



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

2004-0234

6

RESPONSE TYPE  FINAL  PARTIAL

REQUESTER

Matthew S. Hammel

DATE

DEC 14 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 **P, Q, R** 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 **P, Q, R** 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 ML041310167.

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

Russell A. Nichols *Russell A. Nichols*

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

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

APPENDICES

Q

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 Safey and Safeguards	Appendix Q	✓		

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 P  
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>
<b>RIII-1999-A-0136</b>		
1.	01/14/00	Memorandum from C. Pederson to J. Heller, re: Review of Analysis Results for Mercury That Had Been Taken Offsite - AMS Case File No. RIII-1999-A-0136 (Combustion Engineering) (5 pages)
<b>RIII-1993-A-0137</b>		
2.	12/17/93	Memorandum from G. Shear to R. DeFayette, re: Allegation Follow-up Combustion Engineering License No. SNM-33, Docket No. 070-00036 AMS No. RIII-93-A-0137 (4 pages)
<b>RIII-1995-A-0094</b>		
3.	07/10/95	Memorandum from G. Shear to R. Pierson, re: Combustion Engineering License No. SNM-33 (1 page)
4.	08/29/95	Memorandum to D. Funk from J. Jacobson thru G. Shear, re: Telephone Contact with Combustion Engineering (1 page)
5.	09/28/95	Memorandum from R. Pierson, re: technical Assistance Request for Combustion Engineering Compliance with 10 CFR 20.106 (1 page)
6.	UNDATED	Memorandum to AMS File No.: RIII-95-A-094 from G. Shear, re: Telecon with Kim Jones - USEPA (1 page)
<b>RIII-1995-A-0125</b>		
7.	11/27/95	Letter to ABB Combustion Engineering from C. Pederson, re: Routine safety Inspection - ABB Combustion Engineering, Hematite, MO (NRC Inspection Report No. 070-00036/95004(DNMS) (15 pages)
8.	10/23/95	Memorandum to D. Funk from J. Jacobson thru G. Shear, re: Potential Willful Violation (2 pages)
<b>RIII-1999-A-0029</b>		
9.	07/16/99	Memorandum to B. Clayton from C. Pederson, re: Allegation Followup: ABB Combustion Engineering, Inc. ( RIII-99-A-0029) (4 pages)

**APPENDIX Q  
RECORDS BEING WITHHELD IN PART**

<b><u>NO.</u></b>	<b><u>DATE</u></b>	<b><u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u></b>
1.	11/19/85	Letter to Jack Hind, RIII, from H. Eskridge, CE, forwarding report requested in NRC letter of 10/18/85 re Inspection Rpt. No. 70-36/85002. (1 pg released; 5 pgs withheld) <b>[Ex. 4]</b>
2.	06/20/89	Letter to K. Drey regarding information on Combustion Engineering (1 page) <b>[Ex. 6]</b>
3.	07/07/89	Letter to L. Rouse, NMSS, from A. Scherer, CE, regarding license amendment request for Hematite organizational changes (43 pages) <b>[Ex. 6]</b>
4.	07/25/89	Letter to NRC license management from D. Stephens regarding NRC license 34-00255-06G (1 pg released; 2 pgs withheld) <b>[Ex. 4]</b>
5.	05/18/90	Ltr from John R. Conant, ABB Combustion Engineering Nuclear Power to Robert M. Bernero, NMSS, RE: Amendment to Hematite Fundamental Nuclear Material Control Plan (2 pgs released; 31 pgs withheld) <b>[Ex. 4]</b>
6.	08/23/90	Letter to C. Haughney, NMSS, from J. Conant, ABB, regarding revision to Hematite Radiological Contingency Plan (158 pgs released; 4 pgs withheld) <b>[Ex. 4]</b>
7.	03/06/91	Letter to Mr. Rode, CE, from Theodore Sherr, NMSS, re Inspection Report NO. 70-36/91-201. (2 pgs released; 3 pgs withheld) <b>[EX. 4]</b>
8.	01/08/92	Letter to M. Dodson from Dept. Of Natural Resources, State of Missouri, regarding proposed expansion of ABB Combustion Engineering, Inc. (1 page) <b>[Ex. 6]</b>
9.	09/11/92	Letter to M. Dodson regarding copies of 7 documents (2 pages) <b>[Ex. 6]</b>
10.	11/08/94	Letter to Gary Stout, documenting received of Complain No. 74180357 (4 pages) <b>[Ex. 6]</b>

**APPENDIX Q - continued**  
**RECORDS BEING WITHHELD IN PART**

<b><u>NO.</u></b>	<b><u>DATE</u></b>	<b><u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u></b>
11.	08/29/97	Letter to Bill Beach, Subj: CONTINUED SAFE OPERATION OF DRY HF SCRUBBERS (3 pages released; 1 page withheld in entirety, [Ex. 4])
12.	09/03/99	Memorandum to B. Clayton from C. Pederson, re: Allegation Followup: ABB Combustion Engineering, Inc. ( RIII-99-A-0029) (10 pages) [Ex. 7C]

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

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	04/28/80	Letter from H.E. Book to A. Grella. Inspection Report - Beatty, Nevada Burial Site. (12 pages)
2.	02/04/81	Letter from H. E. Eskridge, Combustion Engineering, to Director of Inspection and Enforcment. Effluent Monitoring Report July - December 1980 (2 pages)
3.	07/08/83	Letter from H. E. Eskridge, CE, to W.T. Crow, NMSS, re Radiation Exposure Information. (6 pages)
4.	07/13/83	Memo to W.T. Crow from G.H. Bidinger. Tc-99 at CE-Hematite. (1 page)
5.	02/21/85	Letter from H.E. Eskridge, CE, to Director of Inspection and Enforcment. Effluent Monitoring Report July - December 1984 (2 pages)
6.	05/20/88	Letter to George Bidinger, NMSS, from H. E. Eskridge, CE, re additional data for the evaporation pond decommissioning and the spent limestonge monitoiring projects. Docket 07000036. (5 pages)
7.	06/16/88	Letter from L. Rouse, NMSS, to Combustion Engineering re amendment to license SNM-33. Docket 0700-0036. (11 pages)
8.	02/10/89	Letter to L. Rouse, nmss, from A. Scherer, CE, regarding R-2 Modifications License Amendment Request (15 pages)
9.	02/11/89	Letter to USNRC from H. Eskridge, CE, regarding Personnel Exposure & Monitoring Report for Calendar Year 1988 (2 pages)
10.	02/11/89	Letter to USNRC regarding Effluent Monitoring Report - July Through December, 1988 (2 pages)
11.	02/24/89	Letter from USNRC to P. McGill of Combustion Engineering regarding a 09/30/88 letter about construction of additional space at Hematite (11 pages)

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

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
12.	03/08/89	Letter to C. MacDonald, NMSS, from A. Scherer, CE, regarding response period for CE-250-2 container information request (1 page)
13.	03/17/89	Letter to C. MacDonald, NMSS, from A. Scherer, CE, regarding amendment of compliance #9022 (3 pages)
14.	04/07/89	Letter to L. Rouse, NMSS, from J. Rode, CE regarding spent limestone monitoring results (16 pages)
15.	05/01/89	Letter to L. Rouse, NMSS, from A. Scherer, CE, regarding license amendment request for production with new pellet lines (75 pages)
16.	05/10/89	Letter to Combustion Engineering, Inc. from D. McCaughey regarding safety evaluation report, application dated Feb. 19 1989, reference modification of R-2 conversion reactor (3 pages)
17.	05/17/89	NRC Letter to various licensees asking for a response to an attached NRC letter dated 4/27/89, entitled "Notification of the NRC Employees' Potential; Safety Issues" (7 pages)
18.	05/18/89	Letter to J. Rode, Combustion Engineering, Inc., from M. Horn, NMSS, regarding copies of EA and Finding of No Significant Impact (FONSI) (10 pages)
19.	05/23/89	Letter from A. Scherer, CE, to C. MacDonald, NMSS, "Quality Assurance Program for Shipping Packages" (2 pages)
20.	06/15/89	Letter from A. Scherer, CE, to C. MacDonald, NMSS, "CE-250-2 Shipping Container Criticality Evaluation" (4 pages)
21.	07/18/89	Letter to D. McCaughey, NMSS, from H. Eskridge, CE, regarding survey results for utility/support building area (8 pages)
22.	07/27/89	Letter to C. MacDonald, NMSS, from A. Scherer, CE, regarding NRC request for info on UNC-2901 shipping container (1 page)
23.	07/28/89	Letter to Combustion Engineering (J. Rode) from L. Rouse, NMSS, re license SNM-33 amended to allow startup & testing of new pellet production lines (4 pages)

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

<b><u>NO.</u></b>	<b><u>DATE</u></b>	<b><u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u></b>
24.	08/08/89	Memorandum to C. Bechhoefer, Esquire, ASLB, from L. Rouse, NMSS, regarding amendment #13 to license SNM-33 (1 page)
25.	08/15/89	Note to E. Julian, SECY, from C. Bechhoefer, ASLBP, regarding Combustion Engineering, Inc. (Hematite fuel fabrication facility) (12 pages)
26.	09/27/89	Memorandum to C. Bechhoefer, ASLB, from L. Rouse, NMSS, regarding Combustion Engineering, Inc. staff hearing file (3 pages)
27.	10/19/89	Letter from G. Bidinger, NMSS, to J. Rode, CE, enclosing results of a confirmatory survey for the Phase 2 construction (11 pages)
28.	10/19/89	Letter from G. Bidinger, NMSS, to Combustion Engineering asking for additional information regarding a license amendment application dated 5/1/89. (3 pages)
29.	10/23/89	Letter from A. Scherer, CE, to L. Rouse, NMSS, requesting changing words on the license amendment related to start-up and test of new pellet lines from "depleted uranium" to "uranium source material". (7 pages)
30.	10/26/89	Letter from A. Scherer, CE, to L. Rouse, NMSS, re "Supplemental Information for Hematite License Amendment Request" for pellet production. (6 pages)
31.	11/15/89	Letter from L. Rouse, NMSS to the CE, re "Categorical Exclusion for Amendment Request Dated October 23, 1989" (2 pages)
32.	11/15/89	Letter from D. McCaughey, NMSS, to Combustion Engineering, re "Safety Evaluation report, Amendment Application Dated October 23, 1989, Re Use of Natural Uranium In New Pelletizing Process" (1 page)
33.	11/24/89	Letter from G. Sjoblom, NMSS, to the J. A. Rode, CE, transmitting an amendment authorizing to use U enriched to 5% (9 pages)



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

<b><u>NO.</u></b>	<b><u>DATE</u></b>	<b><u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u></b>
34.	12/07/89	Memo from A. Datta, NMSS, to G. France, RIII, transmitting a report on fire protection, "Inspection of Combustion Engineering, Inc., Hematite Missouri, 11/13-17/89" (5 pages)
35.	12/11/89	Letter from D. McCaughey to A. Scherer acknowledging receipt of correspondence dated 11/22/89 regarding CE management change. (1 page)
36.	12/13/89	Letter from V. Tharpe, NMSS, Combustion Engineering, acknowledging the receipt of application dated 11/22/89 and 12/8/89. (1 page)
37.	12/14/89	Letter from R. Bernero, NMSS, to Combustion Engineering & Asea Brown Boveri, Inc., informing that the EDO will decide whether the CE will become a wholly owned subsidiary of Asea Brown Boveri, Inc. (1 page)
38.	12/20/89	Letter from G. Sjoblom, NMSS, to J. Rode, CE authorizing the use of Am-241 in calibration sources. (2 pages)
39.	01/03/90	Letter from A. Scherer, CE, to G. Sjoblom, NMSS, re "License Amendment Request", providing additional information to remove 2 license conditions, No 36 and 37 in order to utilize the new pelletizing lines. (22 pages)
40.	01/08/90	Letter from J. Conant, ABB, to C. Haughney, NMSS, "Review of Renewal Application for Hematite License SNM-33" (2 pages)
41.	01/30/90	Letter from G. Bidinger, NMSS, to J. Rode, CE, asking the licensee to provide location and results of its analysis of four limestone samples taken in 08/90 by Oak Ridge Associated Universities (ORAU) (1 page)
42.	02/07/90	Letter from H. Eskridge, CE, to NRC providing personnel exposure and monitoring records for 1989. (2 pages)
43.	02/08/90	Letter from H. Eskridge, CE, to NRC providing personnel exposure and monitoring records for 1989. (2 pages)

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

<b><u>NO.</u></b>	<b><u>DATE</u></b>	<b><u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u></b>
44.	02/14/90	Letter from A. Scherer, CE, to C. MacDonald, NMSS, "Request to Temporarily Suspend Review of UNC-2901 Shipping Container Certificate of Compliance Amnedment:. (2 pages)
45.	02/22/90	Letter from A. Scherer, CE, to C. MacDonald, NMSS, "Revision of UNC-2901 Shipping Container Certificate of Compliance Amendment Request" (27 pages)
46.	04/04/90	Letter from A. Scherer, CE, to C. MacDonald, NMSS, "CE-250-2 Shipping Container" (2 pages)
47.	04/24/90	Memorandum from Carl J. Withee, NMSS to Nancy L. Osgood, NMSS, RE: Criticality Review for Revised UNC-2901 Shipping Package (2 pages)
48.	05/23/90	Acknowledgment ltr from Charles J. Haughney, NMSS to J.A. Rode, Combustion Engineering, Inc. (1 page)
49.	07/19/90	Ltr from J. F. Conant, ABB Combustion Engineering Nuclear Power to Charles J. Haughney, NMSS, RE: Financial Assurance for Decommissioning (29 pages)
50.	07/25/90	Letter to Mr. MacDonald, NMSS, from Mr. Conant, ABB, Subj: UNC-2901 Shipping Container Application discrepancy. (27 pages)
51.	07/27/90	Letter to Mr. MacDonald, NMSS, from John Conant, ABB, Subj: Certificate of Compliance No. 6294 Renewal Application. (73 pages)
52.	08/02/90	Memo to Earl Easton from Daniel Huang, Subj: Certificate of Compliance No. 6294, Revision No.13, Model No. UNC-2901 Shipping Container. (1 page)
53.	08/21/90	Memo to Bruce Mallett, NMSS, from James Doman, NMSS, Subj: Investigation of Defective Uranium Hexafluoride (UF6) Cylinder Valve Incident at Combustion Engineering, Inc. (CE) (Hematite) Facility. (8 pages)

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

<b><u>NO.</u></b>	<b><u>DATE</u></b>	<b><u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u></b>
54.	09/21/90	Ltr to Merri Horn - NRC from James A. Rode-Asea Brown Boveri, re: Additional Information on Ground Water Monitoring; (7 pages)
55.	10/12/90	Letter to Mr. Conant, ABB, from Charles MacDonald, NMSS, Subj: Application dated May 25, 1990. (5 pages)
56.	12/18/90	Letter to C. R. Waterman, CE, Inc. from J. H. Joyner, RI, Inspection Number 70-1100/90-07. (13 pages)
57.	01/11/91	Letter to J. A. Rode, ABB from George Bidinger, NMSS. Grant of a 30 day time extension. (1 page)
58.	02/07/91	Letter to Robert Bernero, NMSS, from ABB. Update of ABB Combustion Engineering Nuclear Power Signature Authorities. (8 pages)
59.	02/13/92	Letter to J. Hickey, NMSS, from J. F. Conant, ABB, regarding Construction at Hematite (9 pages)
60.	03/18/92	Memo to M. Tokar, Division of Industrial and Medical Nuclear Safety, USNRC Regarding Trip Report - Combustion Engineering (CE), Hematite, Missouri (3 pages)
61.	03/24/92	Rlll response to request to review licensee's responses to Bulletin 91-01 (2 pages)
62.	05/15/92	Letter to J. Hickey, NMSS, from J. F. Conant, ABB, regarding Response to NRC Bulletin 91-01, "Reporting Loss of Criticality Safety Controls" - Additional Information (15 pages)
63.	08/10/92	Memo to Addressees (USNRC) regarding Fuel Cycle Licensee Workshop (5 pages)