



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

2004-0307

4

RESPONSE TYPE  FINAL  PARTIAL

REQUESTER

Max Jarman

DATE

NOV 15 2005

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 **M** 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, 11555 Rockville Pike, Rockville, MD 20852-2738.
- APPENDICES 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 record identified on enclosed Appendix K is copyrighted and is, therefore, not included in this response. The record can be reviewed by contacting the NRC Public Document Room (PDR). You can reach the PDR by telephone on (800) 397-4209.

Some records that were located are personal records and total 39 pages. The records are not being provided because they are not agency records.

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER  
  
Russell A. Nichols

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

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

APPENDICES  
**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 253b, 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)  
EX. 2 - Disclosure would risk circumvention of a legal requirement.

**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. Mallett	Regional Administrator, Region IV	Appendix M/1 - M/7	✓		
James E. Dyer	Director, Office of Nuclear Reactor Regulation	Appendix M/8	✓		

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 K  
COPYRIGHTED RECORD

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	07/26/04	Two pages from <u>The Energy Daily</u> . 2 pages

APPENDIX L  
RECORDS BEING RELEASED IN ENTIRETY

<u>NO.</u>	<u>DATE</u>	<u>DOCUMENT DESCRIPTION/PAGE COUNT</u>
1.	Undated	Table starts with "Plant Design, Operations, Configuration Facts..." (2 pages)
2.	Undated	Table titled "Palo Verde Unit 2 - June 14, 2004 Loss of Offsite Power Event - June 24, 2004 (8:04am) (2 pages)
3.	Undated	Table titled "Palo Verde Unit 2 - June 14, 2004 Loss of Offsite Power Event - June 25, 2004 (9:49am) (2 pages)
4.	Undated	Table starts with "Plant Design, Operations, Configuration Facts..." with annotations (4 pages)
5.	6/14/04	Email from Richard Borchardt to Samuel Collins,...Ellis Merschoff, subject: Palo Verde AIT
6.	6/14/04	Power Reactor Status Report for 6/14/04. (1 page)
7.	06/15/04	E-mail from Mark King to addressees, subject: Palo Verde 1, 2, and 3 Loss of Offsite Power / Unit 2 A EDG failure to supply power. 1 page
8.	06/16/04	Loss of Offsite Power Sequence of Events. 2 pages
9.	6/17/04	Email from Don Marksberry to David Loveless, subject: Input for LOOP analysis (1 page)
10.	6/21/04	Email from Leonard Ward to Russell Gibbs, subject: Re: MAAP (1 page)
11.	6/21/04	Email from Russell Gibbs to Rudolph Bernhard...See-Meng Wong, subject: Fwd: Re: MAAP (1 page)
12.	6/24/04	Email from Don Marksberry to David Loveless & Troy Pruett, subject: Palo Verde assumptions - the new tabled added (1 page)
13.	6/24/04	Email from Millard Wohl to NLS, subject: Palo Verde LOOP (1 page)
14.	6/25/04	Email from Thomas Koshy to Tony Gody, subject: Fwd: RE: Electronic Copy of Palo Verde Switchyard Voltage (1 page)
15.	6/25/04	Email from Don Marksberry to David Loveless, subject: Palo Verde draft, preliminary results (1 page)

APPENDIX L  
RECORDS BEING RELEASED IN ENTIRETY

<u>NO.</u>	<u>DATE</u>	<u>DOCUMENT DESCRIPTION/PAGE COUNT</u>
16.	6/28/04	Email from Don Marksberry to David Loveless, subject: Palo Verde (1 page)
17.	6/28/04	Email from Don Marksberry to David Loveless, subject: S/U transformer soak times (1 page)
18.	6/28/04	Email from Don Marksberry to David Loveless, subject: Last questions and concerns (1 page)
19.	6/29/04	Email from Don Marksberry to David Loveless, subject: latest draft preliminary results (1 page)
20.	6/29/04	Email from Don Marksberry to David Loveless, subject: Palo Verde results (1 page)
21.	6/30/04	Email from Don Marksberry to David Loveless, subject: Re: Report Input (1 page)
22.	6/30/04	Email from David Loveless to Don Marksberry, subject: Re: Report Input (2 pages)
23.	7/1/04	Email from Don Marksberry to David Loveless, subject: EOPs (1 page)
24.	7/2/04	Email from Don Marksberry to David Loveless, subject: Palo Verde 1 and 3 (3 pages)
25.	7/2/04	Email from Don Marksberry to David Loveless, subject: Palo Verde Unit 2 results (2 pages)
26.	7/6/04	Email from Mary Wegner to Hoo1...Richard Wessman, subject: AZ Fire Impact on the Local Grid Near Palo Verde (2 pages)
27.	7/6/04	Email from Jitendra Vora to Jose Calvo...Thomas Koshy, subject: Fwd: AZ Fire Impact on the Local Grid Near Palo Verde (1 page)
28.	7/6/04	Email from Mel Fields to Tony Gody, subject: Westwing substation fire (1 page)
29.	7/6/04	Email from Thomas Koshy to Tony Gody, subject: Fwd: AZ Fire Impact on the Local Grid Near Palo Verde (1 page)

RE: FOIA-2004-0307

APPENDIX L  
RECORDS BEING RELEASED IN ENTIRETY

<u>NO.</u>	<u>DATE</u>	<u>DOCUMENT DESCRIPTION/PAGE COUNT</u>
30.	7/15/04	Email from Richard Barrett to Bruce Mallett, subject: Re: Draft Palo Verde Report for Review (1 page)
31.	7/28/04	Email from Tae (TJ) Kim to Don Marksbury,...Vonna Ordaz, subject: Daily Energy Article on Palo Verde AIT report (1 page)

**APPENDIX M  
RECORDS BEING WITHHELD IN PART**

<b><u>NO.</u></b>	<b><u>DATE</u></b>	<b><u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u></b>
1.	No date	Time log - (beginning at 0740:55.747. (5 pages) <b>EX. 2</b>
2.	No date	AIT status. 4 pages <b>EX. 5</b>
3.	No date	Draft letter from Bruce Mallet to Gregg Overbeck transmitting draft Palo Verde Nuclear Generating Station, Units 1, 2, and 3 - NRC Augmented Inspection Team (AIT) Report 05000528/2004-012, 05000/204529/2004-012; 05000530/2004-012 and Preliminary Findings. 73 pages total, 69 pages released <b>EX. 2 &amp; EX. 5</b>
4.	No date	Draft letter from Bruce Mallet to Gregg Overbeck transmitting draft Palo Verde AIT Report. 80 pages total, 76 released. <b>EX. 2</b>
5.	No date	Draft letter from Bruce Mallet to Gregg Overbeck transmitting draft Palo Verde AIT Report. 74 pages total, 70 released. <b>EX. 2</b>
6.	No date	Preliminary Issue List. 2 pages <b>EX. 2 and EX. 5</b>
7.	No date	Preliminary Issue List with handwritten notes. 2 pages <b>EX. 2 and EX. 5</b>
8.	06/21/04	E-mail exchange between Thomas Koshy and various addressees, regarding "need a bit more info." 3 pages total, 1 page released. <b>EX. 5</b>