

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

2013-0129

1

RESPONSE
TYPE

FINAL



PARTIAL

REQUESTER

Lawrence Criscione

DATE

AUG 9 8 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*

\$ 0.00

* 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 FOIA Request can be located in ADAMS at ML13044A554.

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 Documents 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

**RESPONSE TO FREEDOM OF
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ACT (PA) REQUEST (Continued)**

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PART I.C COMMENTS (Continued)

One record labeled as A/9 in this package contained black markings and red-highlighted text in the original and thus those markings remain visible and are included in the copy provided to you.

Please be advised that some information has been withheld under FOIA Exemption (b)(6), after being referred to the U.S. Army Corps of Engineers FOIA Office, and has been redacted as a matter of personal privacy. Records labeled B/1, B/6, B/7, B/8, B/9 have information noted as being withheld at the request of the U.S. Army Corps of Engineers. Your right to appeal some withheld information may be determined by the Secretary of the Army (General Counsel). You must send your appeal in sufficient time to reach the Secretary of the Army no later than 60 days from the date of this letter. The envelope containing the appeal should bear the notation "Freedom of Information Act Appeal" and should be sent to the following address:

Office of Counsel
U.S. Army Corps of Engineers
Humphreys Engineer Center Support Activity (HECSA)
7701 Telegraph Road
Kingman Building
Alexandria, VA 22315-3860

Additional information on the U.S. Army's appeal process can be found at the following internet site:

www.usace.army.mil/FOIA.aspx

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PART II.A -- APPLICABLE EXEMPTIONS**APPENDICES
B**

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)
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
Dr. Brian W. Sheron	Director, Office of Nuclear Regulatory Research	Appendix B	<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 BEING RELEASED IN THEIR ENTIRETY**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/ (PAGE COUNT)</u>
1.	06/30/2011	Email From: Bernard Stapleton, To: Richard Perkins, Benjamin Beasley, Cc: Robert Norman, Subject: Review of handling of information RE: flooding of nuclear power plants following upstream dam failures (1 page)
2.	01/05/2012	Email From: Brian Holian, To: Richard Correia, Doug Coe, Benjamin Beasley, Subject: RE: FYI-WEEKLY STATUS UPDATE MEETING WITH THE CHAIRMAN (OUO-SENSITIVE INTERNAL INFORMATION) (2 pages)
3.	01/13/2012	Email From: Doug Coe, To: Richard Correia, George Wilson Benjamin Beasley, John Stang, Michele Evans, Joseph Giitter, Patrick Hiland, Bernard Stapleton, Subject: Telecom summary DHS and NRC re: GI-204 upstream dam failure (1 page)
4.	01/19/2012	Email From: Benjamin Beasley, To: Scott Burnell, Richard Perkins, Michelle Bensi, Subject: RE: GI-204 activity? (1 page)
5.	02/24/2012	Email From: Richard Correia, To: craig.conklin@HQ.DHS.GOV , Cc: Benjamin Beasley, George Wilson, Bernard Stapleton, Allen Howe, Jane Marshall, Subject: Re: Pre-GI-009 Screening Analysis Redacted Version (2 pages)
6.	02/27/2012	Email From: Bernard Stapleton, To: Richard Correia, Cc: Benjamin Beasley, Robert Norman, Jone Marshall, Patricia Holahan, Subject: RE: Pre-GI-009 Screening Analysis Redacted Version (3 pages)
7.	02/28/2012	Email From: Benjamin Beasley, To: Richard Correia, Subject: RE: Pre-GI-009 Screening Analysis Redacted Version (3 pages)
8.	02/29/2012	Email From: Benjamin Beasley, To: George Wilson, Cc: Fred Lyon, Subject: Additional redaction for Watts Bar, Attachments: Pre-GI-009 Watts Bar section redacted BGB 2-29-2012.docx (4 pages)

APPENDIX B
RECORDS BEING WITHHELD IN PART

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/ (PAGE COUNT)/EXEMPTIONS</u>
1.	01/30/2012	Email dated 30 January 2012 To: George Wilson, Subject: RE: Info in GI 204 related to Corps – Draft Official Use Only (UNCLASSIFIED) (2 pages) EX. 5, EX. 6
2.	02/14/2012	Email From: George Wilson, To: Benjamin Beasley, Subject: FW: (2 pages) Ex. (b)(7)(F); Portions Marked Outside Scope
3.	01/11/2012	Email From: Richard Correia, To: Michael Layton, Subject: RE: OUO-GI-204 Dam Safety-OUO (1 Page) EX. 6
4.	01/26/2012	Email From: Richard Correia, To: Benjamin Beasley, Bernard Stapleton, George Wilson, Subject: FW: OUO - GI-204 Dam Safety – OUO (5 pages) EX. 6
5.	01/26/2013	Email From: Craig Conklin, (craig.conklin@HQ.DHS.GOV) To: Richard Correia, CC: Enrique Matheu, Subject: RE: OUO –GI 204 Dam Safety – OUO (4 pages) EX. 6
6.	05/24/2011	Email From: Michelle Bensi, To: Richard Perkins, Subject: FW: use of NID data in public document (UNCLASSIFIED)(3 Pages) EX. 6
7.	02/16/2012	Email dated 16 February 2013, To: Michelle Bensi, Cc: Benjamin Beasley, Fernando Ferrante, Jeffrey Mitman, Sunil Weerakkody, Subject: Use of NID data in conference paper (UNCLASSIFIED) (2 pages) EX. 6
8.	03/05/2012	Email From: George Wilson, To: Benjamin Beasley, Scott Burnell, Subject: FW: Draft press Release GI 204 (2 pages) EX. 6
9.	03/01/2012	Email From: George Wilson, To: James Demby, Allerton William, Cc: Kenneth Karwoski, Benjamin Beasley, Subject: NRC Generic Issue for Dam Failures (2 pages) EX. 6
10.	01/12/2012	Email From: Richard Correia, To: Brian Sheron, Brian Holian, Cc: Doug Coe, Benjamin Beasley, Subject: update on GI 204 (1 page)