

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

2013-0135

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RESPONSE  
TYPE☐ FINAL☒ PARTIAL

REQUESTER

Kevin Cassidy

DATE

JUN 25 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 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 B, C** 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. ☐ None. Minimum fee threshold not met.
- ☐ You will receive a refund for the amount listed. ☐ 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 ML 13051A050.

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](mailto:PDR.Resource@nrc.gov).

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

Donna L. Sealing

**RESPONSE TO FREEDOM OF INFORMATION  
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**PART II.A -- APPLICABLE EXEMPTIONS**APPENDICES  
C

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)

**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		<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.	03/01/07	ML070540205	Summary of Meeting with Pilgrim on the Draft Supplemental Environmental Impact Statement Regarding Pilgrim License Renewal Review. (14 pages)
2.	05/17/12	ML12145A072	Letter from D. Morris, NOAA 5o Q. Imboden, NRR on the Conclusion of Informal Section 7 Consultation at Pilgrim. (40 pages)
3.	07/16/12	ML12213A477	Letter from D. Morris, NMFS, to A. Hull, NRR, regarding Ecolaw letter and Pilgrim section 7 Consultations. (12 pages)

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

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/ (PAGE COUNT)</u>
1.	02/16/12	Email from B. Balsam, NRR to A. Williamson, NRR et al., RE: Pilgrim Section 7. (3 pages)
2.	03/01/12	Email from J. Crocker, NOAA to B. Balsam, NRR Re: NRC letter for Pilgrim regarding Atlantic sturgeon. (2 pages)
3.	03/05/12	Email from B. Balsam, NRR to D. Logan, NRR on Pilgrim emails. (1 page)
4.	03/16/12	Email from A. Williamson, NRR to A. Imboden, NRR RE: SUNSI review request for ML061390355. (7 pages)
5.	03/21/12	Email from B. Balsam, NRR to M. Smith, OGC et al., on Pilgrim – NMFS letter replying to JRWA. (1 page)
	03/21/12	Attachment letter from D. Morris to M. Sheehan re: Ongoing Endangered Species Act Consultation, Pilgrim Nuclear Power Station. (3 pages)
6.	03/22/12	Email from B. Balsam, NRR to D. Logan, NRR RE: notes for NMFS call. (2 pages)
7.	03/26/12	Email from D. Logan, NRR to A. Imboden, NRR RE: PDF of today's webinar. (3 pages)
8.	04/10/12	Email from B. Balsam, NRR to J. Egan, Entergy RE: Pilgrim – A few clarification questions. (4 pages)
9.	04/10/12	Email from B. Balsam, NRR to J. Egan, Entergy RE: Pilgrim – 2010 Annual Report Marine Ecology Studies. (2 pages)
10.	04/10/12	Email from B. Balsam, NRR to J. Crocker, NOAA RE: Pilgrim – A few clarification questions. (7 pages)
11.	04/10/12	Email from J. Egan, Entergy to B. Balsam, NRR RE: Pilgrim – 2010 Annual Report – Marine Ecology Studies. (2 pages)
	04/22/11	Attachment – Impingement of Organisms on the Intake Screens at Pilgrim Nuclear Power Station. (35 pages)
	04/27/11	Attachment – Ichthyoplankton Entrainment Monitoring at Pilgrim Nuclear Power Station. (323 pages)

12. 04/11/12 Email from J. Crocker, NOAA to B. Balsam, NRR Re: Pilgrim – A few clarification questions. (4 pages)
13. 04/12/12 Email from J. Egan, Entergy to B. Balsam, NRR RE: Pilgrim – MIT study. (3 pages)
14. 04/12/12 Email from J. Crocker, NOAA to B. Balsam, NRR ESA 7 Consultation with NRC on Entergy's Pilgrim Nuclear Power Station. (2 pages)
- 04/12/12 Letter from M. Lampert to D. Morris, NOAA on ESA 7 Consultation with NRC on Entergy's Pilgrim Nuclear Power Station. (1 page)
15. 04/12/12 Email from B. Balsam, NRR to J. Crocker, NOAA on Pilgrim: NRC's complete responses to 4-9-12 NMFS questions. (6 pages)
16. 04/12/12 Email from B. Balsam, NRR to J. Crocker, NOAA RE: Pilgrim: NRC complete responses to 4-9-12 NMFS questions. (1 page)
- 04/11/00 Letter from J. Alexander, Entergy to D. Webster, EPA on Distribution of Pilgrim Nuclear Power Station Supplemental 316 Demonstration. ML061390357 publicly available (3 pages)
17. 04/12/12 Email from B. Balsam, NRR to J. Crocker, NOAA RE: Pilgrim: NRC complete responses to 4-9-12 NMFS questions. (1 page)
- Three Dimensional Field Surveys of Thermal Plumes from Backwashing Operations at a Coastal Power Plant Site in Massachusetts. (10 pages)
18. 04/12/12 Email from B. Balsam, NRR to J. Crocker, NOAA RE: Pilgrim: NRC complete responses to 4-9-12 NMFS questions. (1 page)
- August 1977 Thermal Surveys of Backwashing Operations at Pilgrim Station during July 1977. (82 pages)
19. 04/12/12 Email from B. Balsam, NRR to J. Crocker, NOAA RE: Pilgrim: NRC complete responses to 4-9-12 NMFS questions. (1 page)
- 04/11/00 Letter from J. Alexander, Entergy to D. Webster, EPA on Distribution of Pilgrim Nuclear Power Station Supplemental 316 Demonstration. ML061390357 publicly available (3 pages)
20. 04/13/12 Email from B. Balsam, NRR to J. Egan, Entergy RE: Pilgrim – MIT study. (3 pages)
21. 04/13/12 Email from J. Egan, Entergy to B. Balsam, NRR RE: Pilgrim License Renewal questions. (2 pages)

22. 04/13/12 Email from J. Egan, Entergy to B. Balsam, NRR FW: Pilgrim – MIT study. (3 pages)
23. 04/16/12 Email from J. Egan, Entergy to B. Balsam, NRR RE: Pilgrim : NRC's complete responses to 4-9-12 NMFS questions. (2 pages)
24. 04/16/12 Email from B. Balsam, NRR to J. Egan, Entergy RE: FW: Pilgrim question. (1 page)
25. 04/16/12 Email from J. Egan, Entergy to B. Balsam, NRR RE: FW: Pilgrim question. (7 pages)
26. 04/16/12 Email from B. Balsam, NRR to D. Logan, NRR on Letters to NMFS from various groups. (1 pages)
- 03/06/12 Affidavit of Anne Bingham. (4 pages) ML12068A181 publicly available
- 03/25/12 Reply Affidavit of Alex Mansfield. (9 pages) ML12086A269 publicly available.
27. 04/16/12 Email from J. Crocker, NOAA to B. Balsam, NRR on pilgrim question. (1 page)
28. 04/16/12 Email from J. Crocker, NOAA to B. Balsam, NRR FW: Pilgrim question. (6 pages)
- January 1974 MIT Oceanographic Studies at Pilgrim Nuclear Power Station to Determine Characteristics of Condenser Water Discharge. (42 pages)
29. 04/16/12 Email from B. Balsam, NRR to J. Egan, Entergy RE: Pilgrim question. (4 pages)
30. 04/17/12 Email from J. Egan, Entergy to B. Balsam, NRR RE: Pilgrim consultation. (2 pages)
31. 04/17/12 Email from B. Balsam, NRR to J. Crocker, NOAA RE: update on Pilgrim consultation. (1 pages)
32. 05/01/12 Email from J. Egan, Entergy to B. Balsam, NRR RE: Status of Pilgrim consultation. (2 pages)
33. 05/08/12 Email from J. Egan, Entergy to B. Balsam, NRR RE: Pilgrim clarification question... (2 pages)
34. 05/09/12 Email from J. Crocker, NOAA to B. Balsam, NRR Re: Pilgrim clarification question... (3 pages)

35. 05/09/12 Email from B. Balsam, NRR to J. Egan, Entergy RE: Pilgrim question... Dredging. (2 pages)
36. 05/09/12 Email from B. Balsam, NRR to J. Egan, Entergy RE: NMFS Outreach – Pilgrim. (1 page)
37. 05/09/12 Email from B. Balsam, NRR to M. Smith, OGC FW: NMFS Outreach Pilgrim. (1 page)
38. 05/10/12 Email from D. Logan, NRR to B. Balsam, NRR RE: Pilgrim memo to file. (6 pages)
39. 05/10/12 Email from B. Balsam, NRR to D. Logan, NRR RE: Pilgrim memo to file. (1 page)
40. 05/15/12 Email from B. Balsam, NRR to J. Crocker, NOAA et al., RE: Pilgrim. (1 page)
41. 05/15/12 Email from B. Balsam, NRR to J. Susco, NRR et al., FW: Pilgrim. (1 page)
42. 05/17/12 Email from J. Egan, Entergy to B. Balsam, NRR RE: Pilgrim. (1 page)
43. 05/21/12 Email from J. Egan, Entergy to B. Balsam, NRR FW: NMFS Consultation Letter – Pilgrim. (1 page)
44. 05/22/12 Email from B. Balsam, NRR to J. Crocker, NOAA et al., RE: Pilgrim Informal Consultation Letter. (2 pages)
- 05/17/12 Letter from D. Morris, NOAA to A. Imboden, NRR on Pilgrim Nuclear Power Station. (2 pages) ML12145A072 publicly available
45. 05/24/12 Email from J. Egan, Entergy to B. Balsam, NRR RE: Pilgrim License Renewal – Supplemental Response. (2 pages)
46. 05/29/12 Email from B. Balsam, NRR to J. Susco, NRR et al., RE: Pilgrim Informal Consultation Letter. (3 pages)
47. 06/06/12 Memo from B. Balsam, NRR and D. Logan, NRR to J. Susco, NRR on Summary of Section 7 Consultation Activities related to the National Marine fisheries Service's Final Rule to List the Atlantic Sturgeon. (10 pages) ML12152A298 non public
48. 06/29/12 Email from B. Balsam, NRR to T. Chapman, FWS Pilgrim Nuclear Power Station: Transmittal of final supplemental EIS. (1 page)

- 06/18/12 ASLB Memorandum and Order (Denying Petition for Intervention and Request to Reopen Proceeding and Admit New Contention) (14 pages) ML12170A914 publicly available
49. 06/29/12 Email from B. Balsam, NRR to M. Smith, OGC on Pilgrim: Have you seen this letter? (1 page)
50. 06/29/12 Email from B. Balsam, NRR to S. Uttal, OGC et al FW: Pilgrim Nuclear Power Station: Transmittal of Final Supplement EIS. (1 page)
51. 07/17/12 Email from D. Logan, NRR to M. Murray-Brown, NOAA et al., RE: Pilgrim follow up. (1 page)
52. 07/31/12 Email from B. Balsam, NRR to J. Egan, Entergy FW: Pilgrim letter. (2 pages)
53. 07/31/12 Email from B. Balsam, NRR to D. Logan, NRR et al., FW: Pilgrim letter (1 page)
- 07/16/12 Letter from D. Morris, NOAA to A. Hull, NRR regarding the relicensing and continued operation of Pilgrim. (12 pages) ML12213A477 publicly available
54. 08/30/12 Email from J. Egan, Entergy to B. Balsam, NRR on Pilgrim Dredging. (1 page)
55. 12/19/12 Email from D. Logan, NRR to M. Wong, NRR FW: Pilgrim Informal Consultation Letter. (1 page)
56. 12/12/06 Email A. Williamson to C. Boelke, Subj: Pilgrim Nuclear Power Station Biological Assessment and Essential Fish Habitat (3 pages)



**APPENDIX C  
RECORDS BEING WITHHELD IN PART**

<b><u>NO.</u></b>	<b><u>DATE</u></b>	<b><u>DESCRIPTION/ (PAGE COUNT)/EXEMPTIONS</u></b>
1.	02/09/12	Email from B. Balsam, NRR to J. Crocker, NOAA RE: Media Questions re: Pilgrim license renewal review. (6 pages) <b>Exemption 6</b>
2.	02/09/12	Email from B. Balsam, NRR to J. Crocker, NOAA RE: Media Questions re: Pilgrim license renewal review. (5 pages) <b>Exemption 6</b>
3.	02/13/12	Email from J. Crocker, NOAA to B. Balsam, NRR RE: Media questions re: Pilgrim license renewal review. (9 pages) <b>Exemption 6</b>
4.	03/22/12	Email from J. Crocker, NOAA to B. Balsam, NRR RE: Pilgrim. (1 page) <b>Exemption 6</b>
5.	04/12/12	Email from M. Smith to S. Uttal et al., FW: Entergy – NRC Pilgrim Nuclear Relicensing ESA Consultation (2 Pages) <b>Exemption 5 &amp; 6</b>
6.	03/27/12	Email from B. Balsam, NRR to M. Smith, OGC RE: Attached Image. (2 pages) <b>Exemption 5</b>
7.	04/12/12	Email from M. Smith, OGC to S. Uttal OGC et al., on Additional Pilgrim Exhibits. (4 pages) <b>Exemption 5</b>
	04/12/12	Letter from M. Sheehan, Ecolaw to D. Morris, NOAA on ESA 7 Consultation with NRC on Entergy's Pilgrim Nuclear Power Station. (19 pages)
	02/18/05	Email from T. Eschbach, PNL to CXG3, NRC FW: Endangered and Threatened Species at Pilgrim Nuclear Station. (3 pages)
	06/03/99	Letter from J. Alexander, Boston Edison to N. Prodany, EPA on status of two discharge points at the Pilgrim Nuclear Station. (4 pages)
	05/25/06	Report to the Massachusetts Attorney General on the Potential Consequences of a Spent Fuel Pool Fire at the Pilgrim or Vermont Yankee Nuclear Plant. (35 pages)
	05/25/06	Risks and Risk-Reducing Options Associated with Pool Storage of Spent Nuclear Fuel at the Pilgrim and Vermont Yankee Nuclear

Power Plants. (58 pages) **Exemption 5**

8. 04/12/12 Email M. Smith to S. Uttal, et al., FW: Entergy-NRC Pilgrim Nuclear Relicensing ESA Consultation. (1 page) **Exemption 5**
- 03/06/12 Affidavit of Anne Bingham, re: Permitting wastewater discharges to Cape Cod Bay from the PNPS in Plymouth, Massachusetts. (4 pages)
- 03/06/12 Affidavit of E. Pine duBois, re: Executive Director of JRWA. (10 pages)
- 02/06/12 Letter M. Sheehan to M. Colligan, Re: Endangered Species Act, Section 7 Consultation: NRC, PNPS, Plymouth, Massachusetts: Relicensing. (10 pages)
- 02/29/12 Letter A. Imboden to P. Kurkul, Subj: Request For Concurrence On Determination Of Effects Concerning Atlantic Sturgeon At Pilgrim Nuclear Power Station, with Enclosed Biological Assessment (7 pages)
- 03/06/12 Affidavit of Alex Mansfield, Re: In support of JRWA. (12 pages)
- 03/25/12 Reply affidavit of Alex Mansfield (9 pages)
9. 04/30/12 Email from B. Balsam, NRR to M. Smith, OGC RE: Section 7(d) Memo. (2 pages) **Exemption 5**
10. 05/01/12 Email from B. Balsam, NRR to M. Smith, OGC RE: Post Article on Right Whales. (1 page) **Exemption 5**
11. 10/01/12 Email from B. Balsam, NRR to M. Smith, OGC on Pilgrim letter for concurrence. (1 page) **Exemption 5**
12. 04/12/12 Email from J. Crocker, NOAA to B. Balsam, NRR Fwd: FW: ESA 7 Consultation with NRC on Entergy's Pilgrim Nuclear Power Station. (2 pages) **Exemption 6**
- 04/03/12 Attachment – Letter from R. Asmutis-Silvia, WDCCS to D. Morris, NOAA on ESA 7 Consultation with NRC on Entergy's Pilgrim Nuclear Power Station. (9 pages)