

2011-0040

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

RESPONSE TYPE  FINAL  PARTIAL

REQUESTER  
Michele Boyd

DATE  
**SEP 28 2012**

**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<br>D |
|-----------------|

 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<br>E,F |
|-------------------|

 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<br>E,F |
|-------------------|

 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 FOIA request will be available in ADAMS at ML103400053.

Records with an ML accession number are available in the NRC Library at [www.nrc.gov/reading-rm/adams.html](http://www.nrc.gov/reading-rm/adams.html). For assistance in obtaining any public records, please contact the NRC's Public Document Room (PDR) at 1-800-397-4209 or by e-mail at [PDR.Resource@nrc.gov](mailto:PDR.Resource@nrc.gov).

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  
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 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
Sandy M. Joosten	Executive Assistant, Office of the Secretary	See Appendix F	<input type="checkbox"/>	<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"/>

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 D  
RECORDS ALREADY PUBLICLY AVAILABLE

<u>NO.</u>	<u>DATE</u>	<u>ACCESSION NUMBER</u>	<u>DESCRIPTION/ (PAGE COUNT)</u>
1.	11/01/10	ML110460138	Letter to Chairman Jaczko from Senator Inhofe, Subject: NRC's Actions on the Licensing Application to Build a Repository at Yucca Mountain (1 page)

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

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/ (PAGE COUNT)</u>
1.	02/08/08	Calendar item – Subject: Drop-in NEI (Marv Fertel) (1 page)
2.	04/28/08	Calendar item – Subject: Cmr Jaczko's Swearing-in w/Senator Reid (1 page)
3.	05/13/08	Calendar item – Subject: GBJ – Travel to NEI Dry Storage Information Forum, Bonita Springs, FL (1 page)
4.	05/30/08	Calendar item – Subject: GBJ – Travel to NEI Government Affairs Conference, Farmington, PA (1 page)
5.	07/09/08	Calendar item – Subject: Courtesy visit w/Senator Inhofe (1 page)
6.	07/11/08	Calendar item – Subject: Drop-In w/NEI (1 page)
7.	09/14/08	Calendar item – Subject: GBJ Travel – NEI 2008 Fire Protection Info Forum and Energy Solutions Las Vegas/Salt Lake City Utah (1 page)
8.	09/15/08	Calendar item – Subject: AM – Speaking at NEI 2008 Fire Protection Info Forum (1 page)
9.	09/15/08	Calendar item – Subject: NEI 2008 Fire Protection Info Forum (1 page)
10.	09/17/08	Calendar item – Subject: DROP-IN: Nuclear Energy Institute (NEI) (1 page)
11.	09/25/08	Calendar item – Subject: Drop-in: Nuclear Energy Institute (NEI) (1 page)
12.	11/04/08	Calendar item – Subject: DROP-IN: NEI (Admiral Skip Bowman) (1 page)
13.	12/02/08	Calendar item – Subject: 2008 NEI Congressional Holiday Reception (1 page)
14.	02/18/09	Calendar item – Subject: Drop In: NEI (1 page)

15. 05/14/09 Calendar item – Subject: DROP-IN: NEI (1 page)
16. 07/09/09 Calendar item – Subject: Meeting w/Senator Inhofe (1 page)
17. 07/13/09 Calendar item – Subject: Meeting w/NEI Student Delegation (1 page)
18. 08/19/09 Calendar item – Subject: Meeting: Subcommittee on Energy and Water Development, Senate Committee on Appropriations (1 page)
19. 08/20/09 Calendar item – Subject: Meeting: Clerk, Subcommittee on Energy and Water Development, House Committee on Appropriations (1 page)
20. 08/27/09 Calendar item – Subject: Drop-In: NEI (1 page)
21. 09/20/09 Calendar item – Subject: Keynote Speaker: 2009 Fire Protection Information Forum (NEI) (1 page)
22. 10/23/09 Calendar item – Subject: Drop-In: NEI (1 page)
23. 01/08/10 Calendar item – Subject: Phone Call: Marv Fertel, NEI (Tom) (1 page)
24. 01/21/10 Calendar item – Subject: Phone Call: Marv Fertel, NEI (1 page)
25. 02/16/10 Calendar item – Subject: Event with President Obama and Secretary Chu (1 page)
26. 02/19/10 Calendar item – Subject: Phone call to Marv Fertel, NEI (1 page)
27. 03/02/10 Calendar item – Subject: Meeting with Congressman Edward Markey (1 page)
28. 03/09/10 Calendar item – Subject: (T) NEI Luncheon (1 page)
29. 04/08/10 Calendar item – Subject: Phone Call: Deputy Secretary Poneman, DOE (1 page)
30. 04/23/10 Calendar item – Subject: Phone Call: Marv Fertel, NEI (1 page)
31. 04/26/10 Calendar item – Subject: Phone Call: Marv Fertel, NEI (1 page)
32. 04/29/10 Calendar item – Subject: Meeting: NEI Fuel Cycle Experts (1 page)
33. 05/04/10 Calendar item – Subject: Meeting: Senator Jim Inhofe (1 page)

34. 07/08/10 Calendar item – Subject: Drop-in: NEI (MFertel, Pres and CEO NEI, W Gary Gates, Pres and CEO Omaha Public Power District, A Pietrangelo, Sr VP and CNO NEI (1 page)
35. 07/21/10 E-mail from Joshua Batkin, OCM/GBJ to Joyce Connery, DOE, Subject: Call with the Chairman and the Deputy Secretary (1 page)
36. 10/01/10 Calendar item – Subject: Chairman Phone call: Periodic Call with Marv Fertel, NEI (1 page)
37. 12/17/10 Calendar item – Subject: Lunch with Deputy Secretary Poneman (1 page)

**APPENDIX F  
RECORDS BEING WITHHELD IN PART**

<b><u>NO.</u></b>	<b><u>DATE</u></b>	<b><u>DESCRIPTION/ (PAGE COUNT)/EXEMPTIONS</u></b>
1.	03/22/10	Calendar item – Subject: Phone Call to Marv Fertel, NEI (1 page) <b>Portion marked EX. 6</b>
2.	07/28/10	Calendar item – Subject: Copy: Chairman Phone Call: Deputy Secretary Poneman (1 page) <b>Portion marked EX. 6</b>
3.	12/21/10	Commissioner Jaczko Telephone Log 2008 (7 pages) <b>Portions marked EX. 6 and Outside of Scope.</b>
4.	12/21/10	Commissioner Jaczko Telephone Log 2009 (5 pages) <b>Portions marked EX. 6.</b>
5.	12/21/10	Chairman Jaczko Telephone Log 2010 (2 pages) <b>Portions marked EX. 6.</b>