



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

2001-0256

19

RESPONSE TYPE FINAL PARTIAL

REQUESTER

Thomas C. Poindexter, Esq.

DATE

MAR 27 2002

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 **FF** 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 **FF** 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 *
\$ 223.93

* See comments for details

- 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.

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 actual fees for processing your request are:
 Search - 134hours, 45 minutes \$ 5615.00
 Review - 284.5 hours 11374.36
 Duplication - 8751 pgs @ \$.20 ea. 1750.20
TOTAL \$18739.56

Since you submitted fees in advance in the amount of \$18,515.63, you will be billed by the NRC Division of Accounting in the amount of \$223.93. In a telephone conversation with Natalie Brown, FOIA Specialist, on March 19, 2002, Ms. Arnita Crump of your staff agreed to pay the additional fees.

Some records subject to the request have been referred to the Federal Emergency Management Administration for disclosure determination and direct response to you.

This completes NRC action on your request.

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

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PART II.A -- APPLICABLE EXEMPTIONS

APPENDICES
FF, GG, HH

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
Hubert J. Miller	Regional Administrator, Region I	Appendix FF	<input checked="" type="checkbox"/>		
Sandra Joosten	Executive Assistant, Office of the Secretary	Appendices GG & HH		<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 FF
RECORD BEING WITHHELD IN PART**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	No date	Allegation Panel Schedule for Wednesday, January 10, 2001, 9:30 a.m. (1 page) EX. 7A [NOTE: Portions that are outside the scope are being released.]

**APPENDIX GG
RECORDS BEING WITHHELD IN THEIR ENTIRETY
PURSUANT TO EXEMPTION 5**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	03/12/00	Chairman Meserve and TA edits on CR-00-0031 - Letter to Sue Kelly re Steam Generator Tube Leak at Indian Point 2. (5 pages)
2.	06/13/00	Chairman Meserve and TA's edits and Official votes on CR-00-0081 - Letter to Congressman Hinchey re Steam Generator Tube Failure at Indian Point 2. (10 pages)
3.	07/26/00	Chairman Meserve and TA's comments on Official votes to CR-00-0103 - Letter to Sue Kelly re Safety of Operations at Indian Point 2 (IP2). (8 pages)
4.	07/13/00	Chairman Meserve and TA edits Official votes on CR-00-0109 - Letter to Sue Kelly re ConEd's Intent to Resume Operations at IP2 with Current Generators. (4 pages)
5.	07/13/00	Chairman Meserve and TA edits and Official votes on CR-00-0114 - Letter to Benjamin Gilman re Recent Shutdowns and Steam Generator Integrity Issues at IP2. (4 pages)
6.	07/13/00	Chairman Meserve and TA notes and Official votes on CR-00-0115 - Letter to S. Galef re Request for Replacement of Steam Generators at Indian Point 2. (3 pages)
7.	07/21/00	E-mail from Chairman Meserve to William Travers re IP 2 and 3. (1 page)
8.	07/26/00	Chairman Meserve and TA edits and TA notes on CR-00-0118 - Letter to Sue Kelly re Proposed Restart of Indian Point 2 (IP2). (4 pages)
9.	09/05/00	Chairman Meserve and TA edits and Official votes on CR-00-0131 - Letters to Sue Kelly, N. Lowey and Benjamin Gilman re Restart of IP2. (11 pages)
10.	09/28/00	Chairman Meserve and TA edits and Official votes on CR-00-0148 - Letter to Congressman Hinchey re Replacement of 4 Steam Generators at IP2 Before Restart. (17 pages)
11.	10/23/00	Chairman Meserve and TA edits on CR-00-0166 - Letter to Benjamin Gilman re Situation at IP2 and IG Audit Report re EC. (3 pages)

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
12.	11/14/00	Chairman Meserve and TA edits and official votes on CR-00-0179 - Letter to Sue Kelly re Radioactive Spill at IP2 During Replacement of Steam Generators. (6 pages)
13.	12/06/00	Chairman Meserve and TA edits and official votes on CR-00-0191 - Letter to Sue Kelly re IP2 Restart w/o ?Formal Approval from NRC. (5 pages)
14.	11/13/00	Commissioner Assistants note from John Craig - subject: Communications Plan. (21 pages)
15.	11/08/00	Commissioner Assistants note from John Craig - subject: Information for Chairman's November 8, 2000, Interview with Jenny Weil of Inside NRC. (30 pages)
16.	11/16/00	Commissioner Assistants note from John Craig - subject: Proposed Enforcement action for Indian Point 2 for 1997 Steam Generator in-service Inspections. (10 pages)

**APPENDIX HH
RECORDS BEING WITHHELD IN THEIR ENTIRETY
PURSUANT TO EXEMPTION 5**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	03/08/2000	Memorandum from Cheryl Beardslee to Commissioner Dicus with analysis and recommendation concerning vote on CR-00-0035 (1 page)*
2.	03/08/2000	Note to Commissioner McGaffigan from James Beall regarding CORR-00-0031, Letter to Representative Sue Kelly concerning the steam generator tube leak that occurred at Indian Point 2 (1 page)
3.	03/08/2000	Commissioner McGaffigan's official vote - CORR-00-0033, letter to Sue Kelly concerns the timeliness of offsite notifications following the event at the Indian Point 2 Nuclear Power Plant (1 page)
4.	03/09/2000	Note to Commissioner McGaffigan from James Beall regarding CORR-00-0031 regarding CORR-00-0031 (1 page)
5.	03/09/2000	Commissioner McGaffigan's official vote - CORR-00-0035, letter to Nita Lowey concerns recent steam generator tube failure at Indian Point 2 NPP (1 page)
6.	04/06/2000	Commissioner McGaffigan's official vote - CORR-00-0061, letter to Nita Lowey concerns status of Indian Point 2 nuclear power facility (1 page)
7.	04/11/2000	Memorandum from Cheryl Beardslee to Commissioner Dicus with analysis and recommendation concerning vote on SECY-00-0078 (1 page)
8.	04/12/2000	Note to Commissioner McGaffigan from James Beall regarding SECY-00-0078, Status and Plans for revising the Steam Generator Tube Integrity Regulatory Framework (1 page)
9.	04/20/2000	E-mail to Annette Vietti-cook, et al from James Beall regarding SRM on SECY-00-0078 - SG's (1 page)
10.	04/26/2000	E-mail to Annette Vietti-Cook, et al from James Beall regarding SRM Version B SECY-00-0078 - SG Tubes (1 page)

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
11.	04/26/2000	Note to Commissioner McGaffigan from James Beall and Kathryn Winsberg regarding CORR-00-0060/Revised, letter to Sue Kelly concerns incident at Indian Point 2 nuclear power plant which resulted in the declaration of an emergency alert (1 page)
12.	05/15/2000	Note to Commissioner McGaffigan from James Beall and Kathryn Winsberg regarding CORR-00-0075, letter to Benjamin Gilman concerns coolant pipe rupture at Indian Point II (1 page)
13.	06/13/2000	Note to Commissioner McGaffigan from James Beall regarding CORR-00-0081/Revised, letter to Maurice Hinchey concerns recent steam generator tube failure at Indian Point 2 (1 page)
14.	Undated	Note to Commissioner McGaffigan from James Beall and Kathryn Winsberg regarding CORR-00-0109, letter to Sue Kelly concerns consolidated Edison's intent to resume operations at Indian Point 2 nuclear power plant with the current steam generator (1 page)
15.	06/22/2000	Commissioner McGaffigan's official vote - CORR-00-0100, letter to Charles Schumer concerns Commonwealth Edison's Application for Reopening its Indian Point 2 NPP (3 pages)
16.	06/28/2000	Commissioner McGaffigan's official vote - CORR-00-0103, letter to Sue Kelly concerns the safety of operations at the Indian Point 2 plant (1 page)
17.	07/06/2000	Commissioner McGaffigan's official vote, CORR-00-0114, letter to Benjamin Gilman concerns notifications associated with a recent plant shutdown and steam generator integrity issues at Indian Point (4 pages)
18.	07/06/2000	commissioner MCGaffigan's official vote - CORR-00-0115, letter to Sandra Galef, New York State Assemblywoman, concerns request for replacement of the steam generators at Con Edison's Indian Point 2 (3 pages)
19.	07/18/2000	Commissioner McGaffigan's official vote - CORR-00-0103/Revised, letter to Sue Kelly concerns the safety of operations at the Indian Point 2 plant (1 page)
20.	07/18/2000	Note to Commissioner McGaffigan from James Beall and Kathryn Winsberg regarding CORR-00-0118, letter to Sue Kelly concerns issues regarding the proposed restart of Indian Point 2 (1 page)

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
21.	07/24/2000	Note to Commissioner McGaffigan from James Beall regarding CORR-00-0103/Revision 2, letter to Sue Kelly concerns the safety of operations at the Indian Point 2 plant (1 page)
22.	07/24/2000	Commissioner McGaffigan's official vote - CORR-00-0103/Revision 2, letter to Sue Kelly concerns the safety of operations at the Indian Point 2 plant (2 pages)
23.	07/28/2000	Commissioner McGaffigan's official vote - CORR-00-0060/Revised, letter to Sue Kelly concerns incident at Indian Point 2 nuclear power plant which resulted in the declaration of an emergency alert (1 page)
24.	09/14/2000	Memorandum from David Solario to Commissioner Dicus with analysis and recommendation concerning vote on CORR-00-0147 (1 page)
25.	09/18/2000	Note to Commissioner McGaffigan from James Beall regarding CORR-00-0148, letter to Maurice Hinchey concerns replacement of all four steam generators at Indian Point 2 prior to start up (1 page)
26.	09/18/2000	Note to Commissioner McGaffigan from James Beall regarding CORR-00-0149, letter to Nita Lowey concerns status of Indian Pint 2 nuclear power facility (1 page)
27.	10/20/2000	E-mail to Roger Davis, et al from Kathryn Winsberg regarding DD-00-04 Lochbaum petition on Indian Point 2 (1 page)
28.	Undated	Note to Commissioner McGaffigan from Kathryn Winsberg regarding DD-00-04 Lochbaum petition on Indian Point 2 (1 page)
29.	11/13/2000	Note from John Craig, OEDO, to Commissioner Assistants, provides communications plan (21 pages)
30.	11/17/2000	Memorandum from David Solario to Commissioner Dicus with analysis and recommendation concerning Correspondence (2 pages)
31.	Undated	Routing slip with handwritten notes re CORR-00-0031 (1 page)
32.	Undated	Routing slip with handwritten notes re CORR-00-0035 (1 page)
33.	Undated	Routing slip with handwritten notes re CORR-00-0061 (1 page)
34.	Undated	Routing slip with handwritten notes re CORR-00-0075 (1 page)

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
35.	Undated	Routing slip with handwritten notes re CORR-00-0081 (1 page)
36.	Undated	Routing slip with handwritten notes re CORR-00-0081/revise (1 page)
37.	Undated	Routing slip with handwritten notes re CORR-00-0103/revise (1 page)
38.	Undated	Routing slip with handwritten notes re CORR-00-0103/revise 2 (1 page)
39.	Undated	Routing slip with handwritten notes re CORR-00-0109 (1 page)
40.	Undated	Routing slip with handwritten notes re CORR-00-0114 (1 page)
41.	Undated	Routing slip with handwritten notes re CORR-00-0115 (1 page)
42.	Undated	Routing slip with handwritten notes re CORR-00-0130 (1 page)
43.	Undated	Routing slip with handwritten notes re CORR-00-0131 (1 page)
44.	Undated	Routing slip with handwritten notes re CORR-00-0148 (1 page)
45.	Undated	Routing slip with handwritten notes re CORR-00-0149 (1 page)
46.	Undated	Routing slip with handwritten notes re CORR-01-0057 (1 page)