



RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

2015-0294

2

RESPONSE TYPE

INTERIM

FINAL

REQUESTER:

David Lochbaum

DATE:

02/12/2016

DESCRIPTION OF REQUESTED RECORDS:

Records generated by, or considered during, the NRC's reviews and assessments of the Diablo Canyon, Columbia Generating Station, and Palo Verde nuclear plants' seismic re-evaluation reports (ML15071A046, ML15078A243, and ML15076A073).

PART I. -- INFORMATION RELEASED

- Agency records subject to the request are already available in public ADAMS or on microfiche in the NRC Public Document Room.
- 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*

\$

You will be billed by NRC for the amount listed.

None. Minimum fee threshold not met.

*See Comments for details

You will receive a refund for the amount listed.

Fees waived.

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

- We did not locate any agency records responsive to your request. *Note:* Agencies may treat three discrete categories of law enforcement and national security records as not subject to the FOIA ("exclusions"). 5 U.S.C. 552(c). This is a standard notification given to all requesters; it should not be taken to mean that any excluded records do, or do not, exist.
- We have withheld certain information pursuant to the FOIA exemptions described, and for the reasons stated, in Part II.
- Because this is an interim response to your request, you may not appeal at this time. We will notify you of your right to appeal any of the responses we have issued in response to your request when we issue our final determination.
- You may appeal this final determination within 30 calendar days of the date of this response by sending a letter or email to the FOIA Officer, at U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, or FOIA.Resource@nrc.gov. Please be sure to include on your letter or email that it is a "FOIA Appeal."

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

The incoming request will be made available in ADAMS as ML15154A519. Records with an 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 email to PDR.Resource@nrc.gov. Although the released records will be placed in public ADAMS, we have also enclosed a CD for your immediate use.

[continued on next page]

SIGNATURE - FREEDOM OF INFORMATION ACT OFFICER

Roger D. Andoh

2015-0294

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**RESPONSE TO FREEDOM OF INFORMATION
ACT (FOIA) REQUEST Continued**

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PART I.C COMMENTS (Continued)

We wanted to call two matters to your attention. First, within the released records is a document originated by Lettis Consultants International (LCI), a consultant to the Arizona Public Service (licensee of the Palo Verde nuclear power plant). The document, entitled "Adjustment Factors from Reference Rock to Palo Verde Rock", Project 1056), dated February 27, 2015, references an Appendix A. As described in the letter, Appendix A consists of electronic files that were stored on a DVD that was marked "Proprietary." Neither NRR's original search for responsive records, nor the supplemental search we asked be conducted by the NRR staff who were involved in the review, turned up the DVD. Moreover, it is NRR staff's recollection, and consistent with information given to the FOIA Office by LCI representatives, that NRC was not given a copy of the DVD. Second, we consulted with the U.S. Geological Survey with respect to three pages of slides that NRC created using USGS-originated information. These slides describe a modeling exercise/hypothetical scenario, and not a final analysis, of the USGS. Accordingly, we have withheld these three slides in their entirety on the basis of exemption 5.



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PART II.A -- APPLICABLE EXEMPTIONS

Records subject to the request are being withheld in their entirety or in part under the FOIA exemption(s) as indicated below (5 U.S.C. 552(b)).

- Exemption 1: The withheld information is properly classified pursuant to an Executive Order protecting national security information.
- 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 the 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. 4702(b), which prohibits the disclosure of contractor proposals, 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 confidential commercial or financial information that is being withheld for the reason(s) indicated.
 - 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 is considered to be another type or confidential business (proprietary) information.
 - The information was submitted by a foreign source and received in confidence pursuant to 10 CFR 2.390(d)(2).
- Exemption 5: The withheld information consists of interagency or intraagency records that are normally privileged in civil litigation.
 - Deliberative process privilege.
 - Attorney work product privilege.
 - Attorney-client privilege.
- Exemption 6: The withheld information from a personnel, medical, or similar file, 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 open enforcement proceeding.
 - (C) Disclosure could reasonably be expected to constitute an unwarranted invasion of personal privacy.
 - (D) The information consists of names 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

PART II.B -- DENYING OFFICIALS

In accordance with 10 CFR 9.25(g) and 9.25(h) of the U.S. Nuclear Regulatory Commission regulations, the official(s) listed below have made the determination to withhold certain information responsive to your request.

DENYING OFFICIAL	TITLE/OFFICE	RECORDS DENIED	APPELLATE OFFICIAL	
			EDO	SECY
Roger D. Andoh	FOIA Officer	PII; Slides containing USGS analysis	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Bernice D. Ammon	Assistant General Counsel	attorney-client communications	<input type="checkbox"/>	<input checked="" type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>

Appeals must be made in writing within 30 calendar days of the date of this response by sending a letter or email to the FOIA Officer, at U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, or FOIA.Resource@nrc.gov. Please be sure to include on your letter or email that it is a "FOIA Appeal."