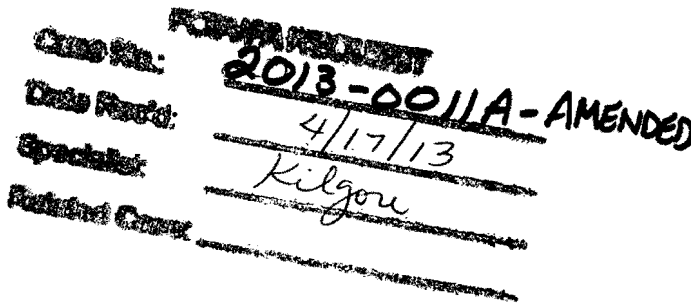
April 16, 2013

(b)(6)
[redacted]



Bill Borchardt, Executive Director for Operations (EDO)
Darren Ash, Chief Freedom of Information Act Officer
United States Nuclear Regulatory Commission
Washington, DC 20555-0001

SUBJECT: Update to FOIA Appeal 2013-011A

Dear Mr. Borchardt and Mr. Ash:

This letter is an update to a FOIA appeal the NRC acknowledged on March 29, 2013 concerning FOIA/PA 2013-0128. The NRC's acknowledgment letter to that appeal is included as Enclosure 1. Today (2013-04-16), I received a response to FOIA 2013-0128, which I have included as Enclosure 2. Note that this response has come 43 working days after my initial request and 12 working days after I submitted an appeal in accordance with 10 CFR §9.25.

On Tuesday, February 12, 2013 I requested the following record from the NRC:

> ML091170104, Oconee Nuclear Station, Units 1, 2 And 3 – Non-concurrence on Evaluation of Duke Energy Carolinas, LLC September 26, 2008, Response to Nuclear Regulatory Commission Letter Dated August 15, 2008 to External Flooding

My incoming FOIA request can be found in ADAMS as ML13044A487.

The response provided today (Enclosure 2) has several redactions for which you claimed Exemption 7F of the Freedom of Information Act. I disagree that these redactions fall within the scope of Exemption 7 and in this letter am providing you the reasons for that disagreement so that, if you chose, you can take this information into account when evaluating FOIA Appeal 2013-011A.

I see nothing in the record requested which indicates it was compiled for law enforcement purposes nor do I see anything which would indicate to me that disclosure could reasonably be expected to endanger the life or physical safety of an individual. It appears to me that the NRC is using Exemption 7F as a means to withhold information which it believes may be beneficial to terrorists or saboteurs yet none of the information withheld pertains to security processes or hardware. The information withheld merely pertains to the nuclear safety hazards which deficiencies in the Oconee Station's flooding defenses pose to the American public. These safety risks are present due to the risks of natural disasters and latent engineering/construction flaws and have nothing specifically pertaining to terrorist activities.

Information redacted from the documents supplied to me today has already been publicly release to Greenpeace in our 2013-02-06 partial response (ML130520858) to FOIA 2012-0325 (ML12263A087).

Under FOIA Appeal 2013-011A, please provide me the following document with no redactions:

> ML091170104, Oconee Nuclear Station, Units 1, 2 And 3 – Non-concurrence on Evaluation of Duke Energy Carolinas, LLC September 26, 2008, Response to Nuclear Regulatory Commission Letter Dated August 15, 2008 to External Flooding

Again, this letter is an update to FOIA Appeal 2013-011A in response to documents I received today from the NRC. The information I received came in response to FOIA Request 2013-0128 and not FOIA Appeal 20013-011A. I expect FOIA Appeal 2013-011A to be answered within 30 working days from March 29, 2013 (i.e. by May 10, 2013). I am providing the information in this letter for you to consider if you so choose.

Although I live in (b)(6) I work in (b)(6) Please do not send documents to my home in (b)(6) as I will not get them in a timely manner. Please send all written correspondence to me via email at (b)(6) If your processes will not allow you to do this, then please contact me via phone or email and I will come by the FOIA desk to pick up the correspondence.

Very respectfully,

Lawrence S. Criscione, PE
(b)(6)

Enclosures (2)

Cc: Billie Garde, Esq., Clifford & Garde
Louis Clark, The Government Accountability Project
Melanie Galloway, NRC
Jim Riccio, Greenpeace