



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

2004-0234

7

RESPONSE TYPE  FINAL  PARTIAL

REQUESTER

**Matthew S. Hammel**

DATE

**NOV 17 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 **S, T** 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 **S, T** 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 incoming FOIA/PA request is located in ADAMS at ML041314167.**

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  
**1**

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. 4: Disclosure will harm and identifiable private or governmental interest.**

**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
Jack Strosnider	Director, Office of Nuclear Material Safety and Safeguards	Appendix T	<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 S  
RECORDS BEING RELEASED IN THEIR ENTIRETY  
(If copyrighted identify with \*)**

<b><u>NO.</u></b>	<b><u>DATE</u></b>	<b><u>DESCRIPTION/(PAGE COUNT)</u></b>
1.	12/21/92	Letter to J. Rode, Plant Manager, Hematite Nuclear Fuel Manufacturing, Combustion Engineering, Inc., from J. W. N. Hickey, NMSS, regarding copies of Environmental Assessment report (18 pages)
2.	01/05/93	Letter to J. Hickey, NMSS, from J. F. Conant, ABB, regarding Decommissioning Funding Plan (2 pages)
3.	02/08/93	Letter to Mr. John Hickey, NMSS, from J. F. Conant, ABB, Subj: Hematite Decommissioning Funding Plan (1 page)
4.	04/23/93	Letter to J. Rode, CE, from E. Adensam, NMSS, regarding storage of SNM in Kardex unit (15 pages)
5.	01/07/94	Letter from M. Tokar, NMSS, to J. F. Conant, CE, re Hematite Renewal Schedule (TAC No. L21637) (1 pg)
6.	01/28/94	Letter to R. M. Bernero, NMSS, from R. W. Sharkey, ABB, re Report on radioactivity in gaseous effluents exceeding quarterly alara limit (3 pages)
7.	02/14/94	Letter from S. Soong, NMSS, to R. W. Sharkey, CE, re Report on Radioactivity in Gaseous Effluents Exceeding Quarterly ALARA Limit (1 pg)
8.	04/13/94	Letter from J. Yardumian, NMSS, to R. W. Sharkey, CE, re NRC Inspection Report No. 70-36/94-201 (1 pg)
9.	06/07/94	SNM-33 License Amendment 28 (7 pages)
10.	06/21/94	Final Meeting Agenda and Attendance Sheet for NRC Visit to ABB-CE Regarding SG Tube Repairs (3 pages)
11.	07/28/94	License Renewal SNM-ee (4 pages)
12.	09/06/94	Letter from P. Ting, NMSS, to S. B. Junkrans, CE, re Bulletin NRCB 91-01, Supplement 1, Reporting Loss of Criticality Safety Controls, Dated July 27, 1993 (1 pg)

**APPENDIX S - continued**  
**RECORDS BEING RELEASED IN THEIR ENTIRETY**  
**(If copyrighted Identify with \*)**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
13.	09/13/94	Letter from R. F. Burnett, NMSS, to S. B. Junkrans, CE, re Confirmation of Enforcement Conference (1 pg)
14.	09/24/94	Letter from S. Soong, NMSS, to R. W. Sharkey, CE, re Change in MC&A Licensing Reviewer (1 pg)
15.	09/30/94	Memo from L. Bykoski, NMSS, to S. Soong, NMSS, re Combustion Engineering Inc. - Hematite site-revised Schedule A of the Standby Trust Agreement (1 page)
16.	11/23/94	Letter from P. Ting, NMSS, to R. W. Sharkey, CE, re Reply to Notice of Violation, MC&A Inspection No. 70-36/94-202 (1 pg)
17.	12/13/94	Letter from R. W. Sharkey, ABB, to NRC re Response to NRC Bulletin 94-02 - UF6 Overpacks (2 pgs)
18.	01/27/95	Memo from J. Glenn to R. Pierson (NMSS); re "Technical Assistance Request-Combustion Engineering (CE) Hematite Evaporation Ponds" (2 pages)
19.	02/22/95	Letter from M. Michelsen, ABB, to NRC, "Response to NRC Generic Letter 95-01: NRC Staff Position on Fire Protection for Fuel Cycle Facilities" (2 pages)
20.	03/22/95	Letter from R. C. Pierson, NMSS, to R. W. Sharkey, CE, re Schedule for Integrated Safety Assessment (1 pg)
21.	05/04/95	Letter to Sharkey from R. Pierson, "Evaporation Ponds Decommissioning (TAC No. L30728)", (pages 8)
22.	05/04/95	Letter to R. W. Sharkey, CE, from NRC re Hematite Burial Site Well #4 Evaluation (TAC No. L30758) (2 Pages)
23.	06/22/95	Letter to S. Junkrans (ABB) from P. Ting regarding the reduction of regulatory burden through cost reduction. (3 pages)
24.	07/27/95	Letter from M. Michelsen to R. Pierson, "Hematite Evaluation of safety Program Against BTP Guidance", (12 pages)

**APPENDIX S - continued**  
**RECORDS BEING RELEASED IN THEIR ENTIRETY**  
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<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
25.	08/14/95	Letter to Mr. Cass Chappell, Subj: Model 927 A1/C1 New Fuel Assembly Shipping Container, Request for Renewal of Certificate of Compliance No. 6078 (4 pages)
26.	08/23/95	Letter to R. W. Sharkey, CE, from R. Pierson, NMSS, re Request for Temporary Change of UF6 Sampling Procedure (TAC No. L30802) (8 pages)
27.	09/09/95	Letter from R. W. Sharkey, ABB, to P. Ting, NMSS, re NRC Recommendations Concerning Chemical Safety (4 pages)
28.	09/13/95	Approval Record, Model No. 927A1 and 927C1 Packages, Certificate of Compliance No. 6078, Revision No. 20 (4 pages)
29.	09/26/95	Subject: Combustion Engineering (CE) Survey Plan Dated September 1, 1995, For Site Creek (1 page)
30.	10/03/95	Meeting Participants with attachment of Review of September 1 <sup>st</sup> , 1995 Final Survey Plan with handwritten notes (4 pages)
31.	12/11/95	ABB letter from R. Sharkey to NRC, "Reply to Notice of Violation, Report No. 070-00036/95004 (DNMS)" (3 pages)
32.	12/14/95	Memo from M. Adams to R. Pierson (NMSS), "Trip Report: CE, Hematite, MO, 11/28/95" (3 pages)
33.	12/20/95	Letter to R. W. Sharkey, CE, from R. C. Pierson, NMSS, re Branch Technical Positions (TAC No. L30801) (8 pages)
34.	01/04/96	Memorandum to R. Pierson from G. L. Shear (NMSS), Subj: FUEL FACILITY LICENSEE PERFORMANCE REVIEW (4 pages)
35.	01/15/99	Letter from R. W. Sharkey, ABB, to US NRC. Additional Information to Notice of Violation re Inspection No. 70-36/98-004 (2 pages)
36.	05/20/99	Letter from R. W. Sharkey, ABB, to NRC, re Request for Temporary Change to Annual Inventory Report Submission Dates (1 page)

**APPENDIX S - continued**  
**RECORDS BEING RELEASED IN THEIR ENTIRETY**  
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<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
37.	06/17/02	Letter from Westinghouse Electric Company to US NRC. Request for License Amendment to Remove Requirement for a Emergency Plan and to delete License Condition Number SG-2.2 (29 pages)
38.	07/27/00	Letter from E. Flack, NMSS, to J. Nardi, CE/Westinghouse, " Request for additional Information-CE Nuclear Power LLC Financial Assurance Documents (TAC No. L31370)" (2 pages)
39.	08/08/02	Letter from A. J. Nardi, CE/Westinghouse, to NRC re: Plan for 2002 Emergency Exercise (License Number SNM-33, Docket 70-36) (1 page)
40.	08/22/02	Letter from A. J. Nardi, Westinghouse to NRC, re: Resubmitted application for License Amendments and to delete License Condition Number SG-2.2 (License Number SNM-33, Docket 70-36) (3 pages)
41.	08/22/02	Letter from A. J. Nardi, CE/Westinghouse, to NRC, re: Physical Inventory Status Report (License Number SNM-33, Docket 70-36) (1 page)
42.	08/28/02	Letter from A. J. Nardi, CE/Westinghouse, to NRC re: Submittal of Application for License Amendment to Change Organization (License Number SNM-33, Docket 70-36) (18 pages)
43.	08/28/02	Letter from A. J. Nardi, Westinghouse, to NRC, re: Application for Amendment to Quality Assurance Approval Number 0090 (Docket Number 71-0090) (12 pages)
44.	09/04/02	Letter from A. J. Nardi, Westinghouse, to NRC, re: Submittal of Application for License Amendment to Delete License Condition SG-3.1 (License No. SNM-33, Docket 70-36) (1 page)

**APPENDIX T  
RECORDS BEING WITHHELD IN PART**

<b><u>NO.</u></b>	<b><u>DATE</u></b>	<b><u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u></b>
1.	10/02/92	Letter to J. Hickey, NMSS, USNRC regarding Response to NRC Questions on the Hematite License Renewal Application (86 pages) <b>[Ex. 6]</b>
2.	07/19/93	Letter to C. Emeigh; USNRC; Division of Fuel Cycle Safety and Safeguards regarding Hematite Organizational Amendment (58 pages) <b>[Ex. 6]</b>
3.	08/01/94	Letter to Mr. Hermann, NMSS, from M. Robles, ABB, Re Transmittal of Proprietary Slides (6 pages released; 31 pages withheld) <b>[Ex. 4]</b>