



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

FEB 07 2018

IN RESPONSE REFER TO:
NRC-2018-000303
NRC-2018-000061

Mr. Julian Tarver
Washington State Penitentiary IMU South H-2
1313 N 13th Avenue
Walla Walla, WA 99362

Dear Mr. Tarver:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter dated December 28, 2017, in which you appealed the agency's December 19, 2017 response related to your November 15, 2017 Freedom of Information Act (FOIA) request, NRC-2018-000061 (which was received on November 27, 2017). Your request sought the internal and external communications generated during the agency's processing of several FOIA requests and appeals, bearing reference numbers FOIA-2017-0255, 2017-0649, 2017-0691, 2017-0161A and 2018-0001A. You appealed the redactions made in the records that were released to you in part.

Acting on your appeal, I have considered the matter and have determined that the redactions were appropriate. Therefore, I have denied your appeal.

The FOIA Office redacted the names of Office of Inspector General (OIG) staff involved in the processing of FOIA-2017-0255, as well as the personally identifiable information (i.e., home email address and IP address) of the third party requester in FOIA-2017-0649. These redactions were made on the basis of FOIA exemption 6. This exemption covers certain files "the disclosure of which would constitute a clearly unwarranted invasion of personal privacy" (5 U.S.C. 552(b)(6)). Given the responsibilities of its law enforcement staff, including personnel in the OIG, the NRC does not release their identities under the FOIA. In determining whether the disclosure of information would meet this standard, an agency must weigh the privacy interest involved against any public interest in disclosure asserted by the person submitting the FOIA request. Your appeal letter does not discuss any public interests that might be served by the release of the items of information, and the NRC itself has not identified any discernible public interest in the release of this information that outweighs the personal privacy interests at stake. Accordingly, we will continue to withhold these items of information under exemption 6.

Your appeal also challenges the redaction of portions of email exchanges between FOIA and other NRC staff during the processing of FOIA-2017-0649 (including a prior related request, FOIA-2017-0457). These redactions were made on the basis of FOIA exemption 5. Exemption 5 protects information that was generated as part of a deliberative process before the adoption of an official agency decision. The purpose of this exemption is to protect the agency decision-making process and to encourage open and frank discussion amongst employees while they are developing legal and policy decisions. This exemption may continue to protect such

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Information even after the relevant agency decision is made. The information withheld based on exemption 5 and the deliberative process privilege reflects internal deliberations, including the recommendations of program office staff to the FOIA staff, all of which predate the agency's final response to the request. I am upholding the application of exemption 5 because release of this redacted information could allow insight into the NRC's internal communications regarding the scope, and disclosure treatment, of the records subject to this request. Accordingly, we will continue to withhold this information.

This is the final agency decision. As set forth in the FOIA (5 U.S.C. 552(a)(4)(B)), you may seek judicial review of this decision in the district court of the United States in the district in which you reside or have your principal place of business. You may also seek judicial review in the district in which the agency's records are situated or in the District of Columbia.

The 2007 FOIA amendments created the Office of Government Information Services (OGIS) to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a nonexclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. You may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
732 North Capitol Street, NW
Washington, D.C. 20401
Email: ogis@nara.gov
Telephone: 202-741-5770
Toll-free: 1-877-684-6448
Fax: 202-741-5769

Sincerely,

A handwritten signature in black ink, appearing to read "David J. Nelson". The signature is fluid and cursive, with a large initial "D" and "N".

David J. Nelson
Chief Information Officer
Office of the Chief Information Officer