

2003-0059

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

RESPONSE TYPE FINAL PARTIAL

REQUESTER

Paul Gunter

DATE

DEC 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 **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** 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** 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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- 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 have been referred to the Department of Commerce and the Department of Army for their review and direct response to you.

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
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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, Office of Nuclear Reactor Regulation	Appendix C	✓		

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 PUBLICLY AVAILABLE**

<u>NO.</u>	<u>DATE</u>	<u>ACCESSION NO.</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1.	01/26/00	ML003679732	Ltr S. Bernhoft, Florida Power, to U.S. National Marine Fisheries Service, Re: Annual Sea Turtle Report year ending December 31, 1999 (3 pages)
2.	01/28/00	Web	Event Notification Report for January 28, 2000 (8 pages) http://www.nrc.gov/reading-rm/doc-collec.../event-status/event/2000
3.	02/18/00	ML003684943	Ltr L. Wiens, NRR, to J. Cowan, Florida Power, Re: Environmental Assessment re Appendix B Tech Specs (8 pages)
4.	02/29/00	ML003687938	Ltr L. Wiens, NRR, to J. Cowan, Florida Power, Issuance of Crystal River License Amendment 190 (16 pages)
5.	03/30/00	ML003715522	Ltr S. Bernhoft, Florida Power, to U.S. National Marine Fisheries Service, Re: Updated Sea Turtle Rescue & Handling Guidance (1 page)
6.	11/08/00	Web	Event Notification Report for November 8, 2000 (6 pages) http://www.nrc.gov/reading-rm/doc-collec.../event-status/event/2000
7.	11/15/00	ML003730478 ML003770478	Ltr R. Grazio, Florida Power, to NRC/DCD, Re: Report Required by Environmental Protection Plan (4 pages)
8.	11/30/00	ML003774273	Ltr J. Holden, Florida Power, to NRC Document Control Desk (NRC/DCD), Re: Report of Sea Turtle Mortality (3 pages)
9.	12/13/00	ML003778700	Ltr J. Holden, Florida Power, to NRC/DCD, Re: Routine Environmental Report (3 pages)
10.	01/25/01	ML010370307	Ltr S. Bernhoft, Florida Power, to NRC/DCD, Re: Annual Sea Turtle Report year ending December 31, 2000 (4 pages)
11.	03/07/01	ML010720380	Ltr S. Bernhoft, Florida Power, to NRC/DCD, Re: Report Required by Environmental Protection Plan (3 pages)

12. 04/02/01 ML010920154 Ltr H. Berkow, NRR, to R. Hoffman, National Marine Fisheries Service, Re: Request for Formal Section 7 Consultation..Regarding Sea Turtles (3 pages)
13. 04/12/01 ML011130329 Ltr S. Bernhoft, Florida Power, to NRC/DCD, Re: Report Required by Environmental Protection Plan Re Sea Turtle Mortality w/att 04/10/01 Ltr M. Olive, Florida Power, to National Marine Fisheries Service (2 pages)
14. 05/03/01 ML011290087 Ltr D. Roderick, Florida Power, to NRC/DCD, Re: Clarification of Crystal River Reporting Requirements under 10 CFR 50.72 for Live Sea Turtle Rescues (1 page)
15. 05/29/01 ML011490483 Ltr J. Goshen, NRR, to D. Young, Crystal River Nuclear Plant, Re: Clarification of Reporting Requirements under 10 CFR 50.72 for Live Sea Turtle Rescues...(4 pages)
16. 06/27/01 ML011840181 Ltr D. Roderick, Progress Energy Co., to NRC/DCD, Re: Supplement to Biological Assessment of Impact to Endangered Sea Turtles (10 pages)
17. 10/11/01 ML013040225 Ltr H. Berkow, NRR, to J. Powers, National Marine Fisheries Service, Re: Supplement 1 to Crystal River...Biological Assessment of Impact to Endangered Sea Turtles (30 pages)
18. 11/20/01 Web Event Notification Report for November 20, 2001 (6 pages) <http://www.nrc.gov/reading-rm/doc-collec.../event-status/event/2001>
19. 01/30/02 ML020600005 Ltr D. Roderik, Florida Power, to NRC/DCD, Re: Annual Sea Turtle Report for year ending December 31, 2001 (8 pages)
20. 05/15/02 ML011410245 Ltr D. Roderick, Florida Power, to NRC/DCD, Re: 2000 Annual Radiological Environmental Operating Report (57 pages)
21. 08/08/02 ML022460361 Ltr J. Powers, U.S. Dept. of Commerce, to H. Berkow, Re: National Marine Fisheries Services's biological opinion (35 pages)

22. 09/19/02 ML022490224 Ltr B. Mozafari, NRR, to D. Young, Crystal River, Re: Section 7 Consultation Under Endangered Species Act... (3 pages)
23. 09/20/02 Web Event Notification Report for September 20, 2002 (5 pages) <http://www.nrc.gov/reading-rm/doc-collec.../event-status/event/2002>
24. 07/15/99 9907190124 Letter from L. Wiens, NRR to John Cowan, Florida Power on Crystal River Unit 3 - Section 7 Biological Consultation, Biological Opinion. (32 pages)
25. 08/31/00 ML003746456 Letter from Cynthia Carpenter, NRR to Charles Oravetz, National Marine Fisheries Service on Biological Assessment for License Renewal at Edwin Hatch. (20 pages)/
26. 04/23/01 ~~ML01130104~~
 HL01130097
 HL01130109 Memorandum from John Goshen, NRR to Document Control Desk enclosing Letter from National Marine Fisheries Service to the NRC dated April 9, 2001. (4 pages)
27. 05/2001 ML011590169 Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Supplement 4 for Edwin Hatch Nuclear Plant - Final Report. (200 pages)
28. 05/24/01 ML021620044 Letter from Joseph Powers, National Marine Fisheries Service to Samuel Collins, NRR on Edwin Hatch Nuclear Power Plant. (3 pages)
29. 10/11/01 ML013040225
 Dupe of # A17 Letter from Herbert Berkow to Joseph Powers on Crystal River, Supplement 1 to the Crystal River Energy Complex Biological Assessment of Impact to Endangered Sea Turtles. (29 pages)
30. 07/30/02 ML022130425 Letter from Pao-Tsin Kuo, NRR to Joseph Powers, National Marine Fisheries Service on Response to his letter of May 24, 2002, concerning License Renewal at the Edwin Hatch Nuclear Plant. (3 pages)

31. 08/08/02 ML022460361
Dupe of #A21

Letter from Joseph Powers, National Marine Fisheries Service to Herbert Berkow providing their opinion of Endangered Species Act for the operation of the Crystal River facility. (35 pages)

**APPENDIX B
RECORDS BEING RELEASED IN THEIR ENTIRETY**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1.	Undated	Crystal River Energy Complex Sea Turtle Rescue & Recovery Summary for 2001, 2000, 1999 (8 pages)
2.	Undated	CR-3 Turtle Log, Current Biennial Period Jan 1, 2001-Dec 31, 2002 (8 pages)
3.	01/25/01	Ltr S. Bernhoft, Florida Power, to NRC/DCD, Re: Annual Sea Turtle Report year ending December 31, 2000 (ML010370307) w/handwritten notes (4 pages)
4.	03/23/01	E-mail C. Sochor, NRR, to A. Kugler, NRR, Re: CREC-3 Turtle Problems (1 page)
5.	05/14/01	E-mail M. Masnik, NRR, to B. Zalzman, NRR, Re: Meeting at Crystal River w/attached (1) 05/09/01agenda and (2) handwritten meeting notes (6 pages)
6.	09/06/01	E-mail P. Infanger, Florida Power, to J. Goshen, NRR, Re: Turtles (3 pages)
7.	08/30/02	E-mail B. Mozafari, NRR, to M. Masnik, NRR, Re: Endangered Species Biological Opinion (1 page)
8.	09/26/02	Handwritten notes for Meeting (2 pages)
9.	Undated	Events (3 pages)
10.	10/26/00	Memo to File, Subject: Evaluation of Reporting Requirements for Non-Causally Related Sea Turtle Mortality (4 pages)
11.	Undated	Events (3 pages)
12.	10/13/99	Letter to NRC from Roderick, Florida Power Corporation (4 pages)
13.	10/4/99	Letter to Shift Technical Advisory, Subject: Final Reportability Determination for Precursor Card PC99-2868 (5 pages)
14.	10/1/98	Letter to NRC from Grazio, Florida Power Corporation (39 pages)
15.	10/17/02	From D Jones to J Addison et al., Subject: Turtle Reporting Changes (1 page)

16. 01/01/02 Crystal River Nuclear Plant, Superintendent Shift Operations' Log, 2300-0700 (1 page)
17. 01/01/02 Crystal River Nuclear Plant, Superintendent Shift Operations' Log, 0700-1500 (1 page)
18. 01/05/02 Crystal River Nuclear Plant, Superintendent Shift Operations' Log 2300-1100 (1 page)
19. 01/08/02 Crystal River Nuclear Plant, Superintendent Shift Operations' Log 1500-2300 (1 page)
20. 01/09/02 Crystal River Nuclear Plant, Superintendent Shift Operations' Log 0700-1500 (1 page)
21. 03/01/02 Crystal River Nuclear Plant, Superintendent Shift Operations' Log 0700-1500 (1 page)
22. 03/07/02 Crystal River Nuclear Plant, Superintendent Shift Operations' Log 2300-0700 (1 page)
23. 03/07/02 Crystal River Nuclear Plant, Superintendent Shift Operations' Log 0700-1500 (1 page)
24. 03/19/02 Crystal River Nuclear Plant, Superintendent Shift Operations' Log 1500-2300 (1 page)
25. 03/20/02 Crystal River Nuclear Plant, Superintendent Shift Operations' Log 1200-2300 (1 page)
26. 04/02/02 Crystal River Nuclear Plant, Superintendent Shift Operations' Log 2300-0700 (1 page)
27. 04/02/02 Crystal River Nuclear Plant, Superintendent Shift Operations' Log 0700-1500 (1 page)
28. 04/13/02 Crystal River Nuclear Plant, Superintendent Shift Operations' Log 1100-2300 (1 page)
29. 04/26/02 Crystal River Nuclear Plant, Superintendent Shift Operations' Log 1500-2300 (1 page)
30. 05/11/02 Crystal River Nuclear Plant, Superintendent Shift Operations' Log 1100-2300 (1 page)
31. 05/19/02 Crystal River Nuclear Plant, Superintendent Shift Operations' Log 2300-1100 (1 page)

32. 09/10/02 Crystal River Nuclear Plant, Superintendent Shift Operations' Log 0700-1500 (1 page)
33. 05/27/02 Crystal River Nuclear Facility, Summary Report (1 page)
34. 08/22/02 Crystal River, Meeting 2002-34 (3 pages)
35. 08/13/02 Crystal River, Meeting 2002-33 (3 pages)
36. 10/18/02 Crystal River, Summary Report (1 page)
37. 09/16/02 Crystal River, Summary Report (1 page)
38. 09/10/02 Crystal River, Summary Report (1 page)
39. 08/16/02 Crystal River, Summary Report (1 page)
40. 05/30/02 Crystal River, Summary Report (1 page)
41. 05/23/02 Crystal River, Summary Report (1 page)
42. 05/13/02 Crystal River, Summary Report (1 page)
43. 05/06/02 Crystal River, Summary Report (1 page)
44. 04/08/02 Crystal River, Summary Report (1 page)
45. 03/27/02 Crystal River, Summary Report (1 page)
46. 03/19/02 Crystal River, Summary Report (1 page)
47. 02/27/02 Crystal River, Summary Report (1 page)
48. 02/13/02 Crystal River, Summary Report (1 page)
49. 10/24/02 Crystal River, Superintendent Shift Operations' Log (1 page)
50. 09/19/02 Crystal River, Superintendent Shift Operations' Log (1 page)
51. Undated Biological Assessment of Impact to Sea Turtles at Florida Power Corporation's Crystal River Energy Complex (25 pages)
52. 09/26/02 SERO/NRC Meeting on Section 7 Consultations (2 pages)

**APPENDIX C
RECORDS WITHHELD IN THEIR ENTIRETY**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1.	8/28/02	E-Mail from M Masnik to B Moroney, Subject: St. Lucie Env. TS amendment (1 page) EX. 5