

2011-0289

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

RESPONSE TYPE

FINAL

PARTIAL

REQUESTER

Elisa Pandolfi

DATE

NOV 15 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 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.

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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 ML11188A176. Records with an ML accession number are available in the NRC's Library at www.nrc.gov/reading-rm/adams.html. For assistance in obtaining any records, please contact the NRC's Public Document Room (PDR) at 1-800-397-4209 or by email at pdr.resource@nrc.gov.

Records were referred to the U.S. Army Corp of Engineers, Pittsburgh District, for direct response to you.

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

Donna L. Sealing

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

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PART II.A -- APPLICABLE EXEMPTIONS

APPENDICES

C, D

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)

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
Cynthia A. Carpenter	Acting Director, FSME	Appendix C, D	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input 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 ALREADY PUBLICLY AVAILABLE**

<u>NO.</u>	<u>DATE</u>	<u>ACCESSION NUMBER</u>	<u>DESCRIPTION/ (PAGE COUNT)</u>
1.	01/19/07	ML070310196	News Release No. 07-019: Usage Public Meeting for Shallow Land Disposal Area in Parks Township (1 page)
2.	03/16/07	ML070790612	Enclosures 1-15, 3/16/07, Letter to C.L. Miller from D.J. Allard – Pennsylvania Revised Formal Agreement State Request (224 pages)
3.	10/11/07	ML072850172	US Army Corps of Engineers – Shallow Land Disposal Area, Parks Township, PA Information Release, Dated Oct 2007 (5 pages)
4.	11/21/07	ML090540021	D. Shrum Memo Re: Review of Institute for Energy and Environmental Research Report Related to Shallow Land Disposal of Depleted Uranium (7 pages)
5.	02/10/09	ML090080586	T. Chalker Letter re: Change in U.S. Nuclear Regulatory Commission Project Manager for the Babcock and Wilcox Technologies Shallow Land Disposal Area, Parks Township, Pennsylvania (4 pages)
6.	05/31/09	ML092080431	Figure 2-2 Shallow Land Disposal Area Armstrong County, PA (1 page)
7.	06/02/09	ML091950610	Final Waste Management Transportation and Disposal (WMTD) Plan, Shallow Land Disposal Area Formerly Utilized Sites Remedial Action Program (FUSRAP) Site Remediation (475 pages)
8.	06/02/09	ML091950601	Final Water Management Plan, Shallow Land Disposal Area FUSRAP Site Remediation, Parks Township, Armstrong County, Pennsylvania (243 pages)
9.	06/02/09	ML091950603	Final Waste Management Transportation and Disposal (WMTD) Plan, Shallow Land Disposal Area Formerly Utilized Sites Remedial Action Program (FUSRAP) Site Remediation, Part 2 (800 pages)
10.	06/18/09	ML091420380	Request to Suspend U.S. Nuclear Regulatory Commission License No. SNM-2001, for the Babcock & Wilcox Technologies (BWXT), Shallow Land Disposal Area (SLDA), Parks Township, Pennsylvania (4 pages)

11. 07/24/09 ML092080433 Email re: Update Shallow Land Disposal Area License Suspense (2 pages)
12. 08/28/09 ML092520321 Re: Review of the Final Work Plans for the Shallow Land Disposal Area Site, Park Township, Armstrong County, Pennsylvania (6 pages)
13. 09/29/09 ML092240058 Response to the U.S. Army Corps of Engineers' Revised Schedule for Supervision of License No. SNM-2001 for the Babcock and Wilcox Technologies Shallow Land Disposal Area, Parks Township, Pennsylvania (4 pages)
14. 04/12/10 ML101040226 Notice of Open House Meeting by the U.S. Army Corps of Engineers to Public Information Session on the Parks Township Shallow Land Disposal Area (1 page)
15. 07/07/10 ML102030069 Y. Norman Letter re: Orise Contract No. DE-AC05-06OR23100, Analytical Results for Seven Soil Samples Associated with Shallow Land Disposal Area in Parks Township, Pennsylvania (TAC# J00346) [RFTA No. 10-001] DCN: 2020-LR-02-0 (4 pages)
16. 07/09/10 ML102030080 Y. Norman Letter re: Orise Contract No. DE-AC05-06OR23100, Additional Analytical Results for Seven Soil Samples Associated with Shallow Land Disposal Area in Parks Township, Pennsylvania (TAC# J00346) [RFTA No. 10-001] DCN: 2020-LR-03-0 (4 pages)
17. 07/16/10 ML102030086 Y. Norman Letter re: Orise Contract No. DE-AC05-06OR23100, Additional Analytical Results for Seven Soil Samples Associated with Shallow Land Disposal Area in Parks Township, Pennsylvania (TAC# J00346) [RFTA No. 10-001] DCN: 2020-LR-03-0 (4 pages)
18. 10/05/10 ML103130050 Comments on the U.S. Army Corps of Engineers' Response to Comments for the Shallow Land Disposal Area Final Status Survey Plan (3 pages)
19. 11/22/10 ML102500034 T. Chalker Letter re: U.S. Nuclear Regulatory Commission License No. SNM-2001, for the Shallow Land Disposal Area, Parks Township, Pennsylvania (4 pages)
20. 11/26/10 ML103020452 Response to Licensee's Letter of Intent Dated September 9, 2010 for the Shallow Land Disposal Area, Parks Township, Pennsylvania, License No. SNM-2001 (4 pages)
21. 11/30/10 ML103490632 Shallow Land Disposal Area (SLDA) Site Final Status Survey Plan, Parks Township, Armstrong County, Pennsylvania (142 pages)

22. 01/01/11 ML110130562 Y. Norman Letter re: Comments on the U.S. Army Corps of Engineers' Proposed SLDA FSSP Revisions from the October 21, 2010 Meeting Between the NRC, ORISE, USACE, and ANL for the Shallow Land Disposal Area Final Status Survey Plan (4 pages)
23. 01/05/11 ML110100318 Email from Y. Norman to L. Change and M. Lemoncelli re: Status of the Shallow Land Disposal Area: Licensee Perspective (1 page)
24. 01/11/11 ML110200135 Comments on the U.S. Army Corps of Engineers' Proposed SLDA FSSP Revisions from the October 21, 2010 Meeting Between the NRC, ORISE, USACE, and ANL for the Shallow Land Disposal Area Final Status Survey Plan (4 pages)
25. 04/21/11 ML11116A036 Shallow Land Disposal Area Site, Final Status Survey Plan (1 page)
26. 04/22/11 ML11123A192 BWX Technologies, Inc., Letter Confirming Understanding Regarding License Suspension and Eventual License Termination for the Shallow Land Disposal Area (2 pages)
27. 06/01/11 ML111670901 Document Receipt of the U.S. Army Corps of Engineers Controlled Documents for the Shallow Land Disposal Area, Parks Township, Armstrong County, Pennsylvania (2 pages)
28. 06/09/11 ML111590742 License, Technical Assistance Request (TAR), Reply to Memoranda (2 pages)
29. 06/20/11 ML111580507 Steve W. Schilthelm Letter re: Correction to License No. SNM-2001 for Shallow Land Disposal Area (4 pages)
30. 06/30/11 ML111780780 Memo from M. Kotzalas to Lydia Change re: Technical Assistance Request, Safety Evaluation Report, Nuclear Criticality Safety Assessment of Buried Waste and Contaminated Soil, Remediation of the Shallow Land Disposal Area Site and Review of Final Work Plan (2 pages)
31. 06/30/11 ML111780782 Safety Evaluation Report (11 pages)

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

<u>NO.</u>	<u>DATE</u>	<u>ACCESSION NUMBER</u>	<u>DESCRIPTION/ (PAGE COUNT)</u>
1.	07/16/10		Letter from Chad Coy, Cummings Riter to Steven Schilthelm, B&W Technical Services, Inc., re: Transmittal – Report No. 105 – Air Monitoring Summary Parks Township and Shallow Land Disposal Area Sites, Leechburg, Pennsylvania (103 pages)

**APPENDIX C
RECORDS BEING RELEASED IN PART
(If copyrighted identify with *)**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/ (PAGE COUNT)</u>
1.	06/11/09	Memo to File from Yolande Norman, re: Inter-agency meeting on June 9,2009, in Pittsburgh, PA, Shallow Land Disposal Area – FUSRAP Site / Babcock & Wilcox Technology Services (BWXT/BWX) Parks Township, Armstrong County, PA, License No. SNM-2001; Docket No. 070-03085 (26 pages) Ex. 5, 6
2.	01/12/10	Email from Lydia Change to various re: FW: Draft RAI Responses on SLDA and agenda (4 pages) Ex. 5, 6
3.	03/11/10	Email from Laurie Kauffman to Judith Joustra & Mark Roberts, Re: RE: SLDA Update (1 page) Ex. 5, 6
4.	04/01/10	Email from Lydia Change to various re: FW: SLDA Public Information Meeting and attachment (2 pages) Ex. 6
5.	05/21/10	Email from Lydia Change to various re: FW: Agenda: Chemical only Clean-up issues at SLDA Site and Coordination with USACE (2 pages) Ex. 5, 6
6.	06/22/10	Email from Yolande Norman to various re: RE: Above DCGL contingency plan – NRC's Response and attachment (6 pages) Ex. 6
7.	07/07/10	Email from David Frothingham to Yolande Norman, re: RE: Follow-up Question on SLDA (4 pages) Ex. 5, 6
8.	09/13/10	Division of Waste Management and Environmental Protection Technical Assistance Request (2 pages) Ex. 5, 6
9.	09/16/10	Email from Yolande Norman to various re: SLDA – Biweekly Teleconference Call 09/15/2010 (2 pages) Ex. 5
10.	09/24/10	Email from David Eberle to various re: Summary of September 21, 2010 Meeting at DEP SWRO (5 pages) Ex. 5, 6
11.	11/01/10	Email from Yolande Norman to various, re: SLDA Biweekly Teleconference Call on October 28, 2010 (3 pages) Ex. 5
12.	01/10/11	Email from Yolande Norman to various, Re: Sensitive FW: NRC's RAIs (2 pages) and attachment (10 pages) Ex. 4
13.	02/23/11	Email from Judith Joustra to Yolande Norman, re: RE: Sensitive SLDA Update (2 pages) Ex. 5, 6

14. 02/23/11 Email from Yolande Norman to various re: Sensitive: SLDA (Shallow Land Disposal Area) Update, Cabrera License (Teleconference Discussion between NRC-HQ & Region I) (4 pages) **Ex. 5, 6**
15. 02/24/11 Email from Yolande Norman to Mauri Lemoncelli & Lydia Change, Re: Update on SLDA – DOE's perspective (1 page) **Ex. 5**
16. 03/11/11 Email from Yolande Norman to Laurie Kauffman re: FW: SLDA Letter from US Army Corps of Engineers (Unclassified) with attachment (4 pages) **Ex. 6**
17. 03/16/11 Email from Yolande Norman to various re: FW: Letter from BWXT to NRC and attachment (3 pages) **Ex. 5, 6**
18. 05/20/11 Letter from William Lenart, USACE, re: Final documents for SLDA remediation project (no attachments) (2 pages) **Ex. 5, 6**
19. 06/03/11 Email from Mauri Lemoncelli to Lydia Chang, Re: RE: Confirmatory Order Re: Shallow Land Disposal Area, Parks Township, PS, SNM-2001 BWTX Comments (1 pages) **Ex. 5, 6**
20. 06/03/11 Email from Mauri Lemoncelli to Lydia Chang & Yolande Norman, Re: FW: Confirmatory Order Re: Shallow Land Disposal Area, Parks Township, PS, SNM-2001 (2 pages) and attachment (12 pages) **Ex. 5**
21. 06/07/11 Email from Mauri Lemoncelli re: RE: Confirmatory Order Re: Shallow Land Disposal Area, Parks Township, PS, SNM-2001 (2 pages) **Ex. 5**
22. 06/07/11 Email from Mauri Lemoncelli re: RE: (Unclassified) (2 pages) **Ex. 5, 6**
23. 06/07/11 Email from Charles Seabolt (Babcock & Wilcox) to Mauri Lemoncelli re: RE: Confirmatory Order Re: Shallow Land Disposal Area, Parks Township, PS, SNM-2001 (2 pages) **Ex. 5**
24. 06/27/11 Email from Yolande Norman to Lydia Chang & Mauri Lemoncelli Re: SLDA Biweekly Teleconference on June 9 and 23, 2011 (no attachment) (2 pages) **Ex. 5**

**APPENDIX D
RECORDS BEING WITHHELD IN THEIR ENTIRETY**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/ (PAGE COUNT)/EXEMPTIONS</u>
1.	undated	Demonstration of Subcriticality of Large Arrays of Isolation Containers Shallow Land Disposal Area Review (8 pages) Ex. 4
2.	09/09/09	Memo from Jane Marshal to Lydia Chang Re: Technical Assistance Request, Material Control and Accounting Review of the Shallow Land Disposal Area Site Remediation Final Work Plan (TAC No. J00346) (3 pages) Ex. 4
3.	09/21/09	Memo from Patricia Silva to Lydia Chang Re: Technical Assistance Request, Shallow Land Disposal Area Technical Review (TAC No. J00346): Request for Additional Information (3 pages) Ex. 4
4.	11/04/09	Letter from Lydia Chang to James Balocki, USACE, Re: Request for Additional Information Related to Work Plans for the Babcock & Wilcox Technologies – Shallow Land Disposal Area, Parks Township, Pennsylvania with attachment (19 pages) Ex. 4
5.	09/03/10	Memo to File from Yolande Norman Re: Interagency Principals Meeting on August 31, 2010, at the U.S. Army Corps of Engineers Office in Washington, DC to Discuss the Shallow Land Disposal Area (SLDA), Parks Township, SNM-2001 (3 pages) Ex. 5
6.	10/29/10	Memo from Thomas Grice to Lydia Chang Re: Technical Assistance Request, Material Control and Accounting Review of the Shallow Land Disposal Area Site Remediation Final Work Plan (TAC No. J00346) (4 pages) Ex. 4
7.	01/19/11	Email from Yolande Norman to Krupskaya Castellon Re: FW: NRC's RAIs (no attachment) (2 pages) Ex. 4
8.	04/01/11	Email from Yolande Norman to William Lenart Re: NRC's Review of the MC&A Redline and Waste Place (2 pages) Ex. 4
9.	06/09/11	Safety Evaluation Report, Nuclear Criticality Safety Assessment of Buried Waste and Contaminated Soil Remediation at the Park Township Shallow Land Disposal Area Site (11 pages) Ex. 5
10.	06/28/11	Meeting Notice Re: SLDA – Alaron Issue Possession Limits (6 pages) Ex. 5, 6