

2011-0289

2

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

RESPONSE TYPE FINAL PARTIAL

REQUESTER
Elisa Pandolfi

DATE
DEC 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 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 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 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 * You will be billed by NRC for the amount listed. None. Minimum fee threshold not met.
- \$ 993.59 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.

\$507.24 Search (9.0 hours @56.36/hour)
 \$484.70 Review (8.6 hours @ 56.36/hour
 \$ 1.65 cd-rom

\$993.59 Total

Advanced Payment of \$1,714.30 - \$993.59 = \$720.71 refund

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

2012-0289

DEC 15 2011

PART II.A -- APPLICABLE EXEMPTIONS

APPENDICES

E

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
Cynthia Carpenter	Acting Director, FSME	App E.	<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 E
RECORDS BEING RELEASED IN PART
(if copyrighted identify with *)

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1.	01/12/2010	Email from Mark Roberts, Region I, to Judith Joustra, re: FW: Draft RAI responses on SLDA (5 pages) Ex. 5, 6
2.	07/07/2010	Email from David G. Frothingham to Yolande Norman re: RE: Follow-up Questions on SLDA (4 pages) Ex. 6
3.	10/28/2010	Email string from Judith Joustra, NRC, through Janna Hummel, USACE, Re: FW: Bi-Weekly call USACE-NRC on Thursday, October 28, 2010 at 10:00 am and agenda (2 pages) Ex. 6
4.	10/25/2010	Email string from Judith Joustra, NRC, through Janna Hummel, USACE, Re: RE: SLDA Public Info Session Nov. 9 (2 pages) Ex. 6
5.	08/25/2010	Email string from Judith Joustra, NRC, through Janna Hummel, USACE, Re: FW: SLDA Public Information Meeting (2 pages) Ex. 6
6.	06/22/2010	Email string from Judith Joustra, NRC, through Janna Hummel, USACE, Re: FW: Above DCGL contingency plan (2 pages) Ex. 5, 6
7.	04/07/2010	Email string from Mark Roberts, NRC, through William Lenart, USACE, Re: RE: SLDA Public Information Meeting (2 pages) Ex. 6
8.	03/10/2010	Email string from Mark Roberts, NRC, through William Lenart, USACE, Re: RE: SLDA public meeting rescheduled for 12 April (2 pages) Ex. 6
9.	07/07/2011	Email from William Lenart, USACE to Yolande Norman, NRC re: Today's Telecom USACE/NRC (Unclassified) (2 pages) Ex. 6
10.	04/21/2011	Email from Jeffrey Hawk of USACE to CELRP-PA LRP, re: Corps to Hold public meeting on Shallow Land Disposal Area project in Parks Township, PA (2 pages) Ex. 6
11.	05/11/2011	Email string from Laurie Kauffman to various re: FW: SLDA bus tour of Site (Unclassified) (2 pages) Ex. 6
12.	10/28/2010	Email from Mark Roberts to Judith Joustra and Laurie Kauffman re: FW NRC Access to SLDA Information (1 page) Ex. 6
13.	04/05/2010	Email from Mark Roberts to Judith Joustra re: FW: SLDA telecom 6 Apr (3 pages) Ex. 6

14. 03/11/2011 Memo to File from Yolande Norman re: Site Tour and Inter-agency Meetings on March 2, 2011, for the Shallow Land Disposal Area (SLDA) Site, located in Parks Township, Armstrong County, Pennsylvania, License No. SNM-2001, Docket No. 070-03085 (10 pages) & attachment (35 pages) **Ex. 4, 6 and Outside of Scope**
15. 08/24/2010 Email from Laurie Kauffman to Judith Joustra re: FW: SLDA Chemical Clean Up Coordination ALL HANDS MEETING (2 pages) **Ex. 6**
16. 04/09/2010 Email string from Judith Joustra through William Lenart, USACE and David Allard, PADEP re: FW: SLDA public meeting (3 pages) **Ex. 6**
17. 06/26/2011 Email from Judith Joustra to Laurie Kauffman re: Applicability of SNM possession limits during transportation (from Parks SLDA) (5 pages) **Ex. 5, 6**