

2001-0189

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

RESPONSE TYPE FINAL PARTIAL

DATE JUN 15 2001

REQUESTER **Jim Warren**

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 **A** 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 **B & C** 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 **B & C** 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 *

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* See comments for details

- You will be billed by NRC for the amount listed.
- You will receive a refund for the amount listed.
- None. Minimum fee threshold not met.
- Fees waived.

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)

The records identified on enclosed Appendix A are already publicly available. Records with an ML Accession No. are publicly available in the NRC Public Electronic Reading Room at <http://www.nrc.gov/NRC/ADAMS/index.html>. If you need assistance in obtaining these records, please contact the NRC Public Document Room (PDR) on (301) 415-4737, or 1-800-397-4209.

We have identified on the enclosed appendices the categories of your request to which each record relates.

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

Carol Ann Reed

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

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PART II.A -- APPLICABLE EXEMPTIONS

APPENDICES
C & D

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
Samuel J. Collins	Director, NRR	Appendix C & D	<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 ALREADY AVAILABLE IN THE PDR**

<u>NO.</u>	<u>DATE</u>	<u>ACCESSION NO.</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
<u>Response to FOIA Item 0</u>			
1.	05/26/00	ML003719586	NRC Event Report #37036 w/ attached Ltr from M. Soler, Holtec International, to Document Control Desk, Re: 10 CFR 21 Notification for Fabrication of NS-4-FR Neutron Shield Material (7 pages)
2.	01/04/01	ML010080185	Ltr from M. Soler, Holtec International, to NRC Document Control Desk, Re: 10 CFR Part 21 Notification for Discrepant Weight of Spent Fuel Racks (16 pages)
3.	01/04/01	Web page	NRC Daily Events Report 37646; http://www.nrc.gov/NRR/DAILY/der.htm (2 pages)
4.	01/22/01	Web page	NRC Headquarters Daily Report, Morning Report H-01-0005, Re: Part 21-Weights Found in Removed Spent Fuel Storage Racks Exceed those Used in Design Analysis. Note: Item on pg 2 pertains to this FOIA. Headquarters Reports: http://www.nrc.gov/NRR/DAILY/hdr.htm (3 pages)
5.	01/29/01	ML010360319	Ltr from R. Krich, Exelon Nuclear, to NRC Document Control Desk Re: Confirmatory Evaluation Re: the Spent Fuel Pool Racks at Byron & Braidwood (3 pages)

Response to FOIA Item [see description]

6.	10/04/00	ML003750002 ML003758761 8772 8890 8821 8795 8751 8892	Letter to USNRC from J. Scarola; re: Steam Generator Replacement Technical Specification Amendment Application w/encls. (1,989 pages) [Item 4]
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7. 11/01/00 Federal Register 65 FR 65338; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing for CP&L's 10/4/2000, steam generator replacement amendment request (2 pages) **[Item 4]**
8. 11/16/2000 ML003769336 Ltr from R. Laufer, NRR, to H. Sepp, Westinghouse Electric, Re: Request for Withholding Information from Public Disclosure, Shearon Harris Nuclear Power Plant (TAC NO. MB0199) (4 pages) **[Item 4]**
9. 11/20/00 ML003771530 NRC Staff Brief and Summary of Relevant Facts, Data and Arguments upon which the Staff Proposes to Rely at Oral Arguments on Environmental Contention 6 (50 pages) **[Items 5 and 75]**
10. 12/14/00 ML003780761 Ltr from J. Scarola, CP&L, Re: Power Uprate license and technical specification amendment application (82 pages) **[Items 4 and 43]**
11. 12/21/00 ~~ML003770100~~
ML003779362
9298 Ltr from R. Laufer, NRR, to J. Scarola, Re: Shearon Harris Nuclear Power Plant, Unit 1 - Issuance of Amendment No. 103, Re: Expansion of Spent Fuel Storage Capacity (TAC No. MA4432) (63 pages) **[Items 5 and 75]**
12. 01/18/01 ML010230096 Ltr from L. Myers, FENOC, to Document Control Desk, Re: Beaver Valley 1.4% Power Uprate Amendment Request (6 pages) **[Item 4]**
13. 01/31/01 ML010390217 Ltr from R. Laufer, NRR, to J. Scarola, CP&L, Re: Shearon Harris NPP, Unit 1, Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing Regarding Increase in Licensed Power Level (TAC No. MB0782) (6 pages) **[Item 4]**
14. 02/07/01 ML010380374 Ltr from R. Laufer, NRR, to J. Scarola, CP&L, Re: Request for Additional Information Regarding Amendment Request for Power Uprate - Shearon Harris Nuclear Power Plant (4 pages) **[Item 4]**

15. 02/07/01 ML010380339 Ltr from L. Burkhardt, NRR, to L. Myers, FENOC, Re: NRC Request for Additional Information (RAI) Regarding Beaver Valley Power Uprate Request (3 pages) **[Item 4]**
16. 02/16/01 ML010470125 Notice of 02/28/01 Meeting with FENOC, et al. (3 pages) **[Item 4]**
17. 02/20/01 ML010540305 Ltr from L. Myers, FENOC, to Document Control Desk Re: Beaver Valley Response to RAI (10 pages) **[Item 4]**
18. 03/02/01 ML010510260 Memo L. Burkhardt, NRR, to M. Gamberoni, NRR, Re: BVPS, Units 1 and 2, Placing Draft RAI questions on the BV Dockets (3 pages) **[Item 4]**
19. 03/05/01 ML010650286 Summary of February 22, 2001, Meeting w/ CP&L on Plans for Using Alternate Source Term Analysis at the Harris Plant (24 pages) **[Item 4]**
20. 03/08/01 ML010720270 Ltr from J. Scarola, CP&L, to NRC Document Control Desk Re: Response to Request for Additional Information Regarding the Power Uprate License Amendment Request (9 pages) **[Item 4]**
21. 03/27/01 ML010860456 Ltr from R. Laufer, NRR, to J. Scarola, Re: Request for Additional Information Regarding Amendment Request for Steam Generator Replacement/Power Uprate - Shearon Harris Nuclear Power Plant (TAC Nos. MB0199 and MB0782) (7 pages) **[Item 4]**

Shearon Harris Nuclear Plant (AUCR No. 0101000037)
(8 pages) **[Item 4]**

9. 02/20/01 E-mail from R. Laufer, NRR, to K. Shaw, CP&L, Re: Questions on Uprate/SG Replacement (8 pages) **[Item 4]**
10. 03/08/01 Memo from F. Reinhart, NRR, to R. Laufer., NRR, Re: Request for Additional Information Concerning Technical Specification Change Request, "Steam Generator Replacement," and "Power Uprate" for Shearon Harris Nuclear Power Plant (AUCR No. 0101000037) (5 pages) **[Item 4]**
11. 03/12/01 E-mail from R. Laufer, NRR, to K. Shaw and Mark Ellington, CP&L, Re: SGR/PUR RAI (4 pages) **[Item 4]**

**APPENDIX C
RECORDS BEING WITHHELD IN PART**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	03/05/01	Memo from C. Holden, NRR, to R. Correia, NRR, Re: Shearon Harris - Reactor Thermal Uprate (Accession No. NRC-00-102-12) (6 pages, 4 pages released in part) (This is an internal memo providing input to a safety evaluation that has not yet been completed or issued.) EX. 5 [Item 4]
2.	03/15/01	Memo from F. Akstulewicz, NRR, to R. Laufer, NRR, Re: Shearon Harris Unit 1: Technical Specification Change Request for Steam Generator Replacement and Power Uprate (Accession No. NRC-00-102-12) (3 pages) EX. 5 [Item 4]

APPENDIX D
RECORDS BEING WITHHELD IN THEIR ENTIRETY

NO. DATE DESCRIPTION/(PAGE COUNT)/EXEMPTIONS

Response to Items 4 and 43

1. 10/04/00 **"WCAP-15398"** - Shearon Harris Nuclear Power Plant
Technical Specification Change Request - Steam
Generator Replacement - NSSS Licensing Report -
WCAP-15398, Westinghouse Proprietary Class 2C.
[Enclosure 8 to 10/4/00 letter from J. Scarola, CP&L, to
Document Control Desk, Re: Steam Generator
Replacement Technical Specification Amendment
Application identified in Appendix A.] **EX. 4 [Item 4]**