



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

2002-0256

10

RESPONSE TYPE  FINAL  PARTIAL

REQUESTER

Sean Moulton / Cheryl Gregory

DATE

FEB 19 2004

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 **HH, II, KK** 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 **HH, II, KK** 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)

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  
**II, JJ**

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
Karen D. Cyr	General Counsel, Office of the General Counsel	II-1, JJ-3, JJ-8		✓	
Particia G. Norry	Deputy Executive Director for Management Services	KK-1		✓	
Sandy M. Joosten	Administrative Assistant, Office of the Secretary	JJ-7, JJ-9-12, JJ-14-18		✓	
(continued on next page)					

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."

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

**FOIA/PA-2002-0256 - Response #10**

**PART II.B ~ DENYING OFFICIALS - continued**

<b>DENYING OFFICIAL</b>	<b>TITLE/OFFICE</b>	<b>RECORDS DENIED</b>	<b>APPELLATE OFFICIAL</b>
Joseph R. Gray	Associate General Counsel for Licensing and Regulation, OGC	JJ-4~5	SECY
Lawrence J. Chandler	Associate General Counsel for Hearings, Enforcement and Administration, OGC	II-2~6; JJ-1, JJ-6, JJ-13, JJ-19	SECY
Martin J. Virgilio	Director, Office of Nuclear Material Safety and Safeguards	KK-1~2	EDO
Luis A Reyes	Regional Administrator, USNRC Region II	JJ-2	EDO
Bruce S. Mallett	Regional Administrator, USNRC Region IV	II-7	EDO

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

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	09/24/01	Email from S. Alexander, NRR to C. Hendren, NRR, M. Landau, EDO, Re: Web Review (1 page)
2.	09/24/01	E-mail to Mindy Landau, EDO from Stephen Alexander, NRR - Subject: Web Review - Nuclear Reactors (1 page)
3.	09/24/01	Email from C. Hendren, NRR to M. Landau, EDO, S. Alexander, NRR, Re: Web Review (1 page)
4.	09/24/01	Email from S. Alexander, NRR, to C. Hendren, NRR, M. Landau, EDO, Re: Web Review (1 page)
5.	09/24/01	E-mail to Mindy Landau, EDO from Stephen Alexander, NRR - Subject: Web Review - Radioactive Waste Section (1 page)
6.	09/26/01	E-mail to Mindy Landau, EDO from Sarah Colpo, NRR - Subject: Event Reports (1 page)
7.	09/26/01	Email from M. Landau to D. Matthews Re: Fwd: Information of potential safeguards or security concern (1 page)
8.	09/26/01	Email from C. Hendren, NRR, to D. Matthews, NRR, Re: External web site review (1 page)
9.	09/28/01	E-mail to Mindy Landau, EDO from David Matthews, NRR - Subject: Web review material (1 page)
10.	09/28/01	E-mail to Mindy Landau, EDO from David Matthews, NRR - Subject: Web review material (1 page)
11.	10/11/01	Information paper. Subject: IAEA removal of Nuclear Facility Location Coordinates from IAEA Web site (2 pages)
12.	10/12/01	E-mail J. Joyner, RI, to B. Holt, RIII, et al., Re: FOIA Requests relating to security information (1 page)
13.	10/15/01	Information paper. Subject: Summary of Recommended Items for Web deletion by NRR/NMSS/RES (1 page)

**APPENDIX HH - continued**  
**RECORDS BEING RELEASED IN THEIR ENTIRETY**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
14.	10/15/01	E-mail J. Joyner, RI, to B. Holt, RIII, Re: FOIA Requests relating to security information (1 page)
15.	10/16/01	Information paper. Subject: Interim Process for Sharing Event Data with INPO and Reactor Licensees (1 page)
16.	10/17/01	E-mail from Doug Coe to Mindy Landau, EDO - Subject: Sensitivity of risk analysis information - going forward (2 pages)
17.	10/22/01	E-mail from Jon Johnson, NRR, to M. Landau, EDO, Subj: Re: Guidance on Release of Information to the Public (1 page)
18.	10/24/01	E-mail from William Reckley, NRR, to Mindy Landau, EDO - Subject: NRR concurs (1 page)
19.	10/25/01	E-mail from Michael Case to John Zwolinski, NRR - Subject: Re-send of draft criteria for public release of information (1 page)
20.	10/29/01	E-mail W. Oliu, CIO, to W. Reckley, NRR, Re: Fwd: References in NRC Regulations to posting on the web w/att 10/24/01 e-mail S. Burns, OGC, to F. Goldberg, CIO, w/att Summary of web site references in NRC Regulations (9 pages)
21.	11/06/01	E-mail M. Siemien, OGC, to W. Reckley, NRR, Re: Withholding of info in applications (1 page)
22.	11/07/01	E-mail M. Siemien, OGC, to W. Reckley, NRR, Re: Withholding of info in applications (1 page)
23.	11/28/01	E-mail BCM, NRC from Dave Lochbaum, UCS - Subject: License renewal meeting with Hatch, Turkey Point "Priorities" (2 pages)
24.	12/03/01	E-mail to Mindy Landau, EDO from Christopher Grimes, NRR - Subject: Updated assessment of the impact of redacting sensitive information on the license renewal program (2 pages)

**APPENDIX HH - continued**  
**RECORDS BEING RELEASED IN THEIR ENTIRETY**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
25.	12/03/01	Email from G. Millman to E. Hayden, J. Linehan, M. Lee, M. Case, M. Tenaglia, R. Pedersen, T. Pullman, V. Wilson, W. Oliu re: "Review of NUREGs for Web Publication" (20 pages)
26.	12/04/01	E-mail to Mindy Landau, EDO from Christopher Grimes, NRR - Subject: Latest COMMSECY to Commission (1 page)
27.	12/10/01	E-mail W. Reckley, NRR, to NRR INFOREVIEW, Re: Fwd: Procedure for release of NUREGs and RGs w/att e-mail G. Millman, RES, to M. Lee, RES (2 pages)
28.	12/10/01	E-mail NRR INFOREVIEW to A. Beranek, RES, Re: DG-111 (1 page)
29.	12/19/01	E-mail M. Fields, NRR, to T. Marsh, NRR, et al., Re: Fwd: ASP analysis to be sent to licensees w/att 12/19/91 e-mail D. Marksberry, RES, to M. Fields, NRR (2 pages)
30.	12/20/01	E-mail D. Marksberry, RES, to M. Fields, NRR, et al., Re: Fwd: ASP analysis to be sent to licensees (1 page)
31.	01/23/02	Information paper from Mindy Landau, EDO - Subject: Concerns over the NRC's efforts to determine what information should be accessible to the public (2 pages)
32.	03/05/02	E-mail R. Franovich, NRR, to W. Reckley, NRR, Re: Draft 2.790(d) request/response (1 page)
33.	03/06/02	E-mail to Mindy Landau from William Reckley, NRR - Subject: Comments on response to SRM (6 pages)
34.	03/08/02	Note to Commissioner Assistants from Janice Dunn-Lee, IP - Subject: IAEA Meeting on Confidentiality Issues Related to Activities on the Security of Radiation Sources and Nuclear Installations (1 page)

APPENDIX HH - continued  
RECORDS BEING RELEASED IN THEIR ENTIRETY

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
35.	03/18/02	E-mail to Mindy Landau, EDO, from Mark Delligatti, NMSS, with 03/18/02 Email from D. Graser, ASLPB to M. Landau, EDO re: Withholding Sensitive Homeland Security Information (2 pages)
36.	03/19/02	E-mail to Mindy Landau from William Reckley, NRR - Subject: Withholding Sensitive Homeland Security Information (1 page)
37.	03/19/02	E-mail J. Dyer, RIII, to A. Vietti-Cook, SECY, et al., Re: Withholding sensitive homeland security info (1 page)
38.	03/21/02	E-mail A. Dimitriadis, RI, to R. Rosano, NSIR, Re: FOIA 2002-0008 (1 page)
39.	Undated	Revisions of B. Reckley, NRR, on draft network announcement and draft criteria regarding release of information to the public (2 pages)

**APPENDIX II  
RECORDS BEING WITHHELD IN PART**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	10/19/01	E-mail from Karen Cyr, OGC, to M. Landau, EDO, Subj: Re: Guidance on Release of Information to the Public (1 page) [Ex. 5 Deliberative process]
2.	10/22/01	E-mail from D. Hassell, OGC, to M. Landau, EDO, Subj: Re: Guidance on Release of Information to the Public (1 page) [Ex. 5 Attorney-client]
3.	10/24/01	E-mail from D. Hassell, OGC, to B. Mallett, RIV, et al. - Subj: Re: Re-send of Draft Criteria for public release of information (1 page) [Ex. 5 Deliberative process (2 pgs withheld in entirety), Attorney-client (1 pg portions withheld)]
4.	11/27/01	E-mail to Suzanne Black, NRR, from Mindy Landau, EDO - Subject: Sensitive Info Screening Update (2 pages) [Ex. 5 Deliberative process & Attorney-client (1 pg withheld in entirety, 2pgs partial release)]
5.	01/24/02	E-mail M. Siemien, OGC, to W. Reckley, NRR, Re: 2.790(d)(1) (1 page) [Ex. 5 Attorney-client]
6.	03/01/02	E-mail R. Franovich, NRR, to M. Siemien, OGC, et al., RE: Duke General Arrangement Drawings & License Renewal RAI response (1 page) [Ex. 5 Deliberative process]
7.	03/19/02	Memo from Thomas P. Gwynn to Mindy Landau, EDO - Subject: Withholding Sensitive Homeland Security Information from the Public (Withhold 1 page - Ex. 5, release 1 page)

**APPENDIX JJ  
RECORDS BEING WITHHELD IN THEIR ENTIRETY**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	10/11/01	E-mail from Donald Hassell to Lawrence Chandler, IG - Subject: Feedback from DOJ regarding Exemption 1 of FOIA to withhold information (1 page) <b>[Ex. 5 Attorney-client]</b>
2.	10/22/01	Memo from C.R. Evans, RII Counsel, to M. Landau, EDO, Subj: Criteria to be Used in Releasing Information to the Public (2 pages) <b>[Ex. 5 Deliberative process]</b>
3.	10/24/01	E-mail from Stephen Burns, OGC, to Mindy Landau, EDO - Subject: Re-send of draft criteria for public release of information (3 pages) <b>[Ex. 5 Deliberative process]</b>
4.	11/06/01	Email from T. Rothschild, OGC, to B. Mendelsohn re: "Per Our Conversation" (11 pages) <b>[Ex. 5 Attorney-client]</b>
5.	11/06/01	E-mail from T. Rothschild, OGC, to B. Mendelsohn re: "Per Our Conversation" (1 page) <b>[Ex. 5 Deliberative process, Attorney-client]</b>
6.	12/27/01	E-mail D. Hassell, OGC, to W. Reckley, NRR, Re: Fwd Possible questions for mtg with CEQ (1 page) <b>[Ex. 5 Deliberative process]</b>
7.	01/03/02	E-mail M. Landau, EDO, to W. Reckley, NRR, Re: DSRM-COMSECY-01-0030-Guidance to Staff on Release of Info to Public w/attachments (1) 01/03/02 e-mail C. Jaegers, EDO, to dsrm; (2) 01/03/02 e-mail N. Greathead, SECY, to A. Levin, et al.; (3) Draft Commission memo (8 pages) <b>[Ex. 5 Deliberative process]</b>
8.	01/09/02	E-mail to Nancy Greathead, SECY, from Karen Cyr, OGC - Subject: COMSECY 01-0030 (1 page) <b>[Ex. 5 Deliberative process]</b>

**APPENDIX JJ - continued**  
**RECORDS BEING WITHHELD IN THEIR ENTIRETY**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
9.	01/15/02	Version B Draft Memo to W.D. Travers, EDO from A.L. Vietti-Cook, SECY Subj: Staff Requirements - COMSECY-01-0030 - Guidance to the Staff on Release of Information to the Public (with unknown author's handwritten notes) (5 pages) [Ex. 5 Deliberative process]
10.	01/15/02	Version B Draft Memo to W.D. Travers, EDO from A.L. Vietti-Cook, SECY Subj: Staff Requirements - COMSECY-01-0030 - Guidance to the Staff on Release of Information to the Public (with unknown author's handwritten notes) (5 pages) [Ex. 5 Deliberative process]
11.	01/15/02	Version B Draft Memo to W.D. Travers, EDO from A.L. Vietti-Cook, SECY Subj: Staff Requirements - COMSECY-01-0030 - Guidance to the Staff on Release of Information to the Public (with unknown author's handwritten notes) (6 pages) [Ex. 5 Deliberative process]
12.	01/16/02	Information e-mail from Marian Zabler (OCM/RAM) to James Beall (OCM/RAM) et al. Subj: DRAFT SRM on COMSECY-01-0030 Guidance on Release of Information to the Public (1 page) [Ex. 5 Deliberative process]
13.	01/24/02	E-mail M. Kotzalas, NRR, to S. Miranda, NRR, et al., Re: FYI on legal testimony (1 page) [Ex. 5 Attorney-client]
14.	01/25/02	Information e-mail from A. Vietti-Cook, SECY to M. Landau (EDO) Subj: SRM - COMSECY-01-0030 - Guidance to the Staff on Release of Information to the Public (1 page) [Ex. 5 Deliberative process]
15.	01/25/02	Email from N. Greathead to Various re: "SRM - COMSECY-01-0030 - Guidance to Staff on Release of Info to Public" (1 page) [Ex. 5 Deliberative process]
16.	03/15/02	E-mail from Annette Vietti-Cook, SECY, to Ashok Thadani, et al. - Subject: Withholding Sensitive Homeland Security Information (1 page) [Ex. 5 Deliberative process]

APPENDIX JJ - continued  
RECORDS BEING WITHHELD IN THEIR ENTIRETY

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
17.	03/15/02	E-mail M. Landau, EDO, to A. Vietti-Cook, SECY, et al., Re: Withholding sensitive homeland security info (1 page) [Ex. 5 Deliberative process]
18.	05/01/02	E-mail M. Landau, EDO, to 9/11inforeview, Re: Fwd Draft SRM - COMSECY-020015 (6 pages) [Ex. 5 Deliberative process]
19.	Undated	Draft Memo to the Commissioners from Wiliam D. Travers, EDO, Subject: Release of Information to the Public (4 pages) [Ex. 5 Deliberative process]

**APPENDIX KK  
RECORDS BEING WITHHELD IN PART**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	09/26/01	Email from D. Matthews to E. Brach, M. Landau, S. Frant, Re: more on material to be considered for removal from website (1 page) [EX 5]
2.	01/02/02	Email from C. Haney, NMSS to S. Richards, NRR re: G20010554 Extension Request (1 page) [EX 5]