

2001-0221

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### RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) / PRIVACY ACT (PA) REQUEST

RESPONSE TYPE  FINAL  PARTIAL

DATE **MAY 23 2001**

REQUESTER **Vince Gonzales**

#### PART I. -- INFORMATION RELEASED

- No additional agency records subject to the request have been located.
- Requested records are available through another public distribution program. See Comments section.
- APPENDICES Agency records subject to the request that are identified in the listed appendices are already available for public inspection and copying at the NRC Public Document Room.
- APPENDICES **A** Agency records subject to the request that are identified in the listed appendices are being made available for public inspection and copying at the NRC Public Document Room.
- Enclosed is information on how you may obtain access to and the charges for copying records located at the NRC Public Document Room, 2120 L Street, NW, Washington, DC.
- APPENDICES **A** Agency records subject to the request are enclosed.
- 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 threshold not met.
- \$**  You will receive a refund for the amount listed.  Fees waived.
- \* See comments for details

#### PART I.B -- INFORMATION NOT LOCATED OR WITHHELD FROM DISCLOSURE

- No agency records subject to the request have been located.
- Certain information in the requested records is being withheld from disclosure pursuant to the exemptions described in and for the reasons stated in Part II.
- This determination may be appealed within 30 days by writing to the FOIA/PA Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Clearly state on the envelope and in the letter that it is a "FOIA/PA Appeal."

#### PART I.C COMMENTS (Use attached Comments continuation page if required)

Records A/31 is copyrighted and therefore not enclosed. This record is available for viewing only at NRC's Public Document Room.

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

Carol Ann Reed *Carol Ann Reed*

**RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) / PRIVACY ACT (PA) REQUEST**

2001-0221

MAY 23 2001

**PART II.A -- APPLICABLE EXEMPTIONS**

APPENDICES  
**B**

Records subject to the request that are described in the enclosed Appendices are being withheld in their entirety or in part under the Exemption No.(s) of the PA and/or the FOIA as indicated below (5 U.S.C. 552a and/or 5 U.S.C. 552(b)).

- Exemption 1: The withheld information is properly classified pursuant to Executive Order 12958.
- Exemption 2: The withheld information relates solely to the internal personnel rules and procedures of NRC.
- Exemption 3: The withheld information is specifically exempted from public disclosure by statute indicated.
  - Sections 141-145 of the Atomic Energy Act, which prohibits the disclosure of Restricted Data or Formerly Restricted Data (42 U.S.C. 2161-2165).
  - Section 147 of the Atomic Energy Act, which prohibits the disclosure of Unclassified Safeguards Information (42 U.S.C. 2167).
  - 41 U.S.C., Section 253(b), subsection (m)(1), prohibits the disclosure of contractor proposals in the possession and control of an executive agency to any person under section 552 of Title 5, U.S.C. (the FOIA), except when incorporated into the contract between the agency and the submitter of the proposal.
- Exemption 4: The withheld information is a trade secret or commercial or financial information that is being withheld for the reason(s) indicated.
  - The information is considered to be confidential business (proprietary) information.
  - The information is considered to be proprietary because it concerns a licensee's or applicant's physical protection or material control and accounting program for special nuclear material pursuant to 10 CFR 2.790(d)(1).
  - The information was submitted by a foreign source and received in confidence pursuant to 10 CFR 2.790(d)(2).
- Exemption 5: The withheld information consists of interagency or intraagency records that are not available through discovery during litigation. Applicable privileges:
  - Deliberative process: Disclosure of predecisional information would tend to inhibit the open and frank exchange of ideas essential to the deliberative process. Where records are withheld in their entirety, the facts are inextricably intertwined with the predecisional information. There also are no reasonably segregable factual portions because the release of the facts would permit an indirect inquiry into the predecisional process of the agency.
  - Attorney work-product privilege. (Documents prepared by an attorney in contemplation of litigation)
  - Attorney-client privilege. (Confidential communications between an attorney and his/her client)
- Exemption 6: The withheld information is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy.
- Exemption 7: The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated.
  - (A) Disclosure could reasonably be expected to interfere with an enforcement proceeding (e.g., it would reveal the scope, direction, and focus of enforcement efforts, and thus could possibly allow recipients to take action to shield potential wrongdoing or a violation of NRC requirements from investigators).
  - (C) Disclosure would constitute an unwarranted invasion of personal privacy.
  - (D) The information consists of names of individuals and other information the disclosure of which could reasonably be expected to reveal identities of confidential sources.
  - (E) Disclosure would reveal techniques and procedures for law enforcement investigations or prosecutions, or guidelines that could reasonably be expected to risk circumvention of the law.
  - (F) Disclosure could reasonably be expected to endanger the life or physical safety of an individual.
- OTHER (Specify)

**PART II.B -- DENYING OFFICIALS**

Pursuant to 10 CFR 9.25(g), 9.25(h), and/or 9.65(b) of the U.S. Nuclear Regulatory Commission regulations, it has been determined that the information withheld is exempt from production or disclosure, and that its production or disclosure is contrary to the public interest. The person responsible for the denial are those officials identified below as denying officials and the FOIA/PA Officer for any denials that may be appealed to the Executive Director for Operations (EDO).

DENYING OFFICIAL	TITLE/OFFICE	RECORDS DENIED	APPELLATE OFFICIAL		
			EDO	SECY	IG
Ellis W. Merschof	Regional Administrator, RIV	Appendix B1 and B2	<input checked="" type="checkbox"/>		
Sandy M. Joosten	Executive Assistant, Office of the Secretary of the Commission	Appendix B3, B4, B5		<input checked="" type="checkbox"/>	

Appeal must be made in writing within 30 days of receipt of this response. Appeals should be mailed to the FOIA/Privacy Act Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, for action by the appropriate appellate official(s). You should clearly state on the envelope and letter that it is a "FOIA/PA Appeal."

**APPENDIX A  
RECORDS RELEASED IN THEIR ENTIRETY**

<b><u>NO.</u></b>	<b><u>DATE</u></b>	<b><u>DESCRIPTION/(PAGE COUNT)</u></b>
1.	1997	Del Fuego A La Energia Nuclear (63 pages)
2.	7/1/99	Memorandum to Chairman Dicus et al., from Commissioner Diaz, Subject: Cooperation with Mexico (1 page)
3.	7/14/99	E-Mail from M Lopez-Otin to A Vietti-Cook et al., Subject: COMNJD-99-004 Cooperation with Mexico (1 page)
4.	7/15/99	Memorandum to J Dunn-Lee and W Travers from A Vietti-Cook, Subject: Staff Requirements - COMMNJD-99-004 - Cooperation with Mexico (3 pages)
5.	8/27/99	Facsimile Transmission to Ing. Jose Luis Delgado from Commissioner Diaz with enclosures (3 pages)
6.	8/31/99	Memorandum to J Dunn-Lee from F Congel, Subject: IRO Staff Response to COMNJ-99-004 Cooperation with Mexico (3 pages)
7.	9/16/99	Literal translation of 9/2/99 Letter from Director General, Comision Nacional de Seguridad Nuclear y Salvaguardias, Mexico, Translated by N Diaz (2 pages)
8.	9/17/99	Note to Chairman Dicus et al., from N Diaz with enclosures (4 pages)
9.	11/24/99	Memorandum to J Dunn Lee from A Vietti-Cook, Subject: Staff Requirements - COMSECY-9-035 - Response to Staff Requirements Memorandum - COMNJD-99-004, Cooperation with Mexico (1 page)
10.	2/23/01	Letter to Ing. Jose Luis Delgado Guardado from E Merschoff (3 pages)
11.	Undated	Background and Talking Points for IAEA General Conference (2 pages)
12.	9/199	OIP Background Paper (1 page)
13.	10/27/99	E-Mail from R Hauber to K Ramsey, Subject: Re: Proposed OP Events Agenda (1 page)
14.	1/7/00	Office of Public Affairs (1 page)

15. 1/11/00 E-Mail from D Perez (1 page)
16. 1/21/00 E-Mail from D Perez to cnsns1 (1 page)
17. 1/21/00 E-Mail from D Perez (1 page)
18. 1/13/00 E-Mail from cnsns1 to D Perez (1 page)
19. 7-8/00 The Bulletin of the Atomic Scientists (8 pages)
20. 7/5/00 NAC International (2 pages)
21. 8/8/00 Letter to S Waller from J Dunn Lee with enclosures (4 pages)
22. 9/25/00 E-Mail from drwxu to D Perez (1 page)
23. 1/17/01 INIS Web Services (3 pages)
24. 1/9/01 Environment Mexico No Nuclear Emergency in Laguna Verde (of Mexico's total energy production of 35,000 megawatts, 1,300 comes from nuclear sources) (3 pages)
25. 1/19/01 Letter to R Bradtke from J Dunn Lee (1 page)
26. Undated Mexico to check safety of nuclear power plant (2 pages)
27. Undated Latin America's Special Nuclear Links with Spain (1 page)
28. Undated Mexico's Laguna Verde: A Progress Report (1 page)
29. Undated Mexican Nuclear Program (10 pages)
30. 12/9/99 E-Mail from D Perez to C Miller (2 pages)
31. 6/15/00 \*Pages 8 and 9 from Nucleonics Week (Two Penn Plaza, 5<sup>th</sup> Floor, New York, NY 10121-2298)
32. 10/26/99 E-Mail from E Reber to J Lieberman, Subject: Mexico shipment arrived in US with high dose rate (1 page)
33. 7/12/99 Note to J Blaha from C Miller, Subject: Cooperation with Mexico with enclosure (4 pages)
34. 4/15/97 Note to Commissioner Assistants from J Blaha, Subject: Trip Report - IAEA OSART to Laguna Verde Nuclear Power Plant in Mexico (7 pages)

**APPENDIX B  
RECORDS WITHHELD IN THEIR ENTIRETY**

<b><u>NO.</u></b>	<b><u>DATE</u></b>	<b><u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u></b>
1.	1/15-26/01	International Atomic Energy Agency, Report of the International Regulatory Review Team Mission to Mexico (104 pages) EX. 4
2.	1/15-26/01	International Atomic Energy Agency, Report of the International Regulatory Review Team Mission to Mexico (116 pages) EX. 4
3.	11/19/99	Memorandum to Commissioner Dicus from T Hiltz, Subject: COMSECY 99-035 Response to Staff Requirement Memorandum COMNJD 99-004, Cooperation with Mexico (1 page) EX. 5
4.	7/12/99	Note to Chairman Dicus from L Coblenz, Subject: COMNJD 99-004, Cooperation with Mexico (1 page) EX. 5
5.	7/14/99	E-Mail to C Raddatz from J Lubenau, Subject: Request for Information: Commission Diaz's Proposed Addendum to the Cooperative Agreement with Mexico (COMNJD 99-004) (1 page) EX. 5