NRC FORM 464 Part I (10-2012) | U.S. NUCLEAR REGULATORY COMMISSION

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

FOIA/PA	RESPONSE NUMBER
2013-0010	2

RESPONSE TYPE ☐ FINAL ☑ PARTIAL

REQUESTER: Jessica Azulay

DATE: MAY 16 2013

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, B — 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: A, B — 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*
$ ____
* See comments for details

- ☐ You will be billed by NRC for the amount listed.
- ☐ You will receive a refund for the amount listed.
- ☐ None. Minimum fee threshold not met.
- ☐ Fees waived.

PART I.B -- INFORMATION NOT LOCATED OR WITHHELD FROM DISCLOSURE

- ☐ No agency records subject to the request have been located. For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. § 552(c) (2006 & Supp. IV (2010). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.
- ☑ 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 located in ADAMS at ML12289A038.

Records have been sent to another office within the NRC and are being reviewed for a release determination. You will be notified once this review has been completed.

Records with a ML Accession Number are publicly available in the NRC's Public Electronic Reading Room at http:www.nrc.gov/reading-rm.html. If you need assistance in obtaining these records, please contact the NRC's Public Document Room (PDR) at 301-415-4737, or 1-800-397-4209, or by E-mail to PDR.Resource@nrc.gov.

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

Donna L. Sealing

NRC FORM 464 Part II (1-2012) U.S. NUCLEAR REGULATORY COMMISSION	FOIA/PA	DATE
RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) / PRIVACY ACT (PA) REQUEST	2013-0010	MAY 16 2013

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 4702(b), 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)

Information has been deleted which is not pertinent to the subject of your request and is marked "Outside the 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
Eric J. Leeds	Director, NRR		☑	☐	☐
			☐	☐	☐
			☐	☐	☐

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

NO.	DATE	DESCRIPTION/(PAGE COUNT)
1.	05/29/12	PRB Closed Meeting Notes – 05/29/12 Subject: Gunter et al. 2.206 Requesting Enforcement Action Against James A. Fitzpatrick Plant (G20120172) (15 pages)
2.	07/19/12	PRB Closed Meeting Notes – 07/19/12 Subject: Gunter et al. 2.206 Requesting Enforcement Action Against James A. Fitzpatrick Plant (G20120172) (16 pages)
3.	05/16/06	Drawing of Standby Gas Filter Room/Elev.272' Area SG-1 (8 pages)

APPENDIX C
RECORDS BEING WITHHELD IN PART

NO.	DATE	DESCRIPTION/(PAGE COUNT)/EXEMPTIONS
1.	NO DATE	HARDENED PLANT VENT (1 page) **Outside Scope**
2.	NO DATE	INFO ON NEW YORK REACTORS (11 pages) **Outside Scope**
3.	NO DATE	REACTOR OVERSIGHT PROGRAM INFO (4 pages) **Outside Scope**
4.	NO DATE	TI 2515/183, R1 SUMMARY OF OBSERVATIONS (14 pages) **Outside Scope**
5.	NO DATE	SUPPLIED BY DIANE SCRENCI: TI 2513/183 (17 pages) **Outside Scope**
6.	NO DATE	APPENDIX A, MARK 1 PLANT-SPECIFIC ENHANCED VENTING CAPABILITY (34 pages) **EX 4**
7.	02/2012	SUMMARY OF R1 CONTAINMENT VENTS (3 pages) **EX 4, 7F & Outside Scope**
8.	03/16/12	FROM ANDREA RUSSELL TO SAMSON LEE: ACTION REQUEST FOR REVIEW OF G20120172 (4 pages) **EX 5, Outside Scope**
9.	03/19/12	FROM KIMYATA MORGANBUTLER TO ANDREA RUSSELL ACTION REQUEST FOR REVIEW OF G20120172 (4 pages) **EX 5**
10.	03/20/12	FROM ANDREA RUSSELL TO SAMSON LEE: G20120172 (5 pages) **EX 5**
11.	03/20/12	BY LARRY DOERFLEIN: PRB NOTES ATTACHED-DIAL-IN PROVIDED (4 pages) **EX b5, b6, b7C**
12.	03/21/12	FROM ANDREA RUSSELL TO SAMSON LEE: PRB REVISED NOTES ATTACHED (5 pages) **EX 5, b7C**
13.	03/22/12	FROM ROBERT DENNIG TO ANDREA RUSSELL: RE ACTION FOR YOUR REVIEW/COMMENT (5 pages) **EX 5, b7C**
14.	03/22/12	FROM ANDREA RUSSELL TO BRICE BICKETT: ACTION FOR YOUR REVIEW/COMMENT (5 pages) **EX 5, b7C**
15.	03/27/12	FROM ANDREA RUSSELL TO SAMSON LEE: FYI-G20120172 (2 pages) **EX b7C**
16.	03/29/12	FROM BRICE BICKETT TO BHALCHANDRA VAIDYA: RE PRB

DECISION ON REQUEST FOR IMMEDIATE ACTION (3 pages) **EX 5, b7C**

17. 04/3/12 FROM ANDREA RUSSELL TO SAMSON LEE: UPDATE-G20120172 (2 pages) **EX b7C**

18. 04/10/12 FROM ANDREA RUSSELL TO SAMSON LEE: ACTION-REQUEST FOR YOUR REVIEW (9 pages) **EX b7C**

19. 04/17/12 FROM ANDREA RUSSELL: MEETING AGENDA, SCRIPT ATTACHED (8 pages) **EX 6, 7C**

20. 04/19/12 Email B. Dean to C. Miller et al., FW: NRC Daily Notes for April 19, 2012 (2 pages) **EX Outside Scope**

21. 05/08/12 FROM ANDREA RUSSELL TO SAMSON LEE: ACTION REQUEST FOR REVIEW OF G20120172 (15 pages) **EX 5, b7C**

22. 05/11/11 FROM LARRY DOERFLEIN TO CHARLES MILLER: TASK FORCE QUESTION (1 page) **Outside Scope**

23. 05/13/11 FROM LARRY DOERFLEIN TO DIANE SCRENCI: SUMMARY OF INSPECTION ISSUES (18 pages) **Outside Scope**

24. 05/18/12 FROM BHALCHANDRA VAIDYA TO SAMSON LEE: G10120172, 2.206 Petition (29 pages) **EX 5 & 7C**

25. 05/18/12 From J. Monninger to B. Vaidya, RE: G10120172, 2.206 Petition, PRB Meeting of May 17, 2012 (2 pages) **EX 5**

26. 05/19/11 FROM JOHN RICHMOND TO LARRY DOERFLEIN: FITZ HARDENED VENT (8 pages) **Outside Scope**

27. 05/21/12 From M. Thadani to J. Monninger et al., RE: G10120172, 2.206 Petition, PRB Meeting of May 17, 2012 (2 pages) **EX 5**

28. 05/22/12 FROM JOHN MONNINGER TO LARRY DOERFLEIN: RE: HEADS UP (6 pages) **EX 5 & 7F**

29. 05/22/12 FROM ANDREA RUSSELL TO SAMSON LEE: ACTION REQUEST FOR REVIEW OF G20120172 (17 pages) **EX 5, b7C**

30. 05/29/12 FROM ANDREA RUSSELL TO SAMSON LEE: G20120172 (17 pages) **EX 5, b7C**

31. 06/08/12 FROM BHALCHANDRA VAIDYA TO SAMSON LEE: G20120172 (14 pages) **EX 5, b7C**

32. 06/14/12 From M. Lenomcelli to B. Vaidya, RE: G20120172 (Fitzpatrick 2.206) (2 pages) **EX 7C**

33. 07/05/12 From M. Lemoncelli to B. Vaidya, RE: voice mail re Fitzpatrick petition re

Mark 1 containment vent, G20120172 (4 pages) **EX 5**

34.	07/19/12	ORGANIZER-ANDREA RUSSELL: NOTES ATTACHED, DIAL-IN PROVIDED (17 pages) **EX 5, b6, b7C**
35.	08/23/12	FROM ANDREA RUSSELL TO SAMSON LEE: G20120172 (18 pages) **EX 5, b7C**
36.	09/04/12	FROM ANDREA RUSSELL TO SAMSON LEE: RE G20120172(19 pages) **EX 5, b7C**
37.	09/05/12	Email J. Monninger to A. Russell, B. Vaidya, Subj: G20120172 (Fitzpatrick 2.206): PRB Internal Meeting Notes on Initial Recommendation (19 pages) **EX 5**
38.	09/12/12	From B. Vaidya to J. Monninger, FW: Fitzpatrick 2.206 (3 pages) **EX 5**
39.	09/20/12	FROM ANDREA RUSSELL TO BRICE BICKETT: ACTION: FOR YOUR REVIEW/COMMENT (16 pages) **EX 5, b7C**
40.	09/24/12	FROM DARRELL ROBERTS: VISIT TO FITZPATRICK (3 pages) **Outside Scope**
41.	10/04/12	From M. Lemoncelli to B. Vaidya, RE: G10120172-Fitzpatrick Petition-ME8189 (4 pages) **EX 5**

APPENDIX D
RECORDS BEING WITHHELD IN THEIR ENTIRETY

NO.	DATE	DESCRIPTION / (PAGE COUNT)/EXEMPTIONS
1.	10/11/12	Email B.Vaidya to A. Russell, et al., Subj: PRB Decision on Initial Recommendation Re: Your Petition under 10CFR2.206 (2 pages) **EX 5 Pre-Decisional**
2.	10/18/12	Email M. Lemoncelli, NRC/OGC to B. Vaidya, NRR Subject: Fitz Response (3 Pages) **EX 5 Pre-Decisional, Attorney-Client**
3.	11/13/12	Email B. Vaidya to A. Russell,et al., Subj: Reminder to the Petitioner for Petitioner's Response (1 page) **EX 5 Pre-Decisional, Attorney-Client**
4.	11/14/12	Email M. Lemoncelli to B. Vaidya, Subj: PRB Decision on Initial Recommendation Re: Your Petition Under 10CFR2.206 (3 pages) **EX 5 Pre-Decisional, Attorney-Client**
5.	11/15/12	Email M. Lemoncelli, NRC/OGC I to B. Vaidya, NRR Subject: Reminder to the Petitioner for Petitioner's Response (3 pages) **EX 5, Pre-Decisional, Attorney-Client**
6.	11/15/12	Email B. Vaidya, NRR I to A. Russell, NRR, S. Lee, NRR, M. Lemoncelli, NRC/OGC, Subject: Response to email from Petitioners POC dated November 14, 2012 (2 pages) **EX 5 Pre-Decisional**
7.	11/20/12	Email M. Lemoncelli, NRC/OGC to B. Vaidya, NRR, A. Russell, NRR Subject: DRAFT Final Response to the Petitioners for Review & Comments (2 pages) **EX 5 Pre-Decisional, Attorney-Client**

APPENDIX D
RECORDS BEING WITHHELD IN THEIR ENTIRETY

NO.	DATE	DESCRIPTION/PAGE COUNT/EXEMPTIONS
8.	11/26/12	Email M. Lemoncelli, NRC/OGC to B. Vaidya, et al., Subject: PRB Decision on Initial Recommendation Re: Your Petition under 10CFR2.206 (4 pages) **EX 5 Pre-Decisional, Attorney-Client**