

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

2005-0194

12

RESPONSE
TYPE ☐ FINAL ☒ PARTIAL

REQUESTER

David Lochbaum

DATE

JUL 17 2006

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 ☒ 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 *

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- ☐ 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-2005-0194 request is located in ADAMS at ML050980122.

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****P**

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 2.390(d)(1).
- ☐ The information was submitted by a foreign source and received in confidence pursuant to 10 CFR 2.390(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
Guy P. Caputo	Director, Office of Investigations	Appendix P/1-P/3	✓		
Samuel J. Collins	Regional Administrator, RI	Appendix P/3-5, P/7-12	✓		
Michael R. Johnson	Director, Office of Enforcement	Appendix P/4, P/6, P/9	✓		

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 O
RECORDS BEING RELEASED IN THEIR ENTIRETY

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/PAGE COUNT</u>
1.	1/6/04	E-mail from Holian to Blough, Salem/HC Issues (1 page)
2.	1/7/04	E-mail from Meyer to Orr, Lochbaum perspectives on Salem/HC allegation (3 pages)
3.	01/21/04	E-Mail from Blough to Meyer, Phone Call with RI-2003-A-0110 Salem/HC SCWE Allegor (2 pages)
4.	01/26/04	E-mail from Orr to Vito, Rev. 7 of Salem/HC Work Environment Letter (1 page)
5.	01/27/04	E-Mail from Urban to Blough, Draft Letter to Salem/Hope Creek re: Work Environment (1 page)
6.	01/28/04	E-Mail from Malone to Meyer, Synergy Survey (1 page)
7.	01/29/04	E-Mail from Teator to Richart, PSEG site meeting & press release on our letter (1 page)
8.	01/29/04	E-Mail from Meyer to Salem/HC Group, PSEG site meeting & press release on our letter (1 page)
9.	01/29/04	E-Mail from Meyer to Miller, Summary of PSEG site-wide Meeting on NRC Letter (1 page)
10.	01/29/04	E-Mail from Meyer to Salem/HC Group, PSEG site meeting & press release on our letter (1 page)
11.	01/29/04	E-Mail from Orr to Meyer, PSEG Supervisory SCWE Mtg (1 page)
12.	01/30/04	E-Mail from Teator to Urban, PSEG Supervisory/SCWE Mtg (1 page)
13.	01/30/04	E-Mail from Teator to Barber, Source Transcript Index (1 page)

14. 01/30/04 E-Mail from Teator to Barber, cs interview (1 page)
15. 01/30/04 E-Mail from Teator to Monroe, Synergy Survey (1 page)
16. 01/30/04 E-mail from Teator to Monroe, PSEG site meeting & press release on our letter (1 page)
17. 2/2/04 E-Mail from Blanch to DAV_II, UCS Letter on Safety Culture to the Commissioners (5 pages)
18. 2/3/04 E-Mail from Teator to Monroe, UCS Letter on Safety Culture to the Commissioners (1 page)
19. 2/4/04 E-Mail from Meyer to Blough, Call w/Lochbaum on worker meeting (1 page)
20. 2/5/04 E-mail from Wilson to Blough, Lochbaum's reply on worker meeting (1 page)
21. 2/5/04 E-Mail from Meyer to Blough, Salem Strategy (1 page)
22. 2/20/04 E-Mail from Miller to Collins, Salem/HC Alleger (2 pages)
23. 2/23/04 E-Mail from Miller to Blough, Salem/HC alleger (2 pages)
24. 2/24/04 E-Mail from Blough to Meyer, Let's do a TA Briefing on Salem/HC SCWE before 3/28 (2 pages)
25. 2/27/04 Fax to Harvin from Vito (3 pages)
26. 3/2/04 E-Mail from Blough to Vito, PSEG Letter (2 pages)
27. 3/4/05 E-Mail from Wilson to Meyer, PSEG Response Letter, 2/27/04 (1 page)
28. 3/4/04 E-mail from Vito to Jarriel, PSEG Meeting Time and Place (1 page)
29. 3/4/04 E-Mail from Jarriel to Vito, Update meeting for Salem/HC SCWE allegation (1 page)
30. 3/10/05 E-Mail from Wilson to Jarriel, The Lochbaum Response re: Salem/Hope Creek Alleger's Case (1 page)
31. 3/11/04 E-mail from Blough to Howe, Unplug Salem confirms that

Whistleblower to speak at 3/28UNPLUG Salem Protest (7 pages)

- 32. 3/11/04 E-Mail from Vito to Jarriel, Pre-PSEG Meeting Discussion (1 page)
- 33. 3/16/04 E-Mail from Meyer to Jarriel, Additional meeting materials (8 pages)
- 34. 3/23/04 E-Mail from Cahill to Ferdas, SCWE (3 pages)
- 35. 3/26/04 E-Mail from Wilson to Blough, Alleger's Speech (1 page)
- 36. 3/29/04 E-Mail from Blough to Vito, Contact with alleger regarding change to widely known status (1 page)
- 37. 3/31/04 E-Mail from Jarriel to Blough, Your Advise, please...March 29 speech – alleger requests us ... (2 pages)
- 38. 3/31/04 E-Mail from Blough to Jarriel, Your Advise, please...March 29 speech – alleger requests us ... (2 pages)
- 39. 4/1/04 E-Mail from Koch to Vito, Remarks of Dr. Kymn Harvin (1 page)
- 40. 4/8/04 E-Mail from Teator to Vito, allegation receipt form (1 page)
- 41. 4/8/04 E-Mail from Teator to Vito, SSW at Salem#2 (1 page)
- 42. 4/8/04 E-Mail from Teator to Johnson, SSW at Salem #2 (1 page)
- 43. 4/13/04 E-mail from Bores to Meyer, Whistleblower at Salem/Hope Creek (4 pages)
- 44. 4/14/04 E-Mail from Miller to Blough, Whistleblower at Salem/Hope Creek (1 page)
- 45. 4/15/04 E-Mail from Wilson to Blough, call from Lochbaum (1 page)
- 46. 4/16/04 E-Mail from Teator to Neff, Clarification of allegation (1 page)
- 47. 4/16/04 E-Mail from Teator to Neff, Latest Phone Call to Salem/HC SCWE Alleger (1 page)
- 48. 4/16/04 E-Mail from Lochbaum to djv@nrc.gov, Clarification of allegation (1 page)

49. 4/16/04 E-Mail from Vito to SSALEMHCSCWE (1 page)
50. 4/16/04 E-Mail from Barer to Vito, Latest Phone Call to Salem/HC SCWE Allegor (1 page)
51. 4/19/04 E-Mail from Teator to Wilson, call to allegor went fine (1 page)
52. 4/19/04 E-Mail from Blough to Vito, call to allegor went fine (1 page)
53. 4/19/04 E-Mail from Blough to Vito, call to allegor went fine (1 page)
54. 4/21/04 E-Mail from Teator to Neff, outline/brief on H&I on salem hope creek h&I case (1 page)
55. 4/21/04 E-Mail from Neff to Wilson, SCEW report (1 page)
56. 4/21/04 E-Mail from Holody to Blough, Clarification of allegation (2 pages)
57. 4/26/04 E-Mail from Teator to Richart, Qual cards (1 page)
58. 4/26/04 E-Mail from Teator to Richart, e-mails (1 page)
59. 4/30/04 E-Mail from Meyer to Barber, Your questions on SCWE (4 pages)
60. 4/30/04 E-Mail from Gray to Vito, Follow-up to yesterday's discussions (5 pages)
61. 5/3/04 E-Mail from Wilson to Holody, SCEW report (1 page)
62. 5/7/04 E-Mail from jarriel to Vito, ECPF Communications 2004-010 (1 page)
63. 5/18/04 E-Mail from Richart to Gray, Hope Creek investigation (2 pages)
64. 5/19/04 E-Mail from Blough to Jarriel, thanks for participation in the R1 inspector seminar (2 pages)
65. 5/21/04 E-mail from Teator to Williamson, Winston & Strawn Transcripts (1 page)
66. 5/27/04 E-Mail from Teator to Wilson, draft ltr (1 page)
67. 6/9/04 E-Mail from Teator to Ferich, UCS recommendations for Salem/Hope Creek (1 page)

68. 6/9/04 E-Mail from Teator to Malone, visit to salem/hc (1 page)
69. 6/9/04 E-Mail from Lochbaum to arb@nrc.gov, UCS recommendations for Salem/Hope creek (2 pages)
70. Undated Hope Creek NRC Inspection Findings (6 pages)
71. 6/9/04 E-Mail from Teator to Orr, visit to salem/HC (1 page)
72. 6/14/04 E-Mail from Vito to SALEMHCSCWE, Call from RI-2003-A-0110 allegor re: Wednesday meeting (1 page)
73. 6/18/04 Green Ticket No. G20040385 (2 pages)
74. 6/28/04 E-Mail from Teator to Wilson, Remarks of June 16 (1 page)
75. 7/8/04 E-mail from Wilson to Blough, Today's ARB/OI's Request to Salem/Hp. Creek *1 page)
76. 7/9/04 E-mail from Blough to Holody, call from Bakken, PSEG (1 page)
77. 7/15/04 E-Mail from Farrar to Evans, Adams Document (1 page)
78. 7/19/04 Open Branch 3 Allegation Status Summary (22 pages) (20 pages and portions of 2 pages outside the scope of the request) (2 pages released)
79. 7/19/04 E-Mail from Blough to Wilson, Last Thursday's Call from Alleger (2 pages)
80. 8/10/04 Open Branch 3 Allegation Status Summary (3 pages) (2 pages outside the scope of the request and portions of one page) (1 page released)
81. 12/24/03 E-Mail from Barber to Wingfield, change in scoping document (1 page)
82. 11/12/04 E-Mail from Holian to Miller, Salem/HC allegor on SCWE - public (1 page)
83. 3/11/05 E-Mail from Urban to Nolan,, EDO Briefing (1 page)
84. 10/10/03 E-Mail from Neff to Vito, Salem/HC (1 page)
85. 10/16/03 E-Mail from Blough to Jolicoeur, Salem allegation status (2 pages)

- 86. 11/4/03 E-mail from Teator to Barber, cs interview (1 page)
- 87. 11/13/03 E-Mail from Neff to Wingfield, request for list of interviews to date (1 page)
- 88. 12/1/03 Allegation Review Board Disposition Record (2 pages)
- 89. 12/12/03 E-Mail from Vito to SALEMHCSCWE, please deliver to Mr. Hub Miller (1 page)
- 90. 12/22/03 E-Mail from Teator to Neff, hub meeting/new issue (1 page)

APPENDIX P
RECORDS WITHHELD IN THEIR ENTIRETY

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	9/3/03	Tel. Conversation with { } (1 page) Ex. 7C
2.	10/20/03	Proposed Interviews with Salem/Hope Creek Operators (1 page) Ex. 7C
3.	01/27/04	E-Mail from Neff to Barber, Rev. 7 of Salem/HC Work Environment Letter (2 page) Ex. 5
4.	01/27/04	E-mail from Luehman to Holody, Draft Letter to Salem/Hope Creek re: Work Environment (2 pages) Ex. 5
5.	01/27/04	E-mail from Blough to Vito, Calls with SCWE Alleger and UCS (1 page)
6.	01/28/04	E-Mail from Jarriel to Holody, Comments on SCWE Letter to PS&G (1 page) Ex. 5
7.	01/30/04	E-Mail from Vito to SALEMHCSCWE, Phone Call from RI-2003-A-0110 (1 page) Ex. 5
8.	4/9/04	PSEG/Allegation Project Plan (2 pages) Ex. 5
9.	4/12/04	E-mail from Jarriel to Blough, PSEG & Industry SCWE (1 page) Ex. 5
10.	5/26/04	Region I Daily Staff Notes (4 pages) Ex. 5
11.	7/21/04	E-Mail from Barber to Cobey, Salem/HC SCWE Alleger (1 page) Ex. 5
12.	4/25/05	Draft (5 pages) Ex. 5