



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

2003-0395

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RESPONSE TYPE  FINAL  PARTIAL

REQUESTER

Kevin Kamps

DATE

OCT 14 2003

#### 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,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 **A,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 \*

- 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)

The portions of records A/48 thru A/56 that are outside the scope of your request are not enclosed. Portions of record B/14 are copyrighted and therefore not enclosed. Should you wish to view the copyrighted portions, please contact the NRC's Public Document Room (PDR) at 301-415-4737, or 1-800-397-4209, or by e-mail to pdr@nrc.gov.

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  
**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
James L. Caldwell	Regional Administrator, RIII	Appendix B	<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 BEING RELEASED IN THEIR ENTIRETY  
(If copyrighted identify with \*)**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1.	undated	72-212 Evaluation Report Pending Change Log (1 page)
2.	Undated	Sensitive Allegation Material - RIII-2002-A-005 (2 pages)
2.	08/02/99	NRC Inspection Report 72-1008/99-201 (16 pages)
4.	01/13/00	NRC Inspection Report 50-10/99020 (DNMS) (8 pages)
5.	06/16/00	Oscar Shirani, PE letter to Mark Soler, Quality Assurance Manager, Holtec International Incorporated Re: ComEd Byron Stations' Rerack Documentation Errors (9 pages)
6.	07/10/00	NRC Inspection Report 72-37/2000001 (DNMS) (15 pages)
7.	08/04/00	NUPIC audit of U.S. Tool and Die (6 pages)
8.	08/10/00	NUPIC audit of U.S. Tool and Die (2 pages)
9.	08/17/00	NRC Inspection Report 72-37/2000002 (20 pages)
10.	08/28/00	Attachment 3 - Checklist for Evaluation of Third-Part Audits/Survey from External Organization (11 pages)
11.	01/17/01	Memo from Ross Landsman to Bruce Jorgensen re: attendance at Holtec users group meeting (3 pages)
12.	03/13/01	NRC Inspection Report 07200037/2001-001 (DNMS) (7 pages)
13.	04/11/01	Ethany Corporation NUPIC Closeout Re: NUPIC Joint Audit of U.S.T. &D. Inc. Pittsburgh, PA (56 pages)
14.	08/13/01	NRC Inspection Report 07200037/2001-002 (DNMS) (29 pages)
15.	09/11/01	Condition Report titled Ineffective Corrective Action Regarding Cask Supplier (1 page)
16.	09/27/01	NRC Inspection Report 07200037/2001-003 (DNMS) (11 pages)
17.	10/22/01	NRC Inspection Report 072-1014/01-201 and Notice of Violation (24 pages)

18. 02/04/02 Sequence of Events on Holtec's Welding Issues (1 page)
19. 02/20/02 Memo from J. Jacobson to J. Heller re: Review of Information From RIII-2002-A-0005 (EXELON) and RIII-2001-A-0174 (EXELON) (3 pages)
20. 02/27/02 NRC Inspection Report No. 72-1014/02-201 (14 pages)
21. 03/01/02 10 CFR 72.48 Evaluation Summary Report (15 pages)
22. 03/11/02 Sequence of Events on Holtec's Welding Issues (3 pages)
23. 03/19/02 Memo from Bruce Jorgensen to James Heller re: Review of Transcript from CI Visit to Region III - Allegations No. RIII-02-A-0005 and No. RIII-01-A-0174 (M02-4126) (3 pages)
24. 03/20/02 NRC Inspection Report 07200037/2002-001 (DNMS) - Dresden (9 pages)
25. 04/19/02 Memo from A. Kock to Robert O'Connell Re: Transfer of Concerns 4 and 5 (RIII-01-A-0174) to NMSS for Resolution (2 pages)
26. 04/23/02 Followup Allegation Action Plan AMS RIII-2002-A-0005 (Exelon) (2 pages)
27. 04/29/02 CR on Cask Transfer Facility (2 pages)
28. 05/06/02 Memo from John M. Jacobson to A. Kock Re: Review of Information From Concerned Individual; RIII-2002-A-0005 (Exelon) (AITS S02-2175) (1 page)
29. 05/29/02 Memo from Jim Heller to Allegation File RIII-2002-A-0005 (Exelon and RIII-2001-A-0171 (Dresden) Re: Telephone call from CI (1 page)
30. 05/30/02 Memo from Bruce Jorgensen, Decommissioning Branch, to Andrea Koch, Allegation Coordinator, EICS, re: Review of letter from Concerned Individual (CI) Allegation No. RIII-02-A-0005 (1 page)
31. 05/30/02 Memo from Bruce Jorgensen, Decommissioning Branch, to Andrea Koch, Allegation Coordinator, EICS, re: Review of letter from Concerned Individual (CI) Allegation No. RIII-02-A-0005 (1 page)
32. 07/01/02 Allegation Action Plan - RIII-02-A-0005 (4 pages)
33. 07/26/02 Holtec Operations Concerns (1 page)
34. 08/05/02 10 Month ARB - RIII-01-A-0174 (4 pages)
35. 08/22/02 Memo from A. Kock to David Hills Re: Follow Up ARB: RIII-02-A-0005 (5 pages)
36. 08/30/02 E-mail from Kenn Hunter to Joseph Reiss, Russell Bastyr, and James Heil re: NCR 0160-124 Rev 0 (1 page)

37. 10/10/02 Memo from Jim Heller to Allegation File RIII-2002-A-0005 Re: Telephone call with CI (2 pages)
38. 10/14/02 E-mail from James Heller to Allegations Region III, Dave Hills and Patricia Lougheed Re: Question about closure information for 02-a-005 concern 4 and 12 (1 page)
39. 10/24/02 Conversation Record between R. Alexander and Concerned Individual Re: RIII-2001-A-0174 (1 page)
40. 11/18/02 Dresden ASME Code Deviation (3 pages)
41. 01/22/03 E-mail from Patricia Lougheed to David Hills Re: Final Closure Memo for Allegation RIII-02-A-0005 (3 pages)
42. 03/24/03 Memo from Jim Heller to Allegation files RIII-2002-A-0005 (Dresden/Exelon) and RIII-2001-A-0174 (Exelon) (3 pages)
43. 05/05/03 E-mail from Joseph Reiss to Russell Bastyr re: AR from an Old UST&D Audit (1 page)
44. 06/19/03 E-mail from Chris Miller to the Decommissioning Branch re: exits and tracker (1 page)
45. 07/02/03 Holtec Highlights (2 pages)
46. 07/07/03 Memo from Ross Landsman to Chris Miller re: Holtecs Casks (1 page)
47. 07/10/03 Memo from Mark Soler, QA Manager, to NRC re: Reply to a Notice of Violation (5 pages)
48. 12/26/02 E-Mail from Lougheed to Hills, Subject: Closure Memo for Allegation RIII-02-A-0005 (4 pages) **(2 pages outside scope and therefore not provided)**
49. 2/4/02 Allegation Action Plan, AMS No. RIII-02-A-0005 (12 pages) **(8 pages outside scope and therefore not provided)**
50. 2/20/02 Memorandum to R O'Connell from J Heller, Subject: Transfer of Concerns 1 and 8 of Allegation File RIII-2002-A-0005 to NMSS (3 pages) **(1 page outside scope and therefore not provided)**
51. 3/12/02 Memorandum to J Heller from J Jacobson, Subject: Review of Information From RIII-2002-A-0005 and RIII-2001-A-0174 (5 pages) **(2 pages outside scope and therefore not provided)**
52. 4/9/02 Follow Up Allegation Action Plan AMS No. RIII-01-A-0174 (13 pages) **(8 pages outside scope and therefore not provided)**

- 53. 4/9/02 Follow Up Allegation Action Plan AMS No. RIII-01-A-0174 (8 pages) (1 page outside scope and therefore not provided)
- 54. 5/1/02 Letter to J Skolds from B Clayton (6 pages) (1 page outside scope and therefore not provided)
- 55. 7/12/02 Letter to B Clayton from P Simpson (13 pages) (5 pages outside scope and therefore not provided)
- 56. 9/4/02 Letter to J Skolds from C Pederson (6 pages) (1 page outside scope and therefore not provided)

**APPENDIX B  
RECORDS BEING WITHHELD IN PART  
(If copyrighted identify with \*)**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1.	11/07/01	E-mail from Bruce Jorgensen to Allegations re: Conversations record for 01-a-0173 (1 page) (Exemption 7C)
2.	11/09/01	E-mail from Bruce Jorgensen to Allegations re: Conversation record for 01-a-0173 (2 pages) (Exemption 7C)
3.	02/06/02	Ltr to Oscar Shirani Re: Allegation No. RIII-02-A-0005 (4 pages) (Exemption 7c)
4.	03/05/02	E-mail from O. Shirani to James Heller Re: Amendment to my 25 page allegation document (4 pages) (Exemption 7c)
5.	04/19/02	James Heller Letter to Oscar Shirani Re: Allegation No. RIII-01-A-0174 (4 pages) (Exemption 7c)
6.	04/25/02	James Heller Letter to Oscar Shirani Re: Allegation No. RIII-01-A-0174 (4 pages) (Exemption 7c)
7.	05/09/02	E-mail from Gregory Cwalina to James Heller, Vernon Hodge, and Joseph Petrosino Re: Fwd: Oscar Shirani's Allegation No. 6 (dry cask issues) (6 pages) (Exemption 7c)
8.	05/31/02	Fax from A. Kock to Robert O'Connell Re: Repair vs. Rework (5 pages) (Exemption 7c)
9.	10/16/02	Ltr from James Heller to Oscar Shirani Re: Allegation Nos. RIII-02-A-0005 (2 pages) (Exemption 7c)
10.	10/17/02	Ltr from James Heller to Oscar Shirani Re: Allegation Nos. RIII-02-A-0174 (6 pages) (Exemption 7c and Out of Scope) (3 pages released)
11.	Undated	Memo from Jim Heller to allegation file RIII-2002-A-0005 (Exelon) and RIII-2001-A-0174 (Dresden) (2 pages) (Exemption 7C)
12.	12/04/02	Ltr from Cynthia D. Pederson to Oscar Shirani Re: Allegation Nos. RIII-02-A-0005 (9 pages) (Exemption 7c and Out of Scope) (7 pages released)

13. 02/26/03 Ltr from Cynthia D. Pederson to Oscar Shirani Re: Allegation Nos. RIII-02-A-0005 (6 pages) (Exemption 7c and Out of Scope) (4 pages released)
14. 06/16/03 \*E-mail from Bruce Berson to Brent Clayton, Chris Miller, Gary Shear, Jan Strasma, and Marc Dapas Re: Fwd: Article of Interest (1 page) (Exemption 5) attaching 6/13/03 E-Mail from Heller to O'Connell (1 page) (Release); 6/13/03 E-Mail from Clayton to Heller (1 page) (Release), 6/12/03 E-Mail from Miller to Clayton (1 page) (Release) 6/12/03 E-Mail from Simpson to Chris (1 page) (Release) AlterNet.org (<http://www.alternet.org>) (4 pages) (Copyright); 6/20/03 The Salt Lake Tribune, (2 pages) (Copyright)
15. 11/15/01 Memo to Jorgensen from Heller, Receipt of New Allegation RIII-01-A-0174 (10 pages) (Exemption 7c and Outside Scope) (4 pages released)