

2010-0118

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

RESPONSE TYPE FINAL PARTIAL

REQUESTER

Marc Levy

DATE

APR 19 2010

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 **D, E** 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 **D, E** 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)

Records have been returned to the submitter for their review and release determination.

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

Donna L. Sealing
Donna L. Sealing

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

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PART II.A -- APPLICABLE EXEMPTIONS

APPENDICES
D, E, F

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
Sandy M. Joosten	Executive Assistant, Office of the Secretary	Appendix D		✓	
Elliot B. Brenner	Director, Office of Public Affairs	Appendix D	✓		
R. William Borchardt	Executive Director for Operations	Appendix D	✓		

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."

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

DATE

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PART I.C COMMENTS (Continued)

Denying Officials:

James T. Wiggins, Director, Nuclear Security Incident Reponse, Appendix D

Eric J. Leeds, Director, Nuclear Reactor Regulation, Appendix D

Samuel J. Collins, Regional Administrator, Region I, Appendix D, F

**APPENDIX D
RECORDS BEING WITHHELD IN PART**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/ (PAGE COUNT)/EXEMPTIONS</u>
1.	11/22/2009	1:05am E-mail from D. Screnci of USNRC to I. Couret of USNRC, regarding TMI support (3 pages) Exemption 6
2.	11/22/2009	10:19am E-mail from A. Powell of USNRC to N. McNamara of USNRC, regarding update on the TMI event (2 pages) Exemption 6
3.	11/23/2009	9:25am E-mail from M. Brown of USNRC to S. Barber and R. Bellamy of USNRC, regarding Morning Call notes affecting Branch 6 – TMI Contamination event (2 pages) Exemption 6
4.	11/23/2009	10:50am E-mail from R. Barkley of USNRC to M. Cullingford of USNRC, regarding 11/21/2009 TMI Contamination Control Event (2 pages) Exemption 6
5.	11/23/2009	3:02pm E-mail from M. King of USNRC to various, regarding IOEB Clearinghouse Screening Summary for Monday, November 23, 2009 (6 pages) Portions Outside of Scope
6.	11/23/2009	6:03pm E-mail from D. Tiff of USNRC to R. Barkley and S. Collins of USNRC regarding Due-Outs from Chairman's Call to PA Gov on TMI Event (2 pages) Exemption 6
7.	11/24/2009	10:40am E-mail from M. Brown of USNRC to S. Barber and J. Brand of USNRC regarding Morning Call issues affecting Branch 6 – TMI and BV (2 pages) Exemption 6
8.	11/24/2009	3:18pm E-mail from R. Haskell of USNRC to various, regarding IOEB Clearinghouse Screening Summary for Tuesday, November 24, 2009 (4 pages) Portions Outside of Scope
9.	11/25/2009	1:30pm E-mail from E. Thomas of USNRC to various, regarding IOEB Clearinghouse Screening Summary for Wednesday, November 25, 2009 (7 pages) Portions Outside of Scope and Exemption 6
10.	11/30/2009	12:33pm E-mail from M. Brown of USNRC to D. Kern, R. Bellamy and S. Barber of USNRC regarding TMI – Radiation Release in Containment Associated with Steam Generator Removal (2 pages) Exemption 6
11.	11/30/2009	3:20pm E-mail from J. Brand of USNRC to M. Brown to

USNRC regarding TMI Radiation Release in Containment
Associated with Steam Generator Removal (2 pages)
Exemption 6

12. 12/01/2009 3:13pm E-mail from M. King of USNRC to various, regarding IOEB Clearinghouse Screening Summary for Tuesday, December 1, 2009 (4 pages) **Portions Outside of Scope**
13. 12/22/2009 4:30pm E-mail from M. King of USNRC to various, regarding IOEB Clearinghouse Screening Summary for Tuesday December 22, 2009 (5 pages) **Portions Outside of Scope**
14. 11/24/2009 8:00pm E-mail from R. Barkley of USNRC to S. Collins, D. Roberts, and J. Clifford of USNRC re: Event – Chairman's Talking Points – BEFORE OCA SCRUB (3 pages)
Exemption 6
15. undated Response to Questions from Chairman Klein's Office (2 Pages) **Exemption 5**
16. 11/21-11/22/2009 Transcript of Telephonic Communication (327 pages)
Exemption 6 & 7a

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

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1.	11/22/2009	9:51am E-mail from B. Mallett of USNRC to S. Collins of USNRC regarding TMI Event Followup – Appreciation and Awareness (1 page)
2.	11/22/2009	10:18am E-mail from S. Collins of USNRC to B. Mallett, J. Batkin, and G. Jaczko of USNRC, regarding Update on the TMI event (1 page)
3.	11/22/2009	10:28am E-mail from B. Mallett of USNRC to various, regarding Update on the TMI event (2 pages)
4.	11/22/2009	10:55am E-mail from D. Screnci of USNRC to A. Powell of USNRC, regarding Checking In (2 pages)
5.	11/22/2009	12:20pm E-mail from S. Collins of USNRC to B. Mallett and M. Johnson of USNRC, regarding Update on Chairman EA briefing re: TMI event (2 pages)
6.	11/22/2009	2:54pm E-mail from S. Collins of USNRC to E. Hayden of USNRC regarding Media Brief and Chairman (2 pages)
7.	11/22/2009	2:57pm E-mail from S. Collins of USNRC to E. Hayden of USNRC Regarding Media Brief and Chairman (2 pages)
8.	11/22/2009	3:02pm E-mail from D. Lew of USNRC to E. Hayden of USNRC regarding Key Messages re: TMI Contamination Event (2 pages)
9.	11/22/2009	4:24pm E-mail from D. Lew of USNRC to S. Barber and N. McNamara of USNRC regarding Key Messages re: TMI Contamination Event (3 pages)
10.	11/22/2009	4:27pm E-mail from E. Hayden of USNRC to N. Sheehan and D. Lew of USNRC regarding Key Messages re: TMI Contamination Event (3 pages)
11.	11/23/2009	9:20am E-mail fro L. Trocine of USNRC to D. Lew of USNRC regarding Update on the TMI event (2 pages)
12.	11/23/2009	12:25pm E-mail from F. Brown of USNRC to D. Lew and D. Roberts of USNRC regarding TMI INES Rating (2 pages)
13.	11/23/2009	1:06pm E-mail from D. Lew of USNRC to various regarding TMI High Activity Preliminary ERF.doc (4 pages)

14. 11/23/2009 1:48pm E-mail from S. Collins of USNRC to J. Clifford of USNRC regarding Chairman's call to Rep. Holden (1 page)
15. 11/23/2009 2:54pm E-mail from S. Collins of USNRC to various, regarding TMI INES Rating (2 pages)
16. 11/23/2009 4:16pm E-mail from S. Collins of USNRC to J. White of USNRC regarding Chairman's call to Rep. Holden (1 page)
17. 11/23/2009 4:19pm E-mail from F. Brown of USNRC to D. Lew and D. Roberts of USNRC regarding TMI INES Rating (2 pages)
18. 11/23/2009 4:33pm E-mail from D. Screnci of USNRC to J. Clifford of USNRC regarding TMI INES Rating (2 pages)
19. 11/23/2009 4:35pm E-mail from F. Brown of USNRC to S. Collins of USNRC regarding ACTION: Update on the TMI event int'l interest – so consider an INES rating (4 pages)
20. 11/23/2009 4:47pm E-mail from E. Hayden of USNRC to various, regarding Revised TMI press release (2 pages)
21. 11/23/2009 5:30pm E-mail from E. Leeds of USNRC to S. Collins and J. Wiggins of USNRC regarding TMI 0309 Review (1 page)
22. 11/23/2009 5:42pm E-mail from J. Clifford of USNRC to S. Collins of USNRC regarding Due-Outs from Chairman's call to PA Gov on TMI event (1page)
23. 11/23/2009 5:50pm E-mail from J. Clifford of USNRC to S. Barber and D. Tift of USNRC regarding Due-Outs from Chairman's call to PA Gov on TMI event (2 pages)
24. 11/23/2009 6:12pm E-mail from D. Tift of USNRC to J. Clifford and S. Collins of USNRC regarding Due-Outs from Chairman's call to PA Gov on TMI event (2 pages)
25. 11/23/2009 7:27pm E-mail from D. Lew of USNRC to D. Screnci of USNRC regarding ACTION: Update of TMI event int'l interest – so consider an INES rating (3 pages)
26. 11/24/2009 8:12am from D. Screnci of USNRC regarding Update on the TMI event Int'l interest – so consider an INES rating (4 pages)
27. 11/24/2009 10:42am E-mail from M. Brown of USNRC to S. Barber, J. Brand, and D. Spindler of USNRC regarding Update on TMI Loss of Contamination Control Event (4 pages)
28. 11/24/2009 12:14pm E-mail from D. Roberts of USNRC to F. Brown and D. Lew of USNRC regarding Update on the TMI event int'l interest – so consider an INES rating (7 pages)

29. 12/01/2009 2:27pm E-mail from L. Gibney of USNRC to N. McNamara of USNRC Regarding TMI write up (2 pages)
30. 12/21/2009 10:16am E-mail from M. Brown of USNRC to D. Kern, R. Bellamy and S. Barber of USNRC regarding Morning Call Issues affecting Branch 6 (TMI Press Release) with handwritten notes (2 pages)
31. 11/23/2009 10:20am E-mail from D. Spindler of USNRC to P. Bamford of USNRC Regarding TMI contamination (3 pages)
32. 11/23/2009 4:45pm E-mail from D. Spindler of USNRC to R. Bellamy of USNRC regarding TMI contamination (4 pages)
33. 11/24/2009 Decision Documentation for Reactive Inspection (Deterministic & Risk Criteria Analyzed) (MC 0309 Enclosure 1) (8 pages)
34. 11/22/2009 10:00am E-mail from R. McKinley of USNRC to J. White, R., Nimitz and S. Barber of USNRC, regarding Miscellaneous Additional TMI Info (1 page)
35. 11/23/2009 4:13pm E-mail from L. Trocine of USNRC to various, re: THANKS – RE: TMI Contamination Event – Chairman’s Talking Points (2 pages)
36. 11/23/2009 5:28pm E-mail from S. Collins of USNRC to various, re: OCA Followup Questions: ACTION for 11/21 THREE MILE ISLAND – Containment Contamination Event (2 pages)
37. 11/23/2009 5:33pm Email from L. Trocine of USNRC to various re: RESENT – STATUS – ACTION for 11/21 THREE MILE ISLAND EVENT – TMI Public, Federal, Int’l Interest – Containment Contamination Event (2 pages)
38. 11/25/2009 9:16am E-mail from L. Trocine of USNRC to D. Tiff re: RESENT – STATUS FYI – Responses to PA State Liaison – ??s on 11/21 THREE MILE ISLAND Containment Contamination Event (1 page)
39. 11/25/2009 10:15am E-mail from L. Trocine of USNRC to D. Diff & J. White of USNRC re: ACTION – Responses to ??s from JACZKO’s 11/23 Call to PA Governor on 11/21 THREE MILE ISLAND (TMI) Containment Contamination Event (1 page)
40. 11/23/2009 Chairman’s Talking Points, TMI Airborne Contamination Event Inside Containment (1 page)
41. 02/03/2010 7:29am E-mail from D. Jackson of USNRC to T. Setzer of USNRC Re: ACTION – Response to ??s from JACZKO’s 11/23 Call to PA Governor on 11/21/ THREE MILE ISLAND (TMI) Containment Contamination Event (2 pages)

42. 11/23/2009 4:58pm E-mail from L. Trocine of USNRC to D. Tiff of USNRC, regarding THANKS -- RE: TMI Contamination Event- Chairman's Talking Points (2 pages)
43. 11/23/2009 7:50am E-mail from S. Collins of USNRC to D. Lew and D. Roberts of USNRC, regarding WTOP radio covers radiation leak at TMI (1 page)
44. 11/23/2009 9:45am E-mail from E. Dacus of USNRC to D. Tiff of USNRC regarding TMI Update (3 pages)
45. 11/23/2009 2:04pm E-mail from D. Roberts of USNRC to D. Screnci and N. Sheehan of USNRC regarding White House TMI Issue Talking Points (2 pages)
46. 11/23/2009 5:40pm E-mail from B. McDermott of USNRC to WTOP radio covers radiation leak at TMI (1 page)
47. 11/22/2009 5:45pm E-mail from N. Sheehan of USNRC to J. Clifford of USNRC re: Fw: KEY MEASURES RE: TMI Contamination Event (3 pages)
48. 11/22/2009 6:22pm E-mail from N. Sheehan of USNRC to E. Hayden of USNRC re: Fw: KEY MEASURES RE: TMI Contamination Event (3 pages)
49. 11/22/2009 6:30pm E-mail from D. Screnci of USNRC to E. Hayden & N. Sheenan of USNRC RE: KEY MEASURES RE: TMI Contamination Event (3 pages)
50. 11/25/2009 8:04am E-mail from D. Tiff of USNRC to L. Trocine of USNRC Re: FYI From Acting DEDR – FW: STATUS FYI – Response to PA State Liaison ??s on 11/21/ THREE MILE ISLAND Containment Contamination Event (4 pages)
51. 02/23/2010 8:11am E-mail fro HOO Hoc to M. Ralph of USNRC re: FW: Update on the TMI event int'l interest – so consider an INES Rating (3 pages)

APPENDIX F
RECORDS BEING WITHHELD IN THEIR ENTIRETY

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	01/15/2010	12:19pm E-mail from D. Kern of USNRC to R. Bellamy of USNRC, Regarding FW: Exit Notes for TMI IR 2009-05 (4 th quarter) (7 pages) Outside of Scope
2.	01/29/2010	Memorandum from S. Collins of USNRC to B. Mallett of USNRC, Regarding Region 1 Fiscal Year 2010 First Quarter Performance Report (13 pages) Exemption 2 & Portions Outside of Scope