sini Wasses of Flat

19 种类的形式 胸腺样 This is a request under the terms of the Freedom of Information Act for all of the deleted material from Volume III of "Inquiry Into the Testimony of the Executive Director for Operations, as 最高性数 200 mm (1994) 1994 (2) 医三甲腺中毒囊的 released on February 1978.

Because many of the deleted items refer to the circumstances 對論文 二級 海河 建氯化物 经现代证明 计设计记录 surrounding an incident that is at least 13 years old, we doubt that The fact of the state of the st they can be defended as pertinent to current national security problems and as being properly classified.

78 MARES

3.3 的形式

, 49

The second

1 4

元本 かかり **| 協**変

SALAT E

TALL AND PAGE (MI)

Some President and the state of the state of

1

property of past of the past Sincerely

1996年8日 李阳

boon J. Fialka Leady Faldren & Bake

FREEDOM OF INFORMATION AGT REQUEST

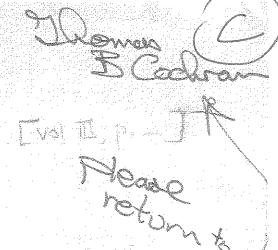
35.200 · 14 1.14 1.18 1.18 1.18

8008080 034

Walter Diercks Esq. General Counsel The Vashington Star



HINASIT TU



INQUIRY INTO THE TESTIMONY OF THE EXECUTIVE DIRECTOR FOR OPERATIONS

VOLUME III
INTERVIEWS

FEBRUARY 1978

MGASSFF

OFFICE OF THE GENERAL COUNSEL
OFFICE OF INSPECTOR & AUDITOR
U.S. NUCLEAR REGULATORY COMMISSION

INQUIRY INTO THE TESTIMONY OF THE EXECUTIVE DIRECTOR FOR OPERATIONS

VOLUME III - INTERVIEWS

TABLE OF CONTENTS

Name		Page
Clifford V. Smith, Jr.		
Robert F. Burnett		7
Gerald Page		Signature of the state of the s
Roger J. Mattson		17
John G. Davis		27
William A. Anders, former Chairma	19	29
Kenneth R. Chapman		40
Peter L. Strauss		43
Bryan Eagle		48
C. W. Reamer		53
Marcus A. Rowden, former Chairman	3	60
Hugh L. Thompson, Jr.	•	. 65
George W. McCorkle		70
Robert A. Erickson		72
Paul F. Goldberg		75
Ben Huberman		78
L. D. Y. Ong		. 82
Kenneth S. Pedersen		106
Bernard J. Snyder		109
Joseph M. Hendrie, Chairman		113
Frederick L. Crane		117
Thomas F. Carter, Jr./Thomas C.	Thayer	121
Joseph J. Fouchard		122
William J. Dircks		135
Richard T. Kennedy, Commissioner		137
Lee V. Gossick		145
Carl Builder		159
Edward Mason, former Commissione		164
	∞ >	176
Victor Gilinsky, Commissioner		180
James H. Conran	INCLASSFED	199

ed or

3

information. They had other information such as a type of bombing practice done with A-4 aircraft that would not have made sense unless it was to deliver a nuclear bomb.

By the time of the NRC briefing the question of whether U-235 had been diverted from NUMEC was academic for the CIA because plutonium from the Dimona reactor was believed to be available. Therefore, from the CIA's intelligence point of view the diversion did not matter. The last inspection of Dimona was in 1969. In his view it was less than an adequate investigation to determine whether plutonium was there. Afterwards Israel refused to permit inspections. Furthermore, a shipment of 200 tons of non-enriched uranium from Argentina had been diverted to Israel through a West German cut out.

Mr. Duckett raised the question of whether the U.S. had intentionally allowed material to go to Israel. He said that if any such scheme was under consideration, he would have known about it and he never heard so much as a rumor about this. He, therefore, does not believe there is any substance to this allegation. In support of this view, he related that CIA had drafted a National Intelligence Estimate on Israel's nuclear capability in 1968. In it was the conclusion that the Israelis had nuclear weapons. He showed it to Mr. Helms. Helms told him not to publish it and he would take it up with President Johnson. Mr. Helms later related that he had spoken to the President, that the President was concerned, and that he had said "Don't tell anyone else, even Dean Rusk and Robert McNamara."

Mr. Duckett was asked about the reactions of NRC officials who were present at his briefing. He said that Mr. Anders was very concerned and felt that already too many people had been exposed to the information. After the briefing Mr. Duckett went to Mr. Kennedy's office. Mr. Kennedy wanted to talk about more frequent interchange of information between the NRC and the CIA. Mr. Anders came in and wanted to apologize for having so many people present. He said he did not realize how sensitive the information was and if he had he would have restricted the attendance even more. Mr. Anders said that, in the future, he should deal only with Mr. Kennedy and him, and that in light of the sensitive nature of the information he was going to go to the White House. During this session, Mr. Duckett recalls that one Commissioner, probably Mr. Mason, commented with mock jocularity "My God, I almost went to work for Zal Shapiro. I came close to taking a job with him." By the end of the meeting it was a pretty somber group. Mr. Duckett does not recall that the staff actively participated in the briefing. He pointed out that it was not a formal briefing. It was more of a discussion for the whole session.

Central Intelligence Agency







27 October 2010

Mr. Grant F. Smith Director of Research Institute for Research: Middle Eastern Policy Calvert Station P.O. Box 32041 Washington, D.C. 20007

Reference: F-2010-01210

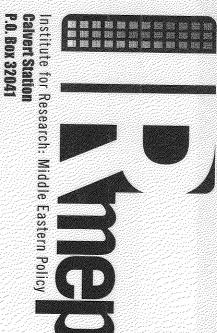
Dear Mr. Smith:

This acknowledges receipt of your 19 October 2010 fax in reference to your 13 May 2010 Freedom of Information Act request for records "relating to uranium diversion from the Nuclear Materials and Equipment Corporation (NUMEC) to Israel."

We can appreciate your concern with not having received a final response to your request. It is the overwhelming number of requests and their complexity that causes delays in our responses. Our policy is to handle each on a first-in, first-out basis, which we believe is the most equitable for all requesters. Again, we regret that we are unable to give you a definite date for completion and ask for your continued cooperation.

Sincerely,

Scott Koch Acting Information and Privacy Coordinator Mashingon, Dc 2007



Susan Viscuso Central Intelligence Agency Washington, D.C. 20505

Approved for Release: 2021/10/21 C05695277

