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
2012-0325	2

RESPONSE TYPE ☐ FINAL ☑ PARTIAL

REQUESTER: James Riccio

DATE: FEB 04 2014

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: C — 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: D, E — 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: D, 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*
$ ____
* 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."

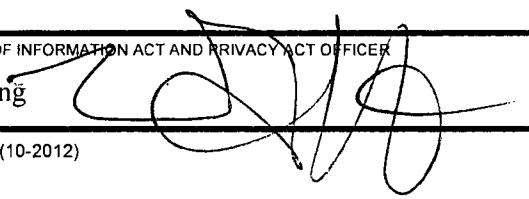
PART I.C COMMENTS (Use attached Comments continuation page if required)

The incoming FOIA request is available in ADAMS at ML12263A087.

One record labeled as 'E/13' in this package contained red-highlighted text in the original and thus that dark marking is included in the copy provided to you.

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

Mark Graff, Acting



NRC FORM 464 Part 1 (10-2012)

NRC FORM 464 Part II (4-2011) U.S. NUCLEAR REGULATORY COMMISSION	FOIA/PA	DATE
RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) / PRIVACY ACT (PA) REQUEST	2012-0325	FEB 04 2014

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
Eric J. Leeds	Office Director, Nuclear Reactor Regulation	See Appendix E	☑	☐	☐
Victor McCree	Regional Administrator, Region II	See Appendix E	☑	☐	☐
			☐	☐	☐

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 C
RECORDS ALREADY PUBLICLY AVAILABLE

NO.	DATE	DESCRIPTION (page count)
1	02/22/07	Memo To: William D. Travers, RA from: Brian R. Bonser, Rudolph H. Bernhard, Jeff A. Circle, Mark S. Haire and Mark S. Lesser, Subject: Manual Chapter 0609.02 Appeal Panel Recommendations (Oconee Reply to a Notice of Violation and White Finding (EA-06-199)) (14 pages) **ML070590329**
2	03/01/07	Manual Chapter 0609.02 Appeal Panel Review of Oconee Standby Shutdown Facility – White Finding (EA-06-199) (12 pages) **ML070610460**
3	11/20/07	Reconsideration of Final Significance Determination Associated with Standby Shutdown Facility Flood Barrier White Finding (5 pages) **ML073241045**
4	03/13/09	Summary of Closed December 4, 2008, Meeting to Discuss the Duke Energy Carolina, LLCs, September 26, 2008, Response to the NRC's August 15, 2008, 50.54(f) Letter on External Flooding at Oconee Nuclear Station (7 pages) **ML090680737**
5	07/09/09	Letter from D. Baxter, Duke to NRC on Final 60-Day Response to Reference 2 (6 pages) Exemption 7F **ML092020480**
6	07/09/09	Summary of Closed June 11, 2009, Meeting to Discuss External Flooding at Oconee (5 pages) **ML091620669**
7	08/12/09	Memo from M. Cunningham, NRR, P. Hiland, NRR and J. Giitter, NRR to B. Boger, NRR, M. Evans, NRR and V. McCree, RII on Technical Basis for Allowing Oconee Nuclear Station to Remain in Operation Through November 2010 (9 pages) **ML090570117**
8	11/10/09	Summary of Closed Meeting May 11, 2009, with Duke Energy Carolina, LLC, to discuss Preliminary Results Concerning Failure of the Jocassee Dam and Resultant Flooding at the Oconee Nuclear Station, Units 1, 2, and 3 (5 pages) **ML092940769**
9	01/06/10	Briefing to the Executive Team on the Oconee Nuclear Station External Flooding Issue (6 pages) **ML100280954**

10	06/01/10	Communication Plan for Issuance of Confirmatory Action Letter to Duke for Oconee Units 1,2 and 3 – Regarding the impact of external flooding June 2010 (6pgs) **ML101750619**
11	07/26/10	Summary of Closed June 29, 2010, Meeting to Discuss External Flooding at Oconee (5 pages) **ML101890803**
12	10/26/10	Memo from G. Wilson, NRR to D. Persinko, NRR on NRC Staff Assessment of Duke Energy Carolinas, LLC., Oconee External Flooding Issue (18 pages) **ML102990064**
13	03/05/11	Memo from P. Hiland, NRR and J. Giitter, NRR to J. Grobe, NRR, B. Boger, NRR and L. Wert, RII on Technical Basis for the Timeline to Resolve External Flooding Issues at Oconee. (6 pages) **ML103410042**
14	09/20/12	Communication Plan for Oconee Nuclear Station (ONS) Regarding External Flood Protection (13pgs) **ML12268A404**

APPENDIX D
RECORDS BEING RELEASED IN THEIR ENTIRETY

NO.	DATE	DESCRIPTION (page count)
1.	Undated	Draft Memorandum from M. Cunningham, NRR to E. Leeds, NRR on Oconee Flood Protection and the Jocassee Dam Hazard Basis for Continued Operation (7 pages)
2.	Undated	Meeting Slides on Standby Shutdown Facility Flood Barrier Breach Violation Informal Reassessment (9 pages)
3.	Undated	Meeting Slides on Oconee Flood Protection and the 10 CFR 50.54(f) Response (29 pages)
4.	Undated	NRC Staff Comments to Duke Energy Request for Information Response (8 pages)
5.	Undated	NRR Briefing on Oconee Flood Protection (NRR/DRA) (1 page)
6.	Undated	Oconee Nuclear Site Adequate Protection Backfit Documented Evaluation (4 pages)
7.	Undated	Questions and Answers Related to Oconee Flood Barrier (1 page)
8.	Undated	Slides on Oconee Nuclear Station – Standby Shutdown Facility (SSF) Flood Barrier Breach Violation SDP Assessment (8 pages)
9.	Undated	Use of FERC Inundation Calculation Parameters (2 pages)
10.	Undated	Oconee Nuclear Site Adequate Protection Backfit Documented Evaluation (8 pages)
11.	Undated	Draft Memo from M. Cunningham, NRR et al to E. Leeds, NRR on Oconee Flood Protection and the Jocassee Dam Hazard Basis for NRC allowing Continued Operation (8 pages)

12.	Undated	Draft Memo from M. Cunningham, NRR et al to E. Leeds, NRR on Oconee Flood Protection and the Jocassee Dam Hazard Basis for NRC allowing Continued Operation. (8 pages)
13.	Undated	Draft Memo from M. Cunningham, NRR et al to E. Leeds, NRR on Oconee Flood Protection and the Jocassee Dam Hazard Basis for NRC allowing Continued Operation (8 pages)
14.	Undated	TIA – (6 pages)
15.	Undated	SSF Flooding URI number 1 (12 pages)
16.	Undated	The safe shutdown facility (2 pages)
17.	12/00/06	TIA- Regarding the licensing basis for external flooding (GDC-2) for the Oconee Nuclear Station Standby Shutdown Facility (SSF) (44 pages)
18.	02/00/08	Regional Administrator Briefing Sheet (7 pages)
19.	07/03/08	Email from M. Franovich, NRR to M. Wong, NRR on QUERY: Draft POP for July 18th briefing of Grobe and Boger (3 pages)
20.	08/12/08	Briefing Slides for Commission Assistants Brief on Oconee Flood Protection and the Jocassee Dam Hazard (11 pages)
21.	08/15/08	Status of OCO Flood Issue (2 pages)
22.	09/19/08	DHS Briefing Slides on Oconee Flood Protection and the Jocassee Dam Hazard (12 pages)
23.	10/21/08	NRR LT Meeting on Oconee Flood Protection and the 10 CFR 50.54(f) Response (11 pages)
24.	10/21/08	NRR LT Meeting on Oconee Flood Protection and the Jocassee Dam Hazard (17 pages)
25.	10/23/08	NRR ET Meeting on Oconee Flood Protection and the 10 CFR 50.54(f) Response (11 pages)
26.	11/26/08	DHS Briefing on Oconee Flood Protection and the Jocassee Dam Hazard (16 pages)

27.	05/05/09	Presentation to the Lessons Learned Oversight Board on Oconee Nuclear Station External Flood Protection Issue (8 pages)
28.	05/05/09	Presentation to the Lessons Learned Oversight Board on Oconee Nuclear Station External Flood Protection Concern (11 pages)
29.	12/03/09	Email from J. Mitman, NRR to M. Khanna, NRR on Adequate Protection Backfit Documented Evaluation (7 pages)
30.	12/14/09	Email from M.Khanna, NRR to J. Mitman, NRR on Oconee Adequate Protection Backfit Documentation Evaluation – Draft (8 pages)
31.	01/06/10	Email from M. Galloway, NRR to J. Mitman, NRR and L. James, NRR RE: Revised Adequate Protection Backfit Documented Evaluation (11 pages)
32.	02/18/10	Email from M. Khanna, NRR to J. Mitman, NRR FW: Oconee Adequate Protection Backfit Documented Evaluation – Draft (8 pages)
33.	03/22/10	Email from F. Ferrante, NRR to J. Mitman, NRR RE: Emailing: 1994_damRepairAnchoringFrouting.pdf (1 page)
34.	04/22/10	Email from A. Zoulis, NRR to J. Mitman, NRR RE: Comments on the NRR Draft Memo: Supplement to Tech Basis for Allowing ONS to Remain in Operation (3 pages)
35.	05/25/10	Email from J. Mitman, NRR to F. Ferrante, NRR FW: OUO/Security Related Information – Briefing to Commissioner Apostolakis on Oconee External Flooding Event (9 pages)
36.	05/25/10	Slides from Commission Briefing on Oconee External Flooding Issue (4 pages)
37.	06/00/11	Inspection Plan – Oconee (8 pages)
38.	10/17/11	Email from S. Weerakkody, NRR to F. Ferrante, NRR RE: OUO SRI – RE: IN Dam Failure Frequency (2 pages)

39.	09/20/12	History of Oconee Flood Concerns (6 pages)
40.	12/02/08	Email from R. Schaaf, NRR to J. Circle, NRR RE: Meeting with FERC Concerning Oconee (2 pages)

APPENDIX E
RECORDS BEING WITHHELD IN PART

NO.	DATE	DESCRIPTION (page count)
1.	Undated	Questions and Answers Related to the Oconee External Flooding Issue (3 pages) Exemption 7F
2.	Undated	Jocassee Overtopping Notes (2 pages) Exemption 7F
3.	Undated	Slides on Oconee SSF Flood Barrier Breach SDP – Lessons Learned (20 pages) Exemption 7F
4.	Undated	Slides on Oconee SSF Flood Barrier Breach SDP Lessons Learned (21 pages) Exemption 7F
5.	09/06/07	Email from W. Rogers, NRR to J. Circle, NRR Re: Surry Visit. (1 page) Outside of Scope
6.	10/01/07	Slides on Final Regulatory Assessment of Oconee Flood Barrier Issue (12 pages) Exemption 7F
7.	12/05/07	Slides on Insights from Regulatory Assessments of Oconee Flood Barrier Issue (11 pages) Exemption 7F
8.	09/04/08	Email from M. Franovich, NRR to M. Wong, NRR et al RE: Keowee and Jocassee Operation Report Request – FERC Inspections Reports on Jocassee and Keowee Dams (2 pages) Exemption 6
9.	02/03/09	Briefing Book for Commissioner Peter B. Lyons – Oconee Nuclear Station (31pgs) Exemptions 4 and 6
10.	04/20/09	Meeting Agenda for Oconee External Flooding Team Meeting (3 pages) Exemption 6.
11.	06/23/09	Briefing Book for Chairman Gregory B. Jaczko – Oconee Nuclear Station (31pgs) Exemptions 4 and 6
12.	01/08/10	Email from G. Wilson, NRR to J. Mitman, NRR Re: Questions on OFI (1 page) Exemption 6

13.	02/19/10	Email from J. Mitman, NRR to L. James, NRR RE: Action: please provide BC with latest version of the Oconee Risk Comparison paper by COB 2/19/10 (14 pages) Exemption 7F
14.	02/19/10	Email from J. Mitman, NRR to L. James, NRR RE: ACTION: provide BC with latest version of DRA/APOB's documentation of the generic dam failure frequency by COB 02/19/10 (16 pages) Exemption 7F
15.	03/15/10	Email from J. Mitman, NRR to L. James, NRR on Generic Failure Rate Evaluation for Jocassee (16 pages) Exemption 7F
16.	03/16/10	Memo from J. Mitman, NRR to M. Cunningham, NRR on Generic Failure Rate Evaluation for Jocassee Dam (16 pages) Exemption 7F
17.	04/13/10	Draft Oconee Nuclear Site Adequate Protection Backfit Documented Evaluation (8 pages) Exemption 7F
18.	04/14/10	Email from M. Khanna, NRR to P. Hiland, NRR et al., on Oconee Adequate Protection Backfit Documented Evaluation (9 pages) Exemption 7F
19.	06/03/10	Email from M. Khanna, NRR to D. Skeen, NRR et al., FW: Additional Oconee ICM Information (1 page) Exemptions 6 and 7F
20.	06/08/10	Email from J. Mitman, NRR to M. Khanna, NRR RE: External Flood Commitments Letter (1 page) Exemption 6
21.	10/20/10	Email from J. Mitman, NRR to F. Ferrante, NRR FW: OUO-SRI – Oconee Management decision supplement October 2010.doc (14 pages, 1 page released) Exemption 5.
22.	11/10/10	Email from J. Mitman, NRR to M. Khanna, NRR RE: Oconee Intake Dike Letter (2 pages) Exemption 6
23.	12/17/10	Email from M. Khanna, NRR to J. Mitman, NRR on OUO/SRI Oconee Adequate Protection Backfit Documented Evaluation April 12, 2010 (9 pages) Exemption 7F

24.	12/22/10	Meeting request on Oconee External Flooding Issue. (1 page) Exemption 6
25.	12/22/10	Email from M. Khanna, NRR to J. Mitman, NRR Re: OUO – Oconee Flooding Issue Presentation (35 pages) Exemption 7F
26.	02/14/11	Briefing Book for Martin J. Virgilio – Oconee Nuclear Station (28 pages) Exemption 6
27.	03/03/11	Briefing Book for Commissioner William C. Ostendorff – Oconee Nuclear Station (24 pages) Exemption 6
28.	05/18/11	E-mail from: Jonathan Bartley To: Meena Khanna, Gloria Kulesa and George Wilson cc: Leonard Wert, Rick Croteau and William Jones Subject: Oconee External Flood Path Forward – OUO/SRI (2 pages) Exemption 6
29.	09/13/11	Briefing Book for Commissioner George Apostolakis – Oconee Nuclear Station (25 pages) Exemption 6
30.	01/13/12	Email from D. Aird, RES to F. Ferrante, NRR RE: GI-204 Dam Failure Comm. Plan Answer (3 pages) Outside of Scope
31.	02/01/12	Briefing Book for Commissioner Kristine L. Svinicki – Oconee Nuclear Station (25 pages) Exemptions 6