

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

2003-0358

7

RESPONSE  
TYPE ☐ FINAL ☒ PARTIAL

REQUESTER

Paul Gunter

DATE

NOV 07 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 **K, L** 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 **K, L** 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)

Record K/1 is copyrighted and therefore not enclosed. Should you wish to view this record, 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

NRC FORM 464 Part II (6-1998)	U.S. NUCLEAR REGULATORY COMMISSION	FOIA/PA	DATE
<b>RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) / PRIVACY ACT (PA) REQUEST</b>		2003-0358	NOV 07 2003

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

APPENDICES  
L, M

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
Bruce S. Mallet	Regional Administrator, RIV	Appendix L, Appendix M1-4, M12	✓		
James E. Dyer	Director, Office of Nuclear Reactor Regulation	Appendix M5-M11	✓		

Appeal must be made in 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 K**  
**RECORDS BEING RELEASED IN THEIR ENTIRETY**  
 (Record with \* is copyrighted)

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1.	Undated	*Newspaper Article, "ANO to be Subject of Hearing by NRC", CourierNews
2.	Undated	Human Reliability Screening Analysis ANO Fire Issue (22 pages)
3.	Undated	Memorandum from Troy Pruett to Rebecca Nease regarding Risk Insights for ANO Unit 1 Fire Protection Inspection (1 page)
4.	Undated	Memorandum from Ellis Merschoff to William D. Travers regarding Arkansas Nuclear One Backfit Claim (2 pages)
5.	10/24/01	E-Mail from Karla Smith to Art Howell...Robert Gramm regarding ANO Backfit Panel -- Revised Background Attachment (1 page)
6.	10/26/01	E-Mail from Rebecca Nease to Geary Mizuna and Karla Smith regarding Standard Review Plan (11 pages)
7.	11/26/01	E-Mail from Rebecca Nease to Karla Smith regarding DRAFT Letter to ANO backfit response (1 page)
8.	1/15/02	E-Mail from Rebecca Nease to Jo Carson and Karla Smith regarding ANO Backfit Panel #2 (1 page)
9.	9/30/02	E-Mail from Karla Smith to Charles Marschall regarding Re: For Info - Files for ANO meeting (1 page)
10.	7/3/03	Letter to NRC from Entergy with note regarding Significance Determination Process Report (1 page)
11.	7/3/03	Letter to NRC from Entergy with notes regarding Significance Determination Process Report (115 pages)
12.	7/10/03	USNRC Region IV Regulatory Conference with Entergy Operations Inc. Arkansas Nuclear One (48 pages)
13.	7/10/93	Arkansas Nuclear One <sup>42</sup> Appendix R Regulatory Conference with notes (91 pages)

14.     Undated     Appendix R to Part 50 - Fire Protection Program for Nuclear Power  
Facilitise Operating Prior to January 1, 1979 (10 pages)

**APPENDIX L  
RECORDS WITHHELD IN PART**

<b><u>NO.</u></b>	<b><u>DATE</u></b>	<b><u>DESCRIPTION (PAGE COUNT)/EXEMPTIONS</u></b>
1.	Undated	Influential Assumptions (2 pages) Ex. 5
2.	Undated	ANO SDP Results (1 page) Ex. 5
3.	1/15/02	E-Mail from Jo Carson to Dwight Chamberlain, ... Thomas Alexion, regarding: Fwd: ANO Backfit Panel #2 (1 page) Ex. 2
4.	10/22/01	E-Mail from Karla Smith to Art Howell, regarding: ANO Fire Protection Backfit Panel (8 pages) Ex. 2
5.	1/8/02	E-Mail from Karla Smith to Rebecca Nease, regarding: Re: Backfit analysis (1 page) Ex. 5

**APPENDIX M  
RECORDS WITHHELD IN THEIR ENTIRETY**

<b><u>NO.</u></b>	<b><u>DATE</u></b>	<b><u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u></b>
1.	Undated	Review of ANO Fire Hazard Analysis. (2 pages) <b>Exemption 7A.</b>
2.	10/26/01	Handwritten notes, ANO Backfit, (1 page) <b>Exemption 5</b>
3.	01/17/02	E-mail from Gary Sanborn to Rebecca Nease Re: Thoughts on the ANO backfit issue, (1 page), <b>Exemption 5</b>
4.	01/23/03	Handwritten notes, ANO Fire Protection SERP, (2 pages), <b>Exemption 5</b>
5.	1/23/03	SERP Worksheet for SDP-Related Findings (9 pages) <b>Exemption 7A</b>
6.	9/25/02	Memorandum to Howell from Marsh, Subject: Response to Task Interface Agreements - TIA 2001-11 Regarding Request for Risk Determination of Fire Protection Findings at Arkansas Nuclear One Unit 1 (14 pages) <b>Exemption 7A</b>
7.	5/28/02	Memorandum to Reinhart from Weiss, Subject: Fire Hazard Analysis for Fire Zone 98-J, Emergency Diesel Generator Corridor and Fire Zone 99-M, North Electrical Switchgear Room, Arkansas Nuclear One Unit 1 (33 pages) <b>Exemption 7A</b>
8.	7/18/02	Memorandum to Reinhart from Weiss, Subject: Supplemental Fire Modeling for Fire Zone 98-J, Emergency Diesel Generator Corridor and Fire Zone 99-M, North Electrical Switchgear Room, Arkansas Nuclear One Unit 1 (55 pages) <b>Exemption 7A</b>
9.	9/5/02	E-Mail from Reckley to Marschall, Subject: Comments on TIA (1 page) <b>Exemptions 5 and 7A</b>
10.	10/25/01	E-Mail from Gramm to Smith, Subject: ANO Fire Protection Issues - Licensing Aspects (2 pages) <b>Exemptions 5 and 7A</b>
11.	11/27/01	E-Mail from Gramm to Nease, Subject: ANO Backfit Claim (1 page) attaching 11/27/01 Note to Nease from Gramm, Subject: ANO Appendix R Backfit Considerations (3 pages) <b>Exemptions 5 and 7A</b>
12.	1/29/02	E-Mail from Nease to Smith re: NEI response (1 page) <b>Exemption 5</b>