



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

2009-0094

1

RESPONSE TYPE  FINAL  PARTIAL

REQUESTER

TERESA FOUNTAIN

DATE

APR 20 2009

**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, C** 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 incoming request is in ADAMS at ML090550057.

In your E-mail, dated February 25, 2009, you amended the dates for the records requested as October 28, 2008 through February 23, 2009.

Records with a ML Accession Number are publicly available in the NRC's Public Electronic Reading Room at <http://www.nrc.gov/reading-rm.html>. If you need assistance in obtaining these records, please contact the NRC's Public Documents Room (PDR) at 301-415-4737, or 1-800-397-4209, or by E-mail to [PDR.Resource@nrc.gov](mailto:PDR.Resource@nrc.gov).

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

*Donna Sealing*  
DONNA SEALING

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

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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
Samuel J. Collins	Regional Administrator, Region I	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  
RECORDS ALREADY PUBLICLY AVAILABLE**

Accession Number ML090370084  
Estimated Page Count 44  
Document Date 2/5/2009  
Document Type Inspection Report  
Letter  
Title IR 05000286-08-005; Entergy Nuclear Northeast  
(Entergy); 10/01/2008 - 12/31/2008; Indian Point Nuclear  
Generating Unit 3 - NRC Integrated Inspection Report and  
Exercise of Enforcement Discretion, dated 02/05/09.  
Author Name Lew D C  
Author Affiliation NRC/RGN-I/DRP  
Addressee Name Pollock J E  
Addressee Affiliation Entergy Nuclear Operations, Inc  
Docket Number 05000286  
License Number DPR-064  
Case/Reference Number EA-08-354  
Document/Report Number IR-08-005  
Class Official Record  
Declared as OAR? Yes  
Distribution Lists  
Sensitivity Non-Sensitive  
Availability Publicly Available  
Date to be Released 2/9/2009  
Copied to the Public Library? Yes

Accession Number ML090340463  
Estimated Page Count 39  
Document Date 2/3/2009  
Document Type Inspection Report  
Letter  
Title IR 05000247-08-005; 10/01/2008 - 12/31/2008; Indian  
Point Nuclear Generating Unit 2; Resident Inspector  
Quarterly Integrated Inspection Report.  
Author Name Gray M K  
Author Affiliation NRC/RGN-I/DRP/PB2  
Addressee Name Pollock J E  
Addressee Affiliation Entergy Nuclear Operations, Inc  
Entergy Operations, Inc  
Docket Number 05000247  
License Number DPR-026  
Case/Reference Number  
Document/Report Number IR-08-005  
Class Official Record

Declared as OAR? Yes  
Distribution Lists  
Sensitivity Non-Sensitive  
Availability Publicly Available  
Date to be Released 2/11/2009  
Copied to the Public Library? Yes  
Accession Number ML083390193  
Estimated Page Count 8  
Document Date 2/3/2009  
Document Type Letter  
Safety Evaluation  
Title Vermont Yankee - Safety Evaluation re Spent Fuel  
Management Program and Preliminary Decommissioning  
Cost Estimate.  
Author Name Kim J S  
Author Affiliation NRC/NRR/DORL/LPLI-1  
Addressee Name  
Addressee Affiliation Entergy Nuclear Operations, Inc  
Docket Number 05000271  
License Number DPR-028  
Case/Reference Number TAC MD8035  
TAC MD8051  
Document/Report Number  
Class Official Record  
Declared as OAR? Yes  
Distribution Lists  
Sensitivity Non-Sensitive  
Availability Publicly Available  
Date to be Released 2/11/2009  
Copied to the Public Library? Yes  
Accession Number ML083190292  
Estimated Page Count 8  
Document Date 1/7/2009  
Document Type Letter  
Safety Evaluation  
Title Pilgrim Nuclear Power Station - Safety Evaluation Re:  
Spent Fuel Management Program And Preliminary  
Decommissioning Cost Estimate (TAC Nos. MD8036 and  
MD9416).  
Author Name Kim J S  
Author Affiliation NRC/NRR/DORL/LPLI-1  
Addressee Name  
Addressee Affiliation Entergy Nuclear Operations, Inc  
Docket Number 05000273  
License Number DPR-035  
Case/Reference Number TAC MD8036

TAC MD9416

Document/Report Number  
Class Official Record  
Declared as OAR? Yes  
Distribution Lists  
Sensitivity Non-Sensitive  
Availability Publicly Available  
Date to be Released 1/15/2009  
Copied to the Public Library? Yes  
Accession Number ML083190276  
Estimated Page Count 17  
Document Date 11/14/2008  
Document Type Inspection Report  
Letter  
Title IR 5000003-08-009 & 07200051-08-001 on 06/24/2008 -  
10/01/2008 for Indian Point, Unit 1.  
Author Name Lorson R K  
Author Affiliation NRC/RGN-I/DNMS/DB  
Addressee Name Pollock J  
Addressee Affiliation Entergy Nuclear Operations, Inc  
Docket Number 05000003  
07200051  
License Number DPR-005  
Case/Reference Number  
Document/Report Number IR-08-001  
ir-08-009  
Class Official Record  
Declared as OAR? Yes  
Distribution Lists  
Sensitivity Non-Sensitive  
Availability Publicly Available  
Date to be Released 11/24/2008  
Copied to the Public Library? Yes  
Accession Number ML083370142  
Estimated Page Count 35  
Document Date 12/22/2008  
Document Type Letter  
License-Operating (New/Renewal/Amendments) DKT 50  
Safety Evaluation  
Title Indian Point Nuclear Generating, Unit Nos. 2 and 3 -  
Issuance of Amendments re: Control Room Envelope  
Habitability (TAC Nos. MD7523 and MD7524).  
Author Name Boska J P  
Author Affiliation NRC/NRR/DORL/LPLI-1  
Addressee Name  
Addressee Affiliation Entergy Nuclear Operations, Inc

Docket Number	05000247
	05000286
License Number	DPR-026
	DPR-064
Case/Reference Number	tac md7523
	TAC MD7524
Document/Report Number	
Class	Official Record
Declared as OAR?	Yes
Distribution Lists	
Sensitivity	Non-Sensitive
Availability	Publicly Available
Date to be Released	1/2/2009
Copied to the Public Library?	Yes

**APPENDIX A  
RECORDS ALREADY AVAILABLE IN THE PDR**

<u>NO.</u>	<u>DATE</u>	<u>ACCESSION NUMBER</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1.	12/01/08	ML083/440317	Letter from D. O'Brien, State of Vermont to NRC on State of Vermont comment on the Revised Spent Fuel Management Plan filed on October 14, 2008 by Entergy Nuclear Operations. (2 pages)
2.	01/07/09	ML083190292	Letter from J. Kim, NRR to Entergy on Pilgrim Nuclear Power Station – Safety Evaluation on Spent Fuel Management Program and Preliminary Decommissioning Cost Estimates. (8 pages)
3.	02/03/09	ML083390193	Letter from J. Kim, NRR to Entergy on Vermont Yankee – Safety Evaluation on Spent Fuel Management Program and Preliminary Decommissioning Cost Estimates. (8 pages)
4.	02/05/09	ML090370154	Letter from N. Sheehan, OPA to Rutland Herald on Vermont Yankee Decommissioning. (2 pages)
5.	11/05/089	ML090570830	E-mail w/Attachment, re/Indian Point Energy Center Status Report (2 pages)

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

<u>NO.</u>	<u>DATE</u>	<u>ACCESSION NUMBER</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1.	12/11/2008	ML083510667	Letter to U.S. NRC Regulatory Commission Document Control Desk, From: J.E. Pollock, Site Vice President, Indian Point Energy Center, Re: Notification of Unit 1 Transfer of 160 Spent Fuel Assemblies from the Spent Fuel Pool to the Indian Point Independent Spent Fuel Storage Installation. (2 pages).
2.	01/19/2009	None	U.S. NRC Invoice No. RL0285-09 to Entergy Nuclear Operations, Inc. for Vermont Yankee (6 pages)
3.	01/19/2009	None	U.S. NRC Invoice No. RL0325-09 to Entergy Nuclear Operations, Inc. for Indian Point 1 (4 pages)
4.	01/19/2009	None	U.S. NRC Invoice No. RL0342-09 to Entergy Nuclear Operations, Inc. for Palisades Nuclear Power Plant (4 pages)
5.	01/19/2009	None	U.S. NRC Invoice No. RL0347-09 to Entergy Nuclear Operations, Inc. for Pilgrim 1 (4 pages)
6.	01/21/2009	None	U.S. NRC Invoice No. RL0314-09 to Entergy Nuclear Operations, Inc. for Fitzpatrick (4 pages)
7.	01/21/2009	None	U.S. NRC Invoice No. RL0326-09 to Entergy Nuclear Operations, Inc. for Indian Point 2 (5 pages)
8.	01/21/2009	None	U.S. NRC Invoice No. RL0327-09 to Entergy Nuclear Operations, Inc. for Indian Point 3 (4 pages)

APPENDIX C  
RECORDS BEING WITHHELD IN PART

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	10/30/2008	E-mail from M. McLaughlin of USNRC to D. Mannai of Entergy, regarding Entergy VY decommissioning fund submittal (1 page) / Exemption 6