

Case No.: 2015-0031A

Date Rec'd: 5/15/15

Specialist: Argent

Related Case: 2015-0268

Hester, Janice

From: Lawrence Criscione (b) (6)
Sent: Friday, May 15, 2015 1:58 PM
To: Satorius, Mark; Ash, Darren; Vietti-Cook, Annette
Cc: FOIA Resource; Andoh, Roger; Johri, Raheel; Dave Lochbaum; Tom Devine
Subject: CORRECTION: Appeal for FOIA/PA-2015-0268

Mark/Darren/Annette,

I had an error in my email below. The appeal to which FOIA/PA 2015-0268 was inappropriately closed is FOIA appeal 2015-0027A (I mistakenly state 2015-0025A in the email below).

Also, I am due a response to appeal 2015-0027A on June 3, 2015. In the email below I mentioned May 28 (the date when I am due a response to appeal 2015-0025A) when I should have mentioned June 3, 2015.

It is acceptable to me for the FOIA office to delay the processing of FOIA/PA 2015-0268 until June 3, 2015 since it is possible that the agency might actually follow our President's guidance and openly release to me the records I seek. However, it is unacceptable to close FOIA/PA 2015-0268 at this point in time since there is no guarantee that the agency will actually process FOIA appeal 2015-0027A in the open manner which the President expects.

I apologize for any confusion my mistakes below have caused.

Larry
 Lawrence S. Criscione
 (b) (6)

From: (b) (6)
To: mark.satorius@nrc.gov; darren.ash@nrc.gov; annette.vietti-cook@nrc.gov
CC: foia.resource@nrc.gov; roger.andoh@nrc.gov; raheel.johri@nrc.gov; dlochbaum@ucsusa.org; tomd@whistleblower.org
Subject: Appeal for FOIA/PA-2015-0268
Date: Fri, 15 May 2015 13:39:48 -0400

Mark/Darren/Annette,

Please process this email as a FOIA appeal.

Nearly two years ago I submitted a FOIA request for records regarding the 2012-09-18 letter I wrote to the NRC Chairman concerning flooding concerns at the Oconee Nuclear Station. On June 12, 2013 I received an acknowledgement letter from the NRC indicating that my request had been assigned tracking number 2013-0262.

Please note that FOIA 2013-0262 was made under the Freedom of Information Act and made no mention to the Privacy Act.

Six hundred and seventy days later and after appealing to the Office of Government Information Services (OGIS) of the National Archives and Records Administration (NARA), I finally received a response. That response was redacted to the point of being useless to me. Despite President Obama's direction that "*agencies should adopt a presumption in favor of disclosure*", most of the information I sought was redacted through an overzealous abuse of FOIA exemption 5.

Please recall the following instructions issued by our President in his inauguration day memorandum regarding the Freedom of Information Act:

The Freedom of Information Act should be administered with a clear presumption: In the face of doubt, openness prevails. The Government should not keep information confidential merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears. Nondisclosure should never be based on an effort to protect the personal interests of Government officials at the expense of those they are supposed to serve. In responding to requests under the FOIA, executive branch agencies (agencies) should act promptly and in a spirit of cooperation, recognizing that such agencies are servants of the public.

As an agency which boasts about its supposed openness, we should be following the President's guidance. Instead, in our handling of FOIA 2013-0262 we violated every sentence from the paragraph above.

On April 28, 2015 I appealed your response. That appeal was assigned tracking number 2015-0025A and I am due a response on May 28, 2015.

I have been told on several occasions by the NRC that I am not allowed to make additions to the scope when making a FOIA appeal. For example, since FOIA 2013-0262 did not mention the Privacy Act, I am not allowed to request that the records released to me on April 13, 2015 be re-redacted in accordance with the Privacy Act. Also, FOIA 2013-0262 did not specifically define the exact records since the exact records were not known. As a result, some portions of interest to me in some of the records were marked "out of scope". It is my understanding that I cannot request these portions in my FOIA appeal but instead must request them via new FOIA requests (which was the intent of Privacy Act request 2015-0268).

Privacy Act request 2015-0268 was made under the Privacy Act vice the FOIA and it requested a very specific record--a record not precisely specified under FOIA 2013-0262.

Privacy Act request 2015-0268 was inappropriately closed to FOIA appeal 2015-0025A (see attached response). In this email, I am appealing that response.

It is possible that in your appeal to FOIA 2015-0025A you will follow President Obama's guidance and release to me the records I seek without your unnecessary and abusive redactions. If that turns out to happen, then there is no need to process FOIA/PA 2015-0268. However, I believe that at this point it was premature to close FOIA/PA 2015-0268. I would like FOIA/PA 2015-0268 to remain open at least until appeal 2015-0025A has been responded to. If, at that point, the records I sought under FOIA 2013-0262 are finally released without redaction, then you may legitimately close FOIA/PA 2015-0268. However, if the record requested under FOIA/PA 2015-0268 remains redacted in your response to appeal 2015-0025A, then I expect that record to be processed under the Privacy Act as requested in FOIA/PA 2015-0268.

I live in (b) (6) but work in (b) (6) Please conduct all correspondence with me electronically at this email address. If there is something I must pick up in person, please contact me at (b) (6)

V/r,
Larry
Lawrence S. Criscione
(b) (6)

From: Raheel.Johri@nrc.gov
To: (b) (6)
CC: FOIA.Resource@nrc.gov
Date: Fri, 15 May 2015 10:39:52 -0400
Subject: Final Responses for FOIA/PA-2015-0268

Mr. Criscione,

Please find attached NRC's final responses to your FOIA requests, FOIA/PA-2015-0268.

Thank you,

FOIA/Privacy Section, Information Services Branch, MS: T-5F09
Customer Service Division, Office of Information Services
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

FOIA.Resource@nrc.gov Ph: 301-415-7169