

2011-0223

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

RESPONSE TYPE FINAL PARTIAL

REQUESTER
Rebecca Smith

DATE
JUL 1 2011

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 A 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 can be located in ADAMS at ML11136A089.

Per your conversation with Natalie Brown and Stephanie Blaney on May 16, 2011, you clarified the scope of your request to any correspondence between the licensee and the NRC subsequent to the issuance of the post-Fukushima Daiichi accidents inspection reports.

SIGNATURE, FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

Donna L. Sealing
Donna L. Sealing

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PART II.A -- APPLICABLE EXEMPTIONS

APPENDICES
B

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 practices 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).
 - 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 wrong doing or a violation of NRC requirements from investigators).
 - (C) Disclosure could 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)
Outside of Scope

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
Cathy Haney	Office Director, NMSS	Appendix B	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Satorious	Regional Administrator, RIII	Appendix B	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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 BEING RELEASED IN ENTIRETY**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1	03/21/11	Email from Michael Waters, Subject: FW: spent fuel pools in Region III: any post-Japan related actions? (4 pages)
2	03/21/11	Email from Eric Bowman, Subject: REPLY: spent fuel pools in Region III: any post-Japan related actions? (4 pages)
3	03/21/11	Briefing to the Commission the incidents in Japan (4 pages)
4	03/23/11	Email from Eric Benner, Subject: RE: Items for 8am EDO Call (1 page)
5	03/25/11	Email from Doug Weaver, Subject: TI related to B5b etc (1 page)
6	03/29/11	Email from Doug Weaver, Subject: TI (2 pages)
7	03/31/11	Email from Doug Weaver, Subject: Japan related Temporary Instruction (7 pages)
8	03/31/11	Email from Vonna Ordaz, Subject: Followup on Regional Biweekly Call (1 page)
9	04/01/11	Email from Timothy Kobetz, Subject: RE: TI (1 page)
10	04/01/11	Email from Doug Weaver, Subject: FW: Japan related Temporary Instruction (1 page)
11	04/01/11	Email from Doug Weaver, Subject: RE: Larry Camper response regarding TI 2515/183 for stand-alone spent fuel pools (3 pages)
12	04/01/11	Email from Doug Weaver, Subject: TI (1 page)
13	04/04/11	Email from Christine Lipa, Subject: FW: TI or not ... (3 pages)
14	04/05/11	Email from Vonna Ordaz, Subject: RE: Course of action for inspections at stand alone spent fuel pools (2 pages)

- 15 04/05/11 Email from Vonna Ordaz, Subject: Re: Plan for addressing stand
alone SFPs for Charlie Miller's Task Force (2 pages)
- 16 04/06/11 Email from Vonna Ordaz, Subject: Fw: Plan for addressing stand
alone SFPs for Charlie Miller's Task Force (3 pages)
- 17 04/20/11 Email from Christine Lipa, Subject: RE: Plan for addressing stand
alone SFPs for Charlie Miller's Task Force (2 pages)
- 18 04/20/11 Email from Vonna Ordaz, Subject: Re: Plan for addressing stand
alone SFPs for Charlie Miller's Task Force (3 pages)

**APPENDIX B
RECORDS BEING WITHHELD IN PART**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION (Page Count/Exemption)</u>
1.	05/13/11	Email from Cyrena J. Owens, Subject: 5-13-11 CR DCAC Actions Recommended report for 5-16-11 CRT (20 pages) Ex. 6/ PORTION OUTSIDE SCOPE
2.	05/16/11	Email from Andrew Persinko, Subject: RE: ACTION: RESPONSE: PLANS TO ISSUE BULLETIN TO NUCLEAR POWER PLANT LICENSEES (4 pages) PORTION OUTSIDE SCOPE
3.	05/16/11	Email from Roy Hunter, Subject: FW: (3 pages) Ex. 6
4.	05/18/11	Email from Kevin Barclay, Subject: FW: 05/13/11 CRs Requiring Screening (21 pages) PORTION OUTSIDE SCOPE
5.	05/28/11	Email from Debra Damiano, Subject: SFST Staff Meeting Notes for March 28, 2011 – w/NMSS Meeting Notes (13 pages) PORTION OUTSIDE SCOPE
6.	05/29/11	Email from Doug Weaver, Subject: RE: NOT FOR PUBLIC DISCLOSURE – Re: Development of a TI to assess adequacies of NMSS Licensees/CoC Holders to cope in regard to recent Japanese events (4 pages) PORTION OUTSIDE SCOPE