

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

2008-0306

1

RESPONSE  
TYPE☐

FINAL

☒

PARTIAL

REQUESTER

Richard Webster

DATE

NOV - 5 2008

**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  
A 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  
B 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  
B 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.

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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

Donna Sealing

**RESPONSE TO FREEDOM OF INFORMATION  
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**PART II.A -- APPLICABLE EXEMPTIONS**

## APPENDICES

**C**

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.
- ☐ Low 2 Internal matters of a relatively trivial nature.
- ☐ High 2 Disclosure would risk circumvention of a legal requirement.
- ☐ 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).
- ☐ Disclosure will harm an identifiable private or governmental interest.
- ☐ 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
Marvin I. Itzkowitz	Associate General Counsel for Hearings, Enforcement and Administration	Appendix C		✓	

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 A

## DOCUMENTS ALREADY PUBLICLY AVAILABLE

Accession Number	Title	Document Date	Document Sensitivity	Availability	Official Record	Replicated
ML080930335	Board Notification Oyster Creek License Renewal.	04/03/2008	Non-Sensitive	Publicly Available	Yes	Yes
ML080940688	2008/04/03 - Transmittal of 04/03/08 Notification of Information in the Matter of Oyster Creek License Renewal Application.	04/03/2008	Non-Sensitive	Publicly Available	Yes	Yes
ML081090238	2008/04/11-Motion by Nuclear Information and Resource Service, et al., to Stay License Renewal Proceedings for Oyster Creek Nuclear Power Plant Pending Resolution of the Significant New Issue Notified by Staff.	04/11/2008	Non-Sensitive	Publicly Available	Yes	Yes
ML081140508	Letter from NJDEP to Samson Lee, Acting Director, Division of License Renewal Concerning Metal Fatigue.	04/17/2008	Non-Sensitive	Publicly Available	Yes	Yes
ML081160420	G20080283/EDATS: SECY-2008-0245/LTR-08-0223 - Ltr. Rep. Chris Smith & Rep. Jim Saxton re: Oyster Creek License Renewal Application.	04/17/2008	Non-Sensitive	Publicly Available	Yes	Yes
ML081150800	2008/04/18-Motion by Nuclear Information and Research Service, et al., to Reopen the Record and for Leave to File a New Contention, and Petition to Add a New Contention.	04/18/2008	Non-Sensitive	Publicly Available	Yes	Yes
ML081130053	2008/04/21-Oyster Creek - NRC Staff's Response in Opposition to Citizens' Motion to Stay.	04/21/2008	Non-Sensitive	Publicly Available	Yes	Yes
ML081160090	2008/04/21-AmerGen 's Answer Opposing Citizens' Motion to Stay Proceeding.	04/21/2008	Non-Sensitive	Publicly Available	Yes	Yes
ML081160306	2008/04/25- Letter from Annette L. Vietti-Cook to The Honorable Jim Saxton and The Honorable Chris Smith in response to their 04/17/08 letter.	04/25/2008	Non-Sensitive	Publicly Available	Yes	Yes
ML081200041	2008/04/28 - Oyster Creek - NRC Staff's Response in Opposition to Citizens' Motion to Reopen the Record and for Leave to File and Add a New Contention.	04/28/2008	Non-Sensitive	Publicly Available	Yes	Yes
ML081220876	2008/04/28-AmerGen's Answer Opposing Citizens' Motion to Reopen Record And Petition to Add a New Contention.	04/28/2008	Non-Sensitive	Publicly Available	Yes	Yes
ML081260166	Oyster Creek, Submittal of Changes to Technical Specifications Bases.	04/28/2008	Non-Sensitive	Publicly Available	Yes	Yes

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Accession Number	Title	Document Date	Document Sensitivity	Availability	Official Record	Replicated
ML081080077	Request for Additional Information for the Review of the Oyster Creek Nuclear Generating Station, License Renewal Application.	04/29/2008	Non-Sensitive	Publicly Available	Yes	Yes
ML081270386	Oyster Creek - Response to NRC Request for Additional Information on Metal Fatigue Analysis Related to License Renewal Application.	05/01/2008	Non-Sensitive	Publicly Available	Yes	Yes
ML081280102	LTR-08-0266 - Ltr. Alex S. Polonsky Re: In the Matter of AmerGen Energy Company, LLC (License Renewal for Oyster Creek) Docket No. 50-219-LR.	05/05/2008	Non-Sensitive	Publicly Available	Yes	Yes
ML081290455	2008/05/05-Letter from Alex S. Polonsky informing the Commission that on May 1, 2008, AmerGen submitted the enclosed Response to NRC Request for Additional Information on Metal Fatigue Analysis Related to Oyster Creek	05/05/2008	Non-Sensitive	Publicly Available	Yes	Yes
ML081400578	2008/05/05-Reply by Nuclear Information and Resource Service, et. al., to AmerGen's Opposition to Their Petition to Add a New Contention.	05/05/2008	Non-Sensitive	Publicly Available	Yes	Yes
ML081840708	2008/05/06-Motion For Leave To File A Reply to the NRC Staff's Opposition To citizens' Motion to Reopen	05/06/2008	Non-Sensitive	Publicly Available	Yes	Yes
ML081300754	2008/05/09-Commission Order Responding to "Motion by NIRS; Jersey Shore Nuclear Watch, Inc.; Grandmothers, Mothers and More for Energy Safety et al. to Reopen the Record and for Leave to File a New Contention, and Petition to Add a New Contention"	05/09/2008	Non-Sensitive	Publicly Available	Yes	Yes
ML081360472	2008/05/15 - Oyster Creek - NRC Staff's Response in Opposition to Citizens' Motion for Leave to File Reply to NRC Staff's Opposition to Citizens' Motion to Reopen.	05/15/2008	Non-Sensitive	Publicly Available	Yes	Yes
ML081430651	2008/05/15-Supplemental Petition by Nuclear Information and Resource Service: Jersey Shore Nuclear Watch, Inc.: Grandmothers, Mothers and More For Energy Safety: New Jersey Public Interest Research Group: New Jersey Sierra Club:	05/15/2008	Non-Sensitive	Publicly Available	Yes	Yes

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Accession Number	Title	Document Date	Document Sensitivity	Availability	Official Record	Replicated
	New Jersey....					
ML081490610	2008/05/15-Supplemental Petition by Collective Petitioners for Additional Investigation and Correction of Deficiencies Regarding License Renewal Reviews for Oyster Creek, Indian Point, Pilgrim, and Vermont Yankee Nuclear Power Plants.	05/15/2008	Non-Sensitive	Publicly Available	Yes	Yes
ML081640245	2008/05/15-Supplemental Petition by Listed Companies for Additional Investigation and Correction of Deficiencies Regarding License Renewal Reviews, for Oyster Creek, Indian Point, Pilgrim, and Vermont Yankee Nuclear Power Plants.	05/15/2008	Non-Sensitive	Publicly Available	Yes	Yes
ML081260005	G20080283/EDATS: SECY-2008-0245/LTR-08-0223 - Rep. Chris Smith & Rep. Jim Saxton Ltr from R. W. Borchardt Re: Oyster Creek License Renewal Application.	05/16/2008	Non-Sensitive	Publicly Available	Yes	Yes
ML081420442	2008/05/21-LB Order (Directing Parties to Submit Explanatory Pleadings and Affidavits)	05/21/2008	Non-Sensitive	Publicly Available	Yes	Yes
ML081490465	2008/05/23-AmerGen's Answer Opposing Citizens' Supplemental Petition.	05/23/2008	Non-Sensitive	Publicly Available	Yes	Yes
ML081340536	Y020080083 - Oyster Creek Cumulative Usage Factor Analysis.	05/27/2008	Non-Sensitive	Publicly Available	Yes	Yes
ML081490182	2008/05/27-NRC Staff's Explanatory Pleading and Affidavit.	05/27/2008	Non-Sensitive	Publicly Available	Yes	Yes
ML081490215	2008/05/27-Oyster Creek, Indian Point, Pilgrim and Vermont Yankee - NRC Staff's Answer to Supplemental Petition for Additional Investigation and Correction of Deficiencies in License Renewal Reviews.	05/27/2008	Non-Sensitive	Publicly Available	Yes	Yes
ML081510892	2008/05/27-Amergen's Response to May 21 Board Order.	05/27/2008	Non-Sensitive	Publicly Available	Yes	Yes
ML081550423	2008/05/27-Citizens' Response to Board Order and Motion to Supplement the Basis of Their Contention, Preliminary Statement.	05/27/2008	Non-Sensitive	Publicly Available	Yes	Yes

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Accession Number	Title	Document Date	Document Sensitivity	Availability	Official Record	Replicated
ML081710525	2008/06/04-Motion by Collective Petitioners for Leave to Reply to NRC's Oppositions to Supplemental Petition for Additional Investigation & Correction of Deficiencies Re: License Renewal Reviews for Oyster Creek, Indian Point, Pilgrim, & Vermont Yankee.	06/04/2008	Non-Sensitive	Publicly Available	Yes	Yes
ML081830402	2008/06/04-Motion by New England Coalition, Inc. et al. for Leave to Reply to NRC Staff's Oppositions to Supplemental Petition for Additional Investigation and Correction of Deficiencies re: Licensing Renewal Reviews for Vermont Yankee et al.	06/04/2008	Non-Sensitive	Publicly Available	Yes	Yes
ML081570618	2008/06/05 - Oyster Creek - NRC Staff's Answer to Citizens' Motion to Supplement the Basis of Their Contention.	06/05/2008	Non-Sensitive	Publicly Available	Yes	Yes
ML081650069	2008/06/05-Citizens' Motion to Strike and For Other Appropriate Relief Preliminary Statement.	06/05/2008	Non-Sensitive	Publicly Available	Yes	Yes
ML081620448	2008/06/06-AmerGen's Answer Opposing Citizens' Motion to Supplement.	06/06/2008	Non-Sensitive	Publicly Available	Yes	Yes
ML081690064	2008/06/16-Oyster Creek, Indian Point, Pilgrim, Vermont Yankee - NRC Staff's Response to Joint Motion for Leave to Reply to NRC Staff Opposition to Supplemental Petition for Additional Investigation and Correction of Deficiencies in Licence Renewal....	06/16/2008	Non-Sensitive	Publicly Available	Yes	Yes
ML081690078	2008/06/16-Oyster Creek - NRC Staff's Answer to Citizens' Motion to Strike NRC Staff Response to the May 21 Board Order.	06/16/2008	Non-Sensitive	Publicly Available	Yes	Yes
ML081720363	2008/06/16-AmerGen's Answer Opposing Citizens' Motion to Strike.	06/16/2008	Non-Sensitive	Publicly Available	Yes	Yes
ML081760304	Exelon Generation Company, LLC and AmerGen Energy Company, LLC Quality Assurance Topical Report, NO-AA-10, Revision 81.	06/16/2008	Non-Sensitive	Publicly Available	Yes	Yes
ML081690496	SRM-M080617-Affirmation Session: I. SECY-08-0065 DOE HLW Repository Pre-Application Matters PAPO-00; II. SECY-	06/17/2008	Non-Sensitive	Publicly Available	Yes	Yes

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Accession Number	Title	Document Date	Document Sensitivity	Availability	Official Record	Replicated
	08-0071 AmerGen Energy Oyster Creek Citizens' Motion to Stay; III. COMSECY-08-0017 DOE HLW Repository Pre-Application Matters.					
ML081700099	M080617 - Affirmation: I. SECY-08-0065 DOE HLW Repository: Pre-Application Matters), Docket No. PAPO-00; II. SECY-08-0071 - AmerGen License Renewal for Oyster Creek; III. COMSECY-08-0017 - DOE High-Level Waste Repository: Pre-Application Matters.	06/17/2008	Non-Sensitive	Publicly Available	Yes	Yes
ML081750428	NRC Response to J. Tauro - Grandmothers, Mothers, and More for Energy Safety (Grammes) regarding Oyster Creek.	06/23/2008	Non-Sensitive	Publicly Available	Yes	Yes
ML082070077	2008/07/18-Citizens Supplemental Citation in Support of Admission of Pending Contention Regarding Metal Fatigue.	07/18/2008	Non-Sensitive	Publicly Available	Yes	Yes
ML082060639	2008/07/24-LB Memorandum and Order (Denying Citizens' Motion to Reopen the Record and to Add a New Contention)	07/24/2008	Non-Sensitive	Publicly Available	Yes	Yes
ML082250230	2008/08/11 - Oyster Creek - NRC Staff's Answer in Opposition to Citizens' Petition for Review of LBP-08-12.	08/11/2008	Non-Sensitive	Publicly Available	Yes	Yes

**APPENDIX B**  
**RECORDS BEING RELEASED IN THEIR ENTIRETY**  
**(If copyrighted identify with \*)**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1.	04/02/08	Email from L. Lund, NRR to M. Baty, OGC on Board Notification. (2 pages)
2.	04/02/08	Email from L. Lund, NRR to D. Ashley, NRR on Board Notification. (2 pages)
3.	04/03/08	Email from L. Lund, NRR to N. Sheehan, OPA on Fwd: Fatigue-Pro Slides Briefing with Clarification. (4 pages)
4.	04/04/08	Email fro L. Lund, NRR to E. Gettys, NRR et al. on Re: Fatigue Analyses for License Renewal – Needed by COB Friday (April 4). (1 page)
5.	04/04/08	Email from N. Sheehan, OPA to L. Lund, NRR on Media questions re: board notification. (1 page)
6.	04/04/08	Email from N. Sheehan, OPA to L. Lund, NRR re: Oyster Creek recirculation nozzles. (1 page)
7.	04/04/08	Email from L. Lund, NRR to H. Chernoff, NRR and E. Miller, NRR Fwd: Oyster Creek Notification to the Commission. (1 page)
8.	04/07/08	Email from JGL to B. Boger, NRR et al. on Press on Oyster Creek Fatigue. (1 page)
9.	04/07/08	Email from J. Hufnagel, Exelon to D. Ashley, NRR et al. on Fatigue discussion w/NRC. (1 page)
10.	04/07/08	Email from J. Hufnagel, Exelon to D. Ashley, NRR et al. on Updated: Fatigue Discussion w/ NRC. (1 page)
11.	04/11/08	Email from J. Hufnagel, Exelon to D. Ashley, NRR RE: draft – summary of telecom. (2 pages)
12.	04/14/08	Email from J. Hufnagel, Exelon to D. Ashley, NRR on Draft telecom minutes. (2 pages)
13.	04/15/08	Email from J. Hufnagel, Exelon to D. Ashley, NRR RE: Draft Telecon, rev 2. (2 pages)
14.	04/15/08	Meeting Notice on fatigue discussion with OC. (1 page)
15.	04/16/08	Email from L. Lund, NRR to N. Sheehan, OPA RE: re: metal fatigue analyses. (1 page)



16. 04/17/08 Email from O. Yee, NRR to D. Ashley, NRR on Oyster Creek – Metal Fatigue RAI. (1 page)
17. 04/17/08 Email from L. Lund, NRR to S. Lee, NRR and T. Blount, NRR FW: draft metal fatigue RAIs. (2 pages)
18. 04/18/08 Email from J. Hufnagel, Exelon to D. Ashley, NRR RE: draft metal fatigue RAIs. (2 pages)
19. 04/21/08 Email from L. Lund, NRR to T. Blount, NRR FW: Cong. Letter re: OC metal fatigue. (2 pages)
20. 04/21/08 Email from L. Lund, NRR to E. Dacus, CA et al. FW: RIS and FRN. (1 page)
21. 04/29/08 Email from L. Allen, NRR to D. Ashley, NRR FW: Distribution of Final Document: RAI concerning Metal Fatigue and its Impact on the Review of Oyster LRA. (1 page)
22. 04/30/08 Email from J. Hufnagel, Exelon to D. Ashley, NRR RE: Distribution of Final Document: RAI Concerning Metal Fatigue and its Impact on the Review of Oyster LRA. (1 page)
23. 05/02/08 Email from L. Lund, NRR to D. Ashley, NRR on sexton and smith letter. (2 pages)
24. 05/05/08 Email from L. Lund, NRR to N. Sheehan, OPA et al. on summary bullets on OC fatigue response. (2 pages)
25. 05/06/08 Email from L. Lund, NRR to E. Dacus, OCA FW: Docket No. 50-219 – AmerGen Energy Company, LLC. (13 pages)
26. 06/03/08 Email from J. Fair, NRR to L. Lund, NRR Accepted: phone call with Oyster Creek on fatigue calculation information. (1 page)
27. 06/05/08 Meeting Notice on phone call with Oyster Creek on fatigue calculation information. (1 page)
28. 06/16/08 Email from A. Tsirigotis, NRR to D. Ashley, NRR RE: Oyster Creek metal fatigue Status. (1 page)
29. 07/07/08 Email from A. Tsirigotis, NRR to D. Ashley, NRR and J. Fair, NRR RE: Oyster Creek metal fatigue Status. (2 pages)

APPENDIX C  
RECORD BEING WITHHELD IN PART

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	08/04/08	Email from Leslie Vincent forwarding article regarding Oyster Creek foes appeal to force NRC review of metal fatigue. 2 pages <b>EX. 6</b>