



RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

2018-000096

7

RESPONSE TYPE

INTERIM

FINAL

REQUESTER:

Jack Kolar, Government Accountability Project

DATE:

04/12/2018

DESCRIPTION OF REQUESTED RECORDS:

Records corresponding to items 13-16, 18-19, 54, and 69-73 of your request, as further explained in Part I.D - Comments.

PART I. -- INFORMATION RELEASED

- The NRC has made some, or all, of the requested records publicly available through one or more of the following means: (1) <https://www.nrc.gov>; (2) public ADAMS, <https://www.nrc.gov/reading-rm/adams.html>; (3) microfiche available in the NRC Public Document Room; or FOIA Online, <https://foiaonline.regulations.gov/foia/action/public/home>.
- 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 Part I.D -- Comments) for a disclosure determination and direct response to you.
- We are continuing to process your request.
- See Part I.D -- Comments.

PART I.A -- FEES

AMOUNT

- You will be billed by NRC for the amount indicated.
- You will receive a refund for the amount indicated.
- Fees waived.
- Since the minimum fee threshold was not met, you will not be charged fees.
- Due to our delayed response, you will not be charged fees.

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"). See 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 90 calendar days of the date of this response. If you submit an appeal by mail, address it to the FOIA Officer, at U.S. Nuclear Regulatory Commission, Mail Stop T-2 F43, Washington, D.C. 20555-0001. You may submit an appeal by e-mail to FOIA.resource@nrc.gov. You may fax an appeal to (301) 415-5130. Or you may submit an appeal through FOIA Online, <https://foiaonline.regulations.gov/foia/action/public/home>. Please be sure to include on your submission that it is a "FOIA Appeal."

PART I.C -- REFERENCES AND POINTS OF CONTACT

You have the right to seek assistance from the NRC's FOIA Public Liaison by submitting your inquiry at <https://www.nrc.gov/reading-rm/foia/contact-foia.html>, or by calling the FOIA Public Liaison at (301) 415-1276.

If we have denied your request, you have the right to seek dispute resolution services from the NRC's Public Liaison or the Office of Government Information Services (OGIS). To seek dispute resolution services from OGIS, you may e-mail OGIS at ogis@nara.gov, send a fax to (202) 741-5789, or send a letter to: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001. For additional information about OGIS, please visit the OGIS website at <https://www.archives.gov/ogis>.



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

2018-000096

7

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PART I.D -- COMMENTS

This response addresses 12 more records listed in your request. Since the date of your request, these records have been removed from ADAMS. However, because the NRC was able to locate them by the accession numbers when your, or prior, requests were received, we have processed the records, except as noted below. We have processed these records taking into account the privacy waiver furnished by Lawrence Criscione, and to the extent applicable, the privacy waivers of third parties whose personally identifiable information (e.g., cell phone numbers, email addresses) appears in these records

ML17170A169 (item 69), ML17089A005 (item 70), ML17170A168 (item 71), ML17249A980 (item 72), and ML17227A821 (item 73) were written by, or submitted at the behest of, Mr. Criscione acting in his personal capacity as it pertained to a whistleblower proceeding before the Office of Special Counsel [OSC]. We have confirmed that the office of the NRC Chairman received a copy of ML17227A821. With the conclusion of that proceeding, the OSC made ML17227A821 publicly available at <https://osc.gov/PublicFiles/FY2017/17-44-DI-15-5254/DI-15-5254%20Supplemental%20Report.pdf>. The Office of the Chairman did not locate ML17170A168, ML17170A169, ML17089A005, or ML17249A980 in its record systems; nor is there anything on the face of these records evincing receipt by the Office of the NRC Chairman or NRC staff as part of their assigned official duties. Accordingly, each of these four records has been determined to be a personal, rather than agency, record. As such, they are not subject to the FOIA and have not been processed.

ML16201A086 (item 13) consists of a 05/19/16 email from Mr. Criscione, forwarding to the Chairman's office an email he had previously sent to the Inspector General (IG) that served as a FOIA appeal of a "no record" response he received in a prior FOIA request. Attached to this email is the FOIA response, as well as a copy of a 12/18/12 letter from then-Senator Lieberman to the IG (to which Mr. Criscione's letter to the Senator was attached). This letter was released by the OIG, in part, to Mr. Criscione in response to another FOIA request; however, it bears a typewritten annotation presumably added by Mr. Criscione before he included it in his email to the Chairman's office. The Chairman's office confirmed that it located this record in its record systems. This record is enclosed; please note that this copy of the Senator's letter (with Mr. Criscione's inquiry enclosed) has two redactions based on 7C, as the OIG had released those pages to Mr. Criscione.

ML16201A093 (item 14) consists of a 05/19/16 email from Mr. Criscione that forwards to the Chairman's office earlier email communications he had with other NRC staff members and an external recipient about an ACRS-ACE Memorandum of Understanding (MOU). The Chairman's office confirmed that it located this record in its record systems. The MOU was released in response to FOIA-2016-0455 and is publicly available as ML16125A531. The email is enclosed.

ML16201A095 (item 15) consists of a 05/19/16 email from Mr. Criscione that forwards to the Chairman's office earlier email communications he had with various NRC staff members about "need-to-know requirements for SUNS!" [Sensitive Unclassified Non-Safeguards Information]. The Chairman's office confirmed that it located this record in its record systems. Exemption 6 is claimed for an NRC staff member's cell phone/blackberry numbers.

ML16201A100 (item 16) consists of a 05/19/16 email from Mr. Criscione that forwards to the Chairman's office earlier email communications he had with various NRC staff members, an outside guest speaker, and various congressional staff, about a Taum Sauk Upper Reservoir failure and its adverse affect on the Toops family. The Chairman's office confirmed that it located this record in its record systems. The email is enclosed.

ML16202A537 (item 18) consists of 05/11/16 and 05/17/16 emails, both from Mr. Criscione to the Chairman's office, concerning an upcoming interview during the then-pending OSC proceeding. The Chairman's office confirmed that it located this record in its record systems. This record is enclosed.

ML16202A538 (item 19) consists of a 05/20/16 email from Mr. Criscione to the Chairman's office after the above-referenced interview had taken place. The Chairman's office confirmed that it located this record in its record systems; it is enclosed.

[continued on next page]



RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

2018-000096

7

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PART I.D -- COMMENTS

ML16242A343 (item 54) consists of several documents that were prepared by Mr. Criscione. The first document is a 09/10/16 email addressed to multiple NRC staff members in the Office of Nuclear Regulatory Research (RES). Although the email indicates that there was a draft attachment, this record does not include the attachment. The second document is a 09/09/16 email from Mr. Criscione to a few of the same RES staff members, to which is attached five Forms 665 (ADAMS Document Submission). This record is enclosed.

Signature - Freedom of Information Act Officer or Designee

Stephanie A. Blaney

Digitally signed by Stephanie A. Blaney
Date: 2018.04.12 11:44:57 -04'00'



RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

2018-000096#7

DATE:

04/12/2018

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
 - Other:
- 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 of 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 any 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
Stephanie A Blaney	FOIA Officer	third party cell phone #	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Select Title/Office from drop-down list		<input type="checkbox"/>	<input type="checkbox"/>
	Select Title/Office from drop-down list		<input type="checkbox"/>	<input type="checkbox"/>
	Select Title/Office from drop-down list		<input type="checkbox"/>	<input type="checkbox"/>

Criscione, Lawrence

From: Criscione, Lawrence
Sent: Thursday, May 19, 2016 7:34 AM
To: Kirkwood, Sara; Holahan, Gary; Clark, Theresa
Cc: tomd@whistleblower.org; 'LSCriscione@gmail.com'
Subject: Failure to study Dam Security
Attachments: Final Response.pdf; Senator Lieberman's letter to Hubert Bell--OIG Case 13-001.pdf

Sara et. al.,

In his response to the FOIA appeal mentioned below, Hubert Bell confirmed that his agents have not reviewed a single study regarding whether or not the Lake Jocassee Dam is vulnerable to terrorist action or internal sabotage.

My ~~have~~ concerns have always been about dams failing due to acts of nature and not from acts of sabotage. However, given the secretive silo-ing of flooding information, there are obviously many individuals within the NRC and the US Army Corp of Engineers who believe that there are credible security threats to dams. That being the case, after knowing about this problem for a decade should we not at least have studied the issue?

Is the Lake Jocassee Dam vulnerable to terrorist action? If so, should it not be guarded against the same Design Basis Threat (DBT) used for Oconee? If not, why are we being so secretive about flood heights and basic dam design? Is the Lake Jocassee Dam vulnerable to internal sabotage? If so, does Duke Energy screen individuals granted access to the dam to the same level as it screens individuals granted access to Oconee?

These questions might not have been in the OSC referral letter, but they should be answered. I will certainly be pointing them out—and any lack of consideration of them—in my comments upon your response to the President via the OSC.

Larry
Lawrence S. Criscione
573-230-3959

From: Lawrence Criscione [mailto:lscriscione@hotmail.com]
Sent: Wednesday, April 06, 2016 10:16 PM
To: Bell, Hubert <Hubert.Bell@nrc.gov>; Lee, David <David.Lee@nrc.gov>
Cc: Andoh, Roger <Roger.Andoh@nrc.gov>; Dave Lochbaum <dlochbaum@ucsusa.org>; Paul Gunter <paul@beyondnuclear.org>; Paul Blanch <pdblanch@comcast.net>; whistleblower@ronjohnson.senate.gov; Tom Devine <tomd@whistleblower.org>; Jim Riccio <jriccio@greenpeace.org>; FOIA Resource <FOIA.Resource@nrc.gov>; William R. Corcoran, Ph.D., P.E. <william.r.corcoran@1959.usna.com>
Subject: [External_Sender] Appeal of search adequacy for FOIA/PA-2016-0397

Mr. Bell,

Please accept this email as a FOIA appeal.

On October 15, 2012 I wrote a letter to the Chairman of the Senate Committee on Homeland Security and Governmental Affairs (HS&GA). That letter is attached for your reference (it follows the one page letter Senator Lieberman sent to you on Dec. 18, 2012).

On page 2 of my letter I requested that the HS&GA verify that the NRC is ensuring access to Jocassee Dam is adequately guarded and is ensuring personnel with access to the pump storage plant at Jocassee Dam are adequately screened for insider threats.

On page 4 of the 2012-Oct-15 letter I requested that the HS&GA ensure that after five years of assuming there is a security threat to Jocassee Dam, the NRC has adequately assessed the minimum required threat capable of jeopardizing the integrity of the Lake Jocassee Dam.

In early December 2012 I reiterated my concerns to the HS&GA in a joint letter with Paul Blanch which also included Paul's concerns regarding the natural gas pipeline near Indian Point.

On December 18, 2012 Senator Lieberman forwarded my 2012-Oct-15 letter onto you for your consideration.

On March 22, 2016 I requested under the Freedom of Information Act:

1. *All studies reviewed by the Office of the Inspector General concerning the security at the Lake Jocassee Dam.*
2. *All replies from the Office of the Inspector General to the Senate Committee on Homeland Security & Governmental Affairs concerning the 2012-Dec-18 letter from Senator Lieberman to Hubert Bell.*

On March 30, 2016 I received the attached response stating that no records could be found.

I find it hard to believe that your agents have never reviewed any studies concerning whether or not the security at the Lake Jocassee Dam is adequate to protect the dam--and the downstream reactors at Oconee--from terrorist attack and/or internal sabotage. I am therefore appealing the 2016-Mar-16 FOIA response on the grounds of inadequate search.

I also find it hard to believe that neither the NRC nor any other federal agency has ever assessed the adequacy of the security of the Lake Jocassee Dam; however due to the regulatory gaps described in my 2012-Oct-15 letter (e.g. FERC regulates the Lake Jocassee Dam but has no mandate to ensure it is protected to the same design basis threat as the downstream nuclear reactor plants which it would flood) I do recognize it is possible that both FERC and the NRC have avoided addressing security issues surrounding the dam. However, if that is the case (i.e. if neither FERC nor the NRC has adequately studied whether the Lake Jocassee Dam poses a security threat to the Oconee reactors) I would expect that you would have reported back to the HS&GA that you found a gap in the regulatory domains of FERC and the NRC.

Therefore, I find it hard to believe that FOIA 2016-0397 would find no records. I would expect either that your agents satisfactorily determined the existence of at least one security study showing the Lake Jocassee Dam is adequately guarded against sabotage or that you reported back to the HS&GA that there is currently an outstanding concern regarding whether the security at the FERC regulated dam is adequate to ensure the security of the downstream NRC regulated reactors.

Please ensure your agents conduct an adequate search for the records requested under FOIA/PA 2016-0397.

Thank you,
Larry
Lawrence S. Criscione
573-230-3959

From: foia.resource@nrc.gov
To: LSCriscione@hotmail.com
CC: Nina.Argent@nrc.gov
Date: Wed, 6 Apr 2016 14:42:02 -0400
Subject: FOIA/PA-2016-0397 Final Response

Dear Mr. Criscione: Please find attached NRC's final response to your FOIA request, FOIA/PA-2016-00397. Please take a moment to help us improve our FOIA processes, and let us know what your experience has been. Just click on this embedded link: <http://www.nrc.gov/reading-rm/foia/foia-user-survey.html>. Once you have completed the survey, just click the "SUBMIT" button and your survey response will be returned to us.

Thank you,
Freedom of Information, Privacy & Information Collections Branch
Customer Service Division, Office of the Chief Information Officer
Mail Stop: T-5F09
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
FOIA.Resource@nrc.gov Ph: 301-415-7169 Fax: 301-415-5130



RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

2016-0397

1

RESPONSE TYPE INTERIM FINAL

REQUESTER:

Lawrence Criscione

DATE:

MAR 30 2016

DESCRIPTION OF REQUESTED RECORDS:

All studies reviewed by the OIG regarding security at Lake Jocassee Dam and all replies from the OIG to the Senate Committee on Homeland Security & Governmental Affairs concerning the December 18, 2012 letter from Senator Lieberman to Hubert Bell.

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*

\$

*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

- 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)

SIGNATURE, ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS, OIG

Joseph A. McMillan

Copy included the redaction.

United States Senate

CLW
12/21/12
&
1/7/13

December 18, 2012

Mr. Hubert Bell
Inspector General
Nuclear Regulatory Commission
Office of the Inspector General
(b)(7)(C)
11555 Rockville Pike
Rockville, MD 20852

Instead of seriously considering the safety issues, the NRC Inspector General's agents went after the person raising the concerns.

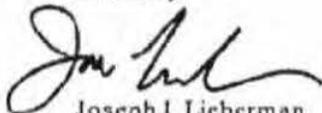
Dear Inspector General Bell:

I am enclosing a copy of a letter I received from Mr. Lawrence S. Criscione regarding safety concerns by the U.S. Nuclear Regulatory Commission (NRC.) The concerns are in regards to the Oconee Nuclear Station and Jocassee Dam. The allegation claims that the NRC is aware of safety issues at these two facilities, and has failed to act appropriately.

As I have no way of ascertaining the basis for these allegations, I have enclosed this letter for your consideration.

Thank you for your attention to this matter.

Sincerely,



Joseph I. Lieberman
Chairman

Monday, October 15, 2012

1412 Dial Court
Springfield, IL 62704

Senator Joseph Lieberman, Chairman
U.S. Senate Committee on Homeland Security & Governmental Affairs
706 Hart Office Building
Washington, DC 20510

Dear Senator Lieberman:

On September 18, 2012 I sent a letter to the Chairman of the US Nuclear Regulatory Commission concerning the NRC's handling of a safety concern regarding Jocassee Dam and the Oconee Nuclear Station. I copied the letter to a member of your Homeland Security & Governmental Affairs Committee staff as well as to the majority and minority staffs of other Senate and House committees who I believed might be interested.

It has been nearly four weeks since I sent my letter and have not heard from either the NRC Chairman's office or the NRC Office of the Inspector General. The only official communication I have received from the NRC was my branch chief informing me that he was directed to fill out a Form 183 for me failing to stamp my 2012-09-18 letter as "Official Use Only - Security-Related Information".

I am reaching out to your committee because I have several concerns which I believe the NRC is incapable of addressing.

For over 18 years the NRC has been aware that the flood wall surrounding the Standby Shutdown Facility at Oconee Nuclear Station is too short to protect the SSF from a failure of Jocassee Dam.¹

Beginning in 2006² (and possibly earlier) staff personnel at the NRC recognized that a failure of Jocassee Dam could result in a nuclear accident at Oconee station.

Although I have seen no documents indicating that there is a security concern associated with the failure of Jocassee Dam, since 2007 all NRC correspondence concerning Jocassee Dam has been stamped "Official Use Only - Safety-Related Information" so it is obvious to me that for at least the past five years the US NRC has believed there is a security concern associated with Jocassee Dam.

¹ Letter from Albert F. Gibson, NRC, to J. W. Hampton, Duke, "Notice of Violation and Notice of Deviation (NRC Inspection Report Nos. 50-269/93-25, 50-270/93-25, and 50-287/93-25)," dated February 11, 1994

² Letter from Charles Casto, NRC, to Bruce H. Hamilton, Duke, "IR 05000269-06-016, IR 05000270-06-016, IR 05000287-06-016, on 03/31/2006, Oconee Nuclear Station - Preliminary White Finding," dated August 31, 2006

I do not work in nuclear security and I know little about it. It is my understanding that for the commercial nuclear industry the NRC has determined the maximum credible threat with which a nuclear plant might be challenged, and the NRC requires the commercial nuclear reactors which it regulates to adequately guard their plant against such a threat.

It stands to reason that if, as evident from the way the NRC is stamping information regarding Jocassee Dam, there is a credible threat to Jocassee Dam then, because of the danger a failure of Jocassee Dam poses to flooding of the Standby Shutdown Facility at the Oconee Nuclear Station, access to Jocassee Dam should be guarded against the same design basis threat to which the Oconee Nuclear Station and other reactor plants are guarded. I respectfully request that the Senate Committee on Homeland Security & Governmental Affairs verify that the NRC is ensuring access to Jocassee Dam is adequately guarded.

Aside from external terrorist attacks, commercial nuclear reactor plants are required to guard against internal sabotage. Personnel at commercial nuclear facilities are required to receive extensive background checks and, depending on their access to vital areas, are also required to undergo periodic reassessment including interviews with psychologists.

Due to the danger a failure of Jocassee Dam poses to the Oconee Nuclear Station, it stands to reason that the security, operations and maintenance personnel at the Jocassee Dam pumped storage station should be held to the same background checks and periodic reassessments as similar personnel at the Oconee Nuclear Station and other reactor plants. I respectfully request that the Senate Committee on Homeland Security & Governmental Affairs verify that the NRC is ensuring personnel with access to the pump storage plant at Jocassee Dam are adequately screened for insider threats.

As mentioned above, the US NRC decided 5 years ago (since at least 2007) that there is at least enough of a credible security threat to Jocassee Dam to justify withholding from the public all safety related concerns regarding the dam. Although five years is more than enough time to adequately guard Jocassee Dam, the NRC continues to stamp all safety concerns regarding the dam as "Official Use Only - Security-Related Information". This indicates to me that, after five years, the NRC has not been able to adequately ensure the security of Jocassee Dam. This is not surprising to me since the NRC does not regulate Jocassee Dam and therefore has no authority to dictate security measures required there.

As a pumped storage impoundment dam, Jocassee Dam is regulated by the Federal Energy Regulatory Commission (FERC). I know little about FERC, but it is my understanding that FERC does not require the facilities it regulates to be guarded against the same design basis threats that commercial nuclear reactors are guarded against. Although FERC's security requirements are likely adequate for most of the facilities it regulates, in the case of a pumped storage dam whose sabotage is assumed to result in a nuclear accident the only adequate course of action is to require a level of security capable of guarding against a threat equivalent to the design basis threat assumed for commercial nuclear facilities.

Similarly for internal sabotage, FERC's regulations should require that the background checks and periodic reassessments conducted at the Lake Jocassee Dam pumped storage station are equivalent to those conducted at commercial nuclear facilities.

However, I am not sure it is reasonable to expect FERC to be able to treat the Lake Jocassee Dam differently from the other facilities it regulates. FERC might not have the expertise, budget or staffing levels to (1) write the regulations for the Lake Jocassee guard force, (2) periodically inspect the guard force including "Force on Force" exercises, (3) write the regulations for the background checks and periodic reassessments, (4) ensure the background checks were done adequately, and (5) inspect and regulate the periodic reassessment program of the plant personnel including psychological evaluations.

It is apparent to me that during the past five years the NRC has been unable to coordinate with FERC to ensure that the perceived security vulnerability regarding Jocassee Dam has been addressed. Despite this, the three reactors at the Oconee Nuclear Station continue to operate.

In June 2010, the NRC issued Duke Energy a Confirmatory Action Letter (CAL) requiring Duke to upgrade the flood protections at the Oconee Nuclear Station such that by November 30, 2011 the flood barriers adequately protect the equipment at the Standby Shutdown Facility against a failure of Jocassee Dam. This deadline has since been moved to 2016. So for another three or four years Duke Energy is going to be allowed to operate the three reactors at its Oconee Nuclear Station with a perceived security liability unaddressed. This is unacceptable.

If there is truly a security liability posed by Jocassee Dam, Duke Energy can literally address it within hours. Lake Jocassee and Lake Keowee (the lake which Jocassee drains to) are pumped storage impounds. Within a matter of hours, Duke Energy can lower the volume of water impounded by the Lake Jocassee and Lake Keowee Dams such that in the event of a failure of the Jocassee Dam the remaining volume of water impounded will not overtop the inadequately sized flood wall surrounding the Standby Shutdown Facility at the Oconee Nuclear Station.

There is also another solution to the security concern: shut down the three reactors at the Oconee Nuclear Station until the flooding defenses surrounding the Standby Shutdown Facility are adequately improved.

It is understandable that the NRC cannot address the perceived security vulnerabilities at Jocassee Dam since it does not regulate Jocassee Dam. However, the NRC regulates the Oconee Nuclear Station and it is unconscionable that for five years the NRC has suspected a grave security concern and has not addressed it by requiring the three reactors at the Oconee Nuclear Station to be shutdown as long as the volume of water impounded in Lakes Jocassee and Keowee pose a security threat to those reactors. And it is equally unconscionable that the NRC is going to allow this condition to continue for an additional three or four years.

I am not convinced that there is a credible security concern regarding Jocassee Dam. Obviously, all manmade structures can be demolished. But that fact in and of itself does not cause a security threat to exist. For a security threat to exist, the minimum required threat to the structure needs to be less than the maximum credible threat. As mentioned above, the maximum credible threat to the Lake Jocassee Dam is – or should be – assumed to be equivalent to the design basis threat for Oconee Nuclear Station. But what is the minimum required threat to jeopardize the integrity of the dam? Is it a half dozen drunken teenage vandals with some stolen dynamite and a canoe? Or is it a platoon of trained underwater demolition experts from a technologically advanced nation-state?

I do not know enough about dam construction, terrorism or demolition to say what the minimum required threat to Jocassee Dam is. If it is less than (e.g. teenage vandals) or equal to (e.g. a well-armed squad of terrorists) the design basis threat for the Oconee Nuclear Station, then I agree with the NRC that there is a security concern with the Lake Jocassee Dam. If, however, it is greater than the design basis threat for the Oconee Nuclear Station (e.g. underwater demolition experts from the CIA, KGB, Mossad or MI6), then I do not believe there is a credible threat to Jocassee Dam.

I respectfully request the following from the Senate Committee on Homeland Security & Governmental Affairs:

1. Ensure that after five years of assuming there is a security threat to Jocassee Dam, the NRC has adequately assessed the minimum required threat capable of jeopardizing the integrity of the Lake Jocassee Dam.
2. If the minimum required threat capable of jeopardizing the integrity of the Lake Jocassee Dam is greater than the design basis threat for the Oconee Nuclear Station, then request the NRC to cease withholding from the public the correspondence, memos and studies concerning the safety liabilities which a failure of the Lake Jocassee Dam poses to the Oconee Nuclear Station.
3. If the minimum required threat capable of jeopardizing the integrity of the Lake Jocassee Dam is less than or equal to the design basis threat for the Oconee Nuclear Station, then request the NRC to ensure the three reactors at the Oconee Nuclear Station are in a shutdown condition whenever the combined volume of water impounded by the Jocassee and Keowee Dams is great enough to pose a flooding threat to the Oconee Nuclear Station in the event of a failure of Jocassee Dam.

Enclosed with this letter is a list of the correspondence, memos and studies concerning the safety liabilities posed by a failure of the Lake Jocassee Dam. Most of these documents have been stamped by the NRC as "Official Use Only – Security-Related Information" despite not containing any discussion of security concerns. It is my perception that the "security-related" concerns are merely assumed to exist; however it is possible that the NRC has done an actual assessment that shows there is a credible security threat to the dam. If this is the case, then it is unconscionable that in five years the NRC has not done anything to prevent the operation of the three reactors at ONS while an unaddressed vulnerability to their security remains outstanding.

Copied on this letter are several industry groups and government watchdog organizations. There are some within the Nuclear Regulatory Commission who will claim that it is irresponsible for me to share the information in this letter with members of the public. To them I would note that there is nothing in this letter – other than the list of documents enclosed – that is not already public knowledge. With regard to the list of documents enclosed, although these documents are stamped "Official Use Only – Security-Related Information", I do not believe that the mere mention of the existence of these documents constitutes the release of "Security-Related Information".

I have copied politically active organizations on this letter because I believe their participation is vital to the proper functioning of our democratic and republican processes. Although it might not be appropriate to release specific information to these organizations from documents stamped "Security-Related Information", merely informing them that after five years the NRC has failed to adequately address a perceived security threat from the Lake Jocassee Dam is certainly within my rights as a citizen and my duties as a licensed professional engineer.

Very respectfully,


Lawrence S. Criscione, PE
573-230-3959
LSCriscione@hotmail.com

Enclosure – 5 pages

Cc: Senator Susan Collins, Ranking Member, Homeland Security & Governmental Affairs
Senator Richard Durbin, Illinois
Congressman Pete King, Chairman, Homeland Security
Congressman Bonnie Thompson, Ranking Member, Homeland Security
Congressman Fred Upton, Chairman, Energy & Commerce
Congressman Henry Waxman, Ranking Member, Energy & Commerce
Chairman Allison Macfarlane, US Nuclear Regulatory Commission
Special Counsel Carolyn Lerner, US Office of Special Counsel
Michael Corradini, American Nuclear Society
Admiral James Ellis, Institute of Nuclear Power Operations
Leslie Barbour, Nuclear Energy Institute
David Lochbaum, Union of Concerned Scientists
Scott Amey, Project on Government Oversight
Louis Clark, Government Accountability Project
Ken Bunting, National Freedom of Information Coalition
Tyson Siocum, Public Citizen Energy Program
Jim Riccio, Greenpeace

List of NRC Correspondence, Memos and Studies Regarding Failure of Jocassee Dam

Date	ADAMS	Title
1994-FEB-11		Letter from Albert F. Gibson, NRC, to J. W. Hampton, Duke, "Notice of Violation and Notice of Deviation (NRC Inspection Report Nos. 50-269/93-25, 50-270/93-25, and 50-287/93-25)," dated February 11, 1994
1994-MAR-14		Letter from J. W. Hampton, Duke, dated March 14, 1994
1994-OCT-6		Internal NRC memo documenting a meeting between Region II and NRR concerning a hypothetical Jocassee Dam failure.
1994-DEC-19		Letter from Albert F. Gibson, NRC, to J. W. Hampton, Duke, "Notice of Violation and Notice of Deviation (NRC Inspection Report Nos. 50-269/94-31, 50-270/94-31, and 50-287/94-31)," dated December 19, 1994
2000-MAR-15		Letter from David E. LaBarge, NRC, to W. R. McCollum, Jr., "Oconee Nuclear Station, Units 1, 2, and 3 Re: Review of Individual Plant Examination of External Events (TAC Nos. M83649, M83650, and M83651)," dated March 15, 2000
2006-APR-28	ML061180451	OCONEE NUCLEAR STATION - INTEGRATED INSPECTION REPORT 05000269/2006002, 05000270/200602, 05000287/2006002
2006-AUG-31	ML060780143	IR 05000269-06-016, IR 05000270-06-016, IR 05000287-06-016, on 03/31/2006, Oconee Nuclear Station - Preliminary White Finding
2006-OCT-5	ML062890206	Oconee, Units 1, 2 & 3 - Response to Preliminary White Finding
2006-NOV-22	ML063260282	IR 05000269-06-017, IR 05000270-06-017, IR 05000287-06-017, Final Significance Determination for a White Finding and Notice of Violation, Duke Energy Carolinas, LLC
2006-DEC-20	ML063620092	Oconee, Units 1, 2, & 3, Appeal of Final Significance Determination for White Finding and Reply to Notice of Violation; EA-06-199
2007-JAN-29	ML070440345	Summary of Revised Fragility Evaluation Results for Jocassee Dam
2007-FEB-5		Letter from Bruce H. Hamilton, Duke, to NRC, "Seismic Fragility Study"
2007-FEB-22	ML070590329	Manual Chapter 0609.02 Appeal Panel Recommendations (Oconee Reply to a Notice of Violation and White Finding (EA-06-199))
2007-MAR-1	ML070610460	Oconee Appeal Panel Review of Manual Chapter 0609.02 Appeal Panel Review of Oconee Standby Shutdown Facility White Finding (EA-06-199)
2007-MAY-3	ML072970510	Oconee, Units 1, 2 and 3 - Request for NRC to Review Appeal of Final Significance Determination for SSF Flood Barrier White Finding
2007-JUN-22	ML071580259	Consideration of New Information Associated with a Final Significance Determination for a White Finding - Oconee NS
2007-JUN-28		Phone call between the NRC and Duke Energy
2007-OCT-1	ML07770765	10/01/2007, Slides with Notes for Final Regulatory Assessment of Oconee Flood Barrier Issue
2007-OCT-1	ML072770775	Dam Failure Information
2007-OCT-1	ML072770777	Questions and Answers Related to Oconee Flood Barrier
2007-NOV-20	ML073241045	Reconsideration of Final Significance Determination Associated with Standby Shutdown Oconee Facility Flood Barrier White Finding
2008-MAY-19	ML081350689	Briefing Package For Drop-In Visit By Duke Energy Chief Nuclear Officer With Chairman Klein And Commissioner Jaczko On May 21, 2008
2008-JUN-23	ML082390669	Proposal for a Risk Analysis of the Failure of the Jocassee and Keowee Dams to Assess the Potential Effects on the Safe Shut Down Facility of the Oconee Nuclear Station, South Carolina
2008-JUL-28	ML082120390	Oconee Nuclear Station - Revisions to the Selected Licensee Commitments Manual (SLC)

List of NRC Correspondence, Memos and Studies Regarding Failure of Jocassee Dam

Date	ADAMS	Title
2008-AUG-15	ML081640244	Information Request Pursuant to 10 CFR 50.54(F) Related to External Flooding, Including Failure of the Jocassee Dam at Oconee Nuclear Station, Units 1, 2, and 3 (TAC Nos. MD8224, MD8225, and MD8226)
2008-AUG-26	ML082390690	Kick Off for Risk Analysis of the Failure of the Jocassee and Keowee Dams to Assess the Potential Effects on the Safe Shutdown Facility at the Oconee Nuclear Station
2008-AUG-28	ML083300427	08/28/2008 - Summary of Closed Meeting to with Duke Energy Carolinas, LLC to Discuss the August 15, 2008, 50.54(f) Letter on External Flooding (TAC Nos. MD8224, MD8225, and MD8226)
2008-AUG-28	ML082550290	Meeting with Duke Energy Carolinas, Oconee Flood Protection and the Jocassee Dam Hazard
2008-SEP-6	ML082250166	Oconee Nuclear Station - Communication Plan for Information Request Related to Failure Frequencies for the Jocassee Pumped Storage Dam (Jocassee Dam) at the Oconee Nuclear Station and Potential Generic Implications
2008-SEP-26	ML082750106	Oconee, Units 1, 2 and 3 - Response to 10 CFR 50.54(f) Request
2008-NOV-5	ML091060761	11/05/08 Summary of Closed Meeting with Duke on External Flooding Issues, including failure of the Jocassee Dam, at Oconee Nuclear Station, Units 1, 2, and 3
2008-NOV-5	ML083390650	11/05/2008 Meeting Slides, "Oconee Site Flood Protection," NRC Meeting with Duke Energy Carolinas, LLC
2008-DEC-4	ML091420319	12/04/2008 Meeting Summary, Meeting to Discuss External Flooding at Oconee Nuclear Station (Reissuance, with Error on Page 3 Corrected)
2008-DEC-4	ML090480044	Oconee Nuclear Station, External Flood NRR Meeting, Rockville, MD, December 4, 2008
2009-FEB-3	ML090280474	Briefing Package for Commissioner Lyons Visit to Oconee on February 4, 2009
2009-APR-6	ML091170104	Oconee Nuclear Station, Units 1, 2 And 3 - Non-concurrence on Evaluation of Duke Energy Carolinas, LLC September 26, 2008, Response to Nuclear Regulatory Commission Letter Dated August 15, 2008 Related to External Flooding
2009-APR-9	ML091030172	Oconee External Flooding Briefing for Commissioner Jaczko
2009-APR-30	ML090570779	Oconee Nuclear Station Units 1, 2, and 3, Evaluation of Duke Energy Carolinas September 26, 2008, Response to External Flooding, Including Failure of the Jocassee Dam
2009-MAY-11	ML092940769	05/11/2009 Summary of Closed Meeting with Duke Energy Carolinas, LLC, to Discuss Preliminary Results of the Recent Inundation and Sensitivity Studies Concerning Failure of the Jocassee Dam and Resultant Flooding at Oconee Nuclear Station, 1, 2, and 3
2009-MAY-11	ML090820470	5/11/2009 Notice of Forthcoming Closed Meeting with Duke Energy Carolinas, LLC, to Discuss Sensitivity Studies Concerning Failure of the Jocassee Dam & Resultant Flooding at the Oconee Nuclear Station, Unit 1, 2, & 3
2009-MAY-11	ML091380424	Oconee Nuclear Station, Slides for Closing Meeting May 11, 2009 with Duke on the Oconee Flooding Issue
2009-MAY-20	ML091470265	Oconee, Units 1, 2 & 3, Request for Extension of Duke Response Time to Referenced Letter
2009-MAY-26	ML091480116	E-mail re Briefing Package for Visit to Jocassee Dam on June 23, 2009
2009-JUN-1	ML091590046	Oconee, Units 1, 2, and 3, Request to Withhold Sensitive Information in Presentation Materials Left with Staff
2009-JUN-10	ML091680195	Oconee, Units 1, 2, and 3 - Interim 30-Day Response to Reference 2.

List of NRC Correspondence, Memos and Studies Regarding Failure of Jocassee Dam

Date	ADAMS	Title
2009-JUN-11	ML091620669	6/11/09 Summary of Closed Meeting with Duke Carolina to Discuss External Flooding at Oconee
2009-JUN-25	ML091760072	NRC Site Visit to the Oconee Nuclear Station on June 15, 2009
2009-JUL-9	ML092020480	Oconee, Units 1, 2, & 3, Final 60-Day Response to Reference 2
2009-JUL-28	ML092230608	Oconee, Submittal of Selected Licensee Commitments Manual SLC Revision
2009-AUG-12	ML090570117	Oconee Flood Protection and the Jocassee Dam Hazard Basis for NRC Allowing Continued Operation
2009-AUG-27	ML092380305	Oconee, Slides for Closed Meeting Regarding External Flood Technical Meeting On August 27, 2009
2009-SEP-25	ML090710344	Site Visit Observation on 09/25/2009 by Joel Munday for Oconee
2009-OCT-28	ML093080034	10/28/09 Slides for Oconee Nuclear Station, Units 1, 2, and 3 - Meeting Slides - External Flood NRC Technical Meeting
2009-NOV-30	ML093380701	Oconee Nuclear Station, Units 1, 2, and 3, Oconee External Flood Analyses and Associated Corrective Action Plan
2009-DEC-4	ML09C680737	12/04/09 Summary of Closed Meeting to Discuss the Duke Energy Carolinas, LLC., 09/26/08 Response to NRC's August 15, 2008 50.54(f) Letter on External Flooding at Oconee
2010-JAN-6	ML10C280954	01/06/2010 Briefing to the Executive Team on the Oconee Nuclear Station External Flooding Issue
2010-JAN-11	ML10C150066	Request Additional Information Regarding the Oconee External Flooding Issue
2010-JAN-15	ML100210199	Oconee, Units 1, 2 and 3 - Additional Information Regarding Postulated External Flood Threat Issues
2010-JAN-29	ML100271591	Evaluation of Duke Energy Carolina, LLC (Duke), November 30, 2009, Response to Nuclear Regulatory Commission (NRC) Letter Dated April 30, 2009, Related to External Flooding At Oconee Nuclear Station, Units 1, 2, And 3 (Oconee)
2010-FEB-8	ML100470053	Oconee, Units 1, 2, & 3, External Flood, Response to Request for Additional Information
2010-FEB-26	ML100610674	Oconee, Units 1, 2, & 3, External Flood Revised Commitment Letter
2010-MAR-5	ML105430047	Oconee Nuclear Station, Units 1, 2, & 3, Letter From Duke Energy Carolinas, LLC Regarding External Flood, Response to Request For Additional Information
2010-MAR-15	ML100780084	Generic Failure Rate Evaluation for Jocassee Dam Risk Analysis
2010-MAR-18	ML100810388	Prepare Briefing Book and Material for Eric Leeds for the Duke Fleet Meeting on March 18, 2010
2010-APR-14	ML100760109	Generic Failure Rate Evaluation for Jocassee Dam
2010-MAY-27	ML101600468	Oconee, Units 1, 2 & 3, Response to Requested Information on the Protection Against External Flooding Including a Postulated Failure of the Jocassee Dam
2010-JUN-1	ML101750619	OUO - Communication Plan For Issuance of Confirmatory Action Letter To Duke For Oconee - External Flooding June 2010
2010-JUN-3	ML101610083	Oconee Nuclear Station, Units 1, 2, and 3, - External Flood Commitment
2010-JUN-22	ML101730329	Oconee, Units 1, 2 & 3, Confirmatory Action Letter (CAL 2-10-003), Commitments to Address External Flooding Concerns
2010-JUN-29	ML101890803	06/29/2010 Summary of Closed Meeting With Duke Energy Carolinas, LLC, to Discuss External Flooding at Oconee
2010-JUL-7	ML101880768	OUO - IR 05000269-10-002, 05000270-10-006, 05000287-10-006; 01/01/2010 - 03/31/2010; Oconee Nuclear Station Units 1, 2 and 3; Interim Compensatory Measures for External Flood
2010-JUL-19	ML101900305	Identification of a Generic External Flooding Issue Due to Potential Dam Failures

List of NRC Correspondence, Memos and Studies Regarding Failure of Jocassee Dam

Date	ADAMS	Title
2010-AUG-2	ML102170006	Oconee Units 1, 2, & 3, Response to Confirmatory Action Letter (CAL) 2-10-003
2010-OCT-20	ML102910480	NRC Assessment of Oconee External Flooding Issue (October 18, 2010)
2010-OCT-26	ML102990064	NRC Staff Assessment of Duke Energy Carolinas, LLC, Oconee External Flooding Issue (TAC NOS. ME4441, ME4442, and ME4443)
2010-NOV-29	ML103490330	Oconee Nuclear Site, Units 1, 2, and 3, Oconee Response to Confirmatory Action Letter (CAL) 2-10-003
2011-JAN-5	ML110180609	Enclosure 1, Oconee Nuclear Station, Major Project Plans
2011-JAN-10	ML110260443	Non-concurrence on Oconee Assessment Letter
2011-JAN-28	ML110280153	Staff Assessment of Duke's Response to Confirmatory Action Letter Regarding Duke's Commitments To Address External Flooding Concerns At The Oconee Nuclear Station, Units 1, 2, And 3 (ONS) (TAC NOS. ME3065, MF3066, and ME3067)
2011-MAR-5	ML103410042	Supplement to Technical Basis for Allowing Oconee Nuclear Station to Remain in Operation Through November 2011, Associated with the External Flooding Issues
2011-MAR-15	ML110740482	Analysis Report for the Proposed Generic Issue on Flooding of Nuclear Power Plant Sites Following Upstream Dam Failures
2011-APR-29	ML111460063	Oconee Nuclear Site, Units 1, 2, and 3, Response to Confirmatory Action Letter (CAL) 2-10-003
2011-AUG-16	ML11229A710	E-mail re Briefing Package for Visit to Oconee Nuclear Power Plant on September 12-13, 2011
2011-AUG-18	ML11174A138	Oconee Nuclear Station, Units 1, 2, and 3, Assessment of Duke Energy Carolinas, LLC April 29, 2011, Response to Confirmatory Action Letter Regarding Modifications to Address External Flooding Concerns (TAC Nos. ME6133, ME6134, and ME6135)
2011-AUG-31	ML112430114	Screening Analysis Report for the Proposed Generic Issue on Flooding of Nuclear Power Plant Sites Following Upstream Dam Failures
2011-SEP-1	ML11244A024	Briefing Package for Visit to Oconee Nuclear Power Plant on September 12-13, 2011
2011-OCT-3	ML11278A173	Oconee Nuclear Station (ONS), Units 1, 2, and 3, Response to Requests for Additional Information Regarding Necessary Modifications to Enhance the Capability of the ONS Site to Withstand the Postulated Failure of the Jocassee Dam
2011-OCT-17	ML11294A341	Oconee Nuclear Station (ONS), Units 1, 2, and 3, Response to Requests for Additional Information Regarding Necessary Modifications to Enhance the Capability of the ONS Site to Withstand the Postulated Failure of the Jocassee Dam
2011-DEC-16	ML113500495	Screening Analysis Report for the Proposed Generic Issue on Flooding of Nuclear Power Plant Sites Following Upstream Dam Failures_redacted
2012-JAN-26	ML12C26A549	Briefing Package for Commissioner Svinicki Visit to Oconee on February 1, 2012
2012-JAN-31	ML12C26A254	Communication Plan for Oconee Nuclear Station (ONS) Following Issuance of GI-204
2012-FEB-3	ML12C39A239	Oconee, Units 1, 2 and 3 - Request for Withholding from Public Disclosure Duke Energy Letter Dated May 20, 2009 Involving Postulated Failure of the Jocassee Dam
2012-FEB-9	ML12C39A217	Briefing Package Request for Meeting with Duke Energy on February 16, 2012

List of NRC Correspondence, Memos and Studies Regarding Failure of Jocassee Dam

Date	ADAMS	Title
2012-FEB-17	ML12053A016	Duke Energy Carolinas, LLC - Recommended Revisions to the Oconee Nuclear Station Section of NRC's Screening Analysis Report for the Proposed Generic Issue on Flooding of Nuclear Plant Sites Following Upstream Dam Failure
2012-FEB-23	ML12058A236	02/23/12 Summary of a Teleconference between the US NRC and Duke Energy Regarding Comments made by Duke Energy Concerning the Issuance of the Screening Analysis Report for Generic Issue 204
2012-MAR-5	ML090510269	NRC Information Notice 2012-002 Potentially Nonconservative Screening Value For Dam Failure Frequency In Probabilistic Risk Assessments
2012-MAY-15	ML12129A186	Oconee Nuclear Station, Units 1, 2, and 3 - Request for Additional Information Regarding Modifications to Address the External Flooding Concerns (TAC NOS. ME7970, ME7971, AND ME7972)
2012-JUN-14	ML12167A372	Oconee, Units 1, 2, and 3, Response to Requests for Additional Information Regarding Modifications to Address External Flooding Concerns
2012-JUL-11	ML12215A327	07/11/2012 Licensee Non-Public Meeting Slides on Oconee External Flood Mitigation
2012-JUL-11	ML12188A071	Briefing Package for Meeting with Duke Energy on July 11, 2012
2012-AUG-7	ML12206A325	Briefing Book for Meeting with Duke Energy on August 7, 2012
2012-SEP-20	ML12268A404	Communication Plan for Flooding September 2012
2012-SEP-20	ML12219A163	Oconee Nuclear Station, Units 1, 2 and 3 - Response to Questions Regarding Modifications to Address External Flooding Hazards (TAC Nos. ME7970, ME7971, AND ME7972)

Copy included the redaction.

~~OFFICIAL USE ONLY~~

Memos to File

Prepared by: (b)(7)(C) 01/08/2013

Case Title: Release of NRC Security Related Documents by RES Employee
Case Number: C 13 001

Origination Doctlink: [3](#)

Subject: OIG Receipt of Letter from U.S. Senate Committee on Homeland Security and Governmental Affairs, dated December 18, 2012, LIEBERMAN

Report Date: 12/18/2012

Narrative:


ltr Lieberman to Bell 12_12_12.pdf

Status: Closed

Allow Other Editors:

Edit Authorization:

Request Review:

Approval:

~~OFFICIAL USE ONLY~~

1

D17

Criscione, Lawrence

From: Criscione, Lawrence
Sent: Thursday, May 19, 2016 8:00 AM
To: Kirkwood, Sara; Holahan, Gary; Clark, Theresa
Cc: tomd@whistleblower.org; 'LSCriscione@gmail.com'
Subject: FW: MOU between USACE and ACRS
Attachments: 2016-Mar-1 MOU between ACRS and USACE.pdf

Sara. et. al..

The email below is just an example of how ridiculous we are being about keeping flooding information secret. The attached MOU between the ACRS and the USACE was not publicly released in ADAMS when it was implemented and now, after being released under the FOIA, is still not in ADAMS. And the NRC contact for that MOU will not even speak about it. Why? What kind of organization have we become?

I realize that the fact that Fort Calhoun could be flooded to beyond the height of the turbine building is embarrassing to both the NRC and the USACE, but if you lived in Omaha would you not like to know this?

Larry

From: Criscione, Lawrence
Sent: Thursday, May 05, 2016 1:13 PM
To: Harvey, Brad <Brad.Harvey@nrc.gov>; Bley, Dennis <Dennis.Bley@nrc.gov>
Cc: 'Dennis Bley' (bley@buttonwoodconsulting.com) <bley@buttonwoodconsulting.com>
Subject: RE: MOU between USACE and ACRS

Brad.

What does the email below mean? Are you telling me you do not want me to ever ask you anymore questions?

You are listed under section E of the attached MOU as the NRC interface for that MOU. Can you at least tell me whom at the NRC I should contact if I have any questions regarding the attached MOU?

I'm asking you because you are the only NRC staff member whose name appears in the MOU. If there is a better contact, I would appreciate knowing who it is.

R/
Larry

From: Harvey, Brad
Sent: Thursday, May 05, 2016 11:45 AM
To: Criscione, Lawrence <Lawrence.Criscione@nrc.gov>; Bley, Dennis <Dennis.Bley@nrc.gov>
Cc: 'Dennis Bley' (bley@buttonwoodconsulting.com) <bley@buttonwoodconsulting.com>
Subject: RE: MOU between USACE and ACRS

Larry:

Please remove me from future emails.

Thank you.

Brad

From: Criscione, Lawrence
Sent: Wednesday, May 04, 2016 2:41 PM
To: Harvey, Brad <Brad.Harvey@nrc.gov>; Bley, Dennis <Dennis.Bley@nrc.gov>
Cc: 'Dennis Bley' (bley@buttonwoodconsulting.com) <bley@buttonwoodconsulting.com>
Subject: MOU between USACE and ACRS

Brad/Dennis,

Do you know the ADAMS accession numbers for the attached MOUs?

Are there any documents in ADAMS relating to Dr. Ballinger's review of flood hazard assessments (mentioned in the MOUs)?

Thanks,
Larry
573-230-3959

From: Stevens, Margo
Sent: Wednesday, May 04, 2016 1:49 PM
To: Criscione, Lawrence <Lawrence.Criscione@nrc.gov>
Subject: RE: FW: FOIA/PA-2016-0455 Final Response

I do not know the answers to your questions. (After receiving the records from ACRS, I did a very quick search, using the Enterprise Search Tool, in ADAMS and did not locate them, but I am not particularly expert in ADAMS). As to the why, I don't know. That is not within my wheelhouse.

*Margo Stevens
Senior Manager, Information Management
May 04, 2016
1:49 PM
Sent from my iPhone
Please do not reply to this email from
my mobile device. If you need to
reply, please email me at
Margo.Stevens@nrc.gov*

From: Criscione, Lawrence
Sent: Wednesday, May 04, 2016 1:47 PM
To: Stevens, Margo <Margo.Stevens@nrc.gov>
Subject: FW: FW: FOIA/PA-2016-0455 Final Response

Margo,

I received the attached memoranda of understanding today in response to FOIA request 2016-0455.

Are these two MOUs in ADAMS? If so, what are the Accession numbers? If not, why not?

Thanks,
Larry
573-230-3959

Criscione, Lawrence

From: Criscione, Lawrence
Sent: Thursday, May 19, 2016 7:54 AM
To: Kirkwood, Sara; Holahan, Gary; Clark, Theresa
Cc: tomd@whistleblower.org
Subject: Need-to-Know regarding nuclear safety issues associated with flooding

Sara, et. al.,

Please see the emails below from October 25, 2012 (the first five emails in the trail below).

I believe that flooding information is being handled as "need-to-know" for no other reason than because it is embarrassing.

It is embarrassing to the NRC that a significant proportion of the older nuclear plants are not adequately protected from flooding.

It is embarrassing to the USACE that their flooding predictions are often inaccurate.

The public living downstream of dams and vulnerable reactor plants have a right to know the hazard they are exposed to. It is the commission's statutory right to allow these reactors to continue to operate despite the hazards associated with them, but it is not their right to obstruct public awareness of these hazards. Since the beginning of my involvement in this issue, my primary concern was the lack of openness and transparency regarding how flooding hazards are handled. My 2012 letters to the Chairmen of the NRC, the E&PW and the HS&GA were attempts to bring these issues out into the open.

As part of your efforts, I hope your team addresses the abuse of "need-to-know" criteria regarding flooding issues and how such abuse is impeding scientific and engineering review of the problems.

To my knowledge there is no statutory or regulatory risk limit for nuclear accidents. My understanding is that it is up to the commission to decide if a license needs to be revoked due to unwarranted public risk. I personally do not have a problem with that system. My concern is that we are not being open with the public regarding what the risks are. We should undertake to determine flooding risks as best we can and ensure that the public are adequately informed. Instead, we are allowing licensees to make unwarranted assumptions in order to minimize their risks and are keeping our deliberations from the public—and even from our own staff—by inappropriately marking material pertaining to acts of nature as "Security-Related Information", by internally silo-ing records, and by regularly abusing FOIA exemption 7(F).

Larry
Lawrence S. Criscione
573-230-3959

From: Criscione, Lawrence
Sent: Thursday, April 28, 2016 5:39 PM
To: Weber, Michael <Michael.Weber@nrc.gov>; NTEU, Chapter 208 <NTEU@nrc.gov>
Cc: Hackett, Edwin <Edwin.Hackett@nrc.gov>; Correia, Richard <Richard.Correia@nrc.gov>; Peters, Sean <Sean.Peters@nrc.gov>; Heard, Robert <Robert.Heard@nrc.gov>; Schwartz, Maria <Maria.Schwartz@nrc.gov>; Campbell, Andy <Andy.Campbell@nrc.gov>; Bley, Dennis <Dennis.Bley@nrc.gov>
Subject: Who Determines Need-To-Know for OUO?

Mike/Sheryl,

As can be seen from the email trail below, I have been trying to get an answer to the handling of Official Use Only information for quite some time.

Attached is a letter I received last week from the US Office of Special Counsel (OSC). In the letter it is stated that the OSC has referred my disclosure regarding the agency's failure to adequately address flooding from dam failures to the NRC Chairman for investigation and report. It is not yet known by me whom the Chairman intends to assign to investigate my concerns.

In anticipation of potentially meeting with the Chairman's assigned investigator, over lunch today I met with seven colleagues from RES, NRR and NRO to discuss outstanding flooding concerns. At that meeting I was informed that certain supervisors in NRO have deemed certain flooding information and studies as sensitive information subject to strict need-to-know restrictions.

That is, my NRO colleagues told me they had to talk around certain concerns because I—and others present—were not formally assigned to work on those issues and to know those concerns.

Please note that none of the issues were related to nuclear security. These issues pertained entirely to nuclear SAFETY issues (e.g. Probabilistic Maximum Precipitation estimates for certain sites, flood inundation levels, etc.).

Please also see the attached OCWE flyer from Bill Borchardt.

To me, the restrictions placed on the NRO staff directly contradicts the work environment purported by Mr. Borchardt.

But it is much worse than that.

One of the NRO staff informed me that she might not be able to discuss some of her specific flooding concerns with the Chairman's investigator since the issues could only be shared with those with a need-to-know.

Think about that for a minute. The staff of the NRC supports the work of the Commission. The President appoints the Chairman of the Commission. The President appoints the Special Counsel. The Special Counsel has directed the Chairman to furnish a report to her within 60 days regarding my flooding concerns so that she might forward the Chairman's investigative results on to the President. Yet NRO management has their staff so rattled and confused regarding "need-to-know" surrounding flooding concerns that a staff member is concerned that she cannot even discuss those issues with the Chairman's investigator.

That's messed up. Waaaaaay messed up.

Today, I also found out that the Advisory Committee on Reactor Safeguards needed to agree to a Memorandum of Understanding (MOU) prior to being allowed to see certain flooding information.

Think about that for a minute. This is unclassified information. It is not safeguards. None of it has any value in determining how to breach a dam. These studies were done at the request of the NRC to aid in determining how dam failures will affect the viability of reactor plants. Yet the Advisory Committee on Reactor Safeguards cannot automatically see these studies?????

I would appreciate it if I could get a definitive answer from Mike to the following:

1. Are bargaining unit employees allowed to discuss SUNSI (i.e. information that is neither unclassified nor Safeguards) with any colleague whose opinion they so choose to seek?
2. If not, how is the need-to-know determined? That is, how is an employee to determine which colleagues cannot know of SUNSI nuclear safety concern?
3. Is there any SUNSI material which NRC employees are prohibited from providing to Congressional Oversight Committees and/or to staff of the US Office of Special Counsel?
4. If so, who makes that determination?

I recognize PII, allegation material, attorney/client privilege all fall under some definition of SUNSI. But in lieu of a better term, I am using SUNSI to refer to nuclear safety related information that is, for whatever reason, not public information. I am not at all confused on the prohibition of sharing PII, allegation material, attorney-client privilege, etc. so please restrict your answer to SUNSI that pertains solely to nuclear safety.

Please answer my questions directly. As can be seen below, I have for several years been bounced around between various NRC offices, web pages, 10 CFR references, and obtuse Management Directive references that do not address these questions.

This is an issue that gravely affects the Safety Culture of this agency. Imagine an individual with concerns regarding the flooding evaluation at Oconee being told that he cannot discuss the matter with fellow colleagues in his branch because they have no "need-to-know". Imagine the stress of being told by your superiors to sign off on an evaluation and not being able to discuss your concerns with your trusted peers. These are not hypotheticals; they have happened and are happening.

I would appreciate it from Sheryl if she would assist me in getting answers to my questions above. This is an NRC issue not a RES issue (in fact, to my knowledge, there is nothing in RES restricted to a "need-to-know"). To me, this should be brought up at the ALMPC.

I am not saying there is no guidance. As can be seen from the email trail below, there is plenty of guidance. It's just not in a form that can be applied.

I would like the NRC to go on record stating that there are certain SUNSI documents that cannot be supplied to Congress and the OSC or confirming that there are no prohibitions against providing SUNSI documents to Congress and the OSC. And I would like the NRC to go on record stating that all employees can view discuss SUNSI nuclear safety concerns with their peers or confirming that there are certain prohibitions against sharing SUNSI material with peers not directly assigned to work on those materials.

V/r,
Larry
Lawrence S. Criscione
RES/DRA/HFRB
573-230-3959

From: Criscione, Lawrence
Sent: Tuesday, March 03, 2015 10:41 AM
To: Correia, Richard <Richard.Correia@nrc.gov>; West, Steven <Steven.West@nrc.gov>; Peters, Sean <Sean.Peters@nrc.gov>
Subject: Management's Credibility

There has been much discourse on this SUNSI issue both via email and in cubicle and cafeteria conversations. Much of it is stated less professionally and more cynically than Ed's email below. Ed's mention of a DPO is a sarcastic reference to one of Ron's responses; no one is going to waste their time attempting to address any of these items with a DPO.

Just because most of your staff is focused on doing their jobs and do not wish to ruffle anyone's feathers, please don't think that there are only two people (i.e. me and Richard Perkins) complaining about this. This has been a long-standing complaint amongst certain personnel at NRR long before I was ever hired at the NRC—my involvement in this issue came as a result of their complaints to me. And there is widespread dissatisfaction in RES regarding these matters and how our management has avoided addressing them.

There might be a large contingent of managers and staff who resent "open government", but there is a very concerned contingent of technical staff who are appalled at what we are not allowed to share with the public. And they are equally appalled by the lack of professionalism that has gone into resolving this

issue. We expect our leaders to lead and not to politically avoid the difficult questions they are well-paid to confront. Balancing open government and SUNSI is one such issue.

Ron Gagnon is the supposed SUNSI expert for the agency and it is his determination that many of these questions are the prerogative of the office. I say we run with that determination. I say that in the absence of agency ownership of SUNSI, we take ownership of the SUNSI policies for our office. If you would like me to (and if Sean will allow me time to work on it), I can draft some guidance on how to determine what is SUNSI, how to apply "need-to-know" and how to conduct "portion-marking".

I know Brian believes SUNSI is owned by ADM, but ADM—and specifically the SUNSI lead in ADM—believes that specific SUNSI guidance (vice the broad policies put out by ADM in MD 12.6) is the prerogative of the individual offices. This makes sense. Understandably ADM does not feel comfortable writing prescriptive guidance for NRR, RES, etc. We know our work and should be the ones translating the high-level ADM SUNSI policies into workable prescriptive guidance for our people.

V/r,
Larry

From: O'Donnell, Edward
Sent: Monday, March 02, 2015 1:53 PM
To: Orr, Mark; Barr, Jonathan; Criscione, Lawrence
Subject: FW: Need-to-Know requirements for SUNSI

The answers leave one hanging. Perhaps a differing professional opinion should be invoked regarding them.

From: Gagnon, Ronald
Sent: Monday, March 02, 2015 1:49 PM
To: Criscione, Lawrence
Cc: Janney, Margie; Correia, Richard; Sullivan, Randy; Perkins, Richard; Bensi, Michelle; Sancaktar, Selim; Philip, Jacob; Mitman, Jeffrey; Ferrante, Fernando; Barnes, Valerie; Desaulniers, David; O'Donnell, Edward; Kanney, Joseph; Patterson, Malcolm; King, Mark; Burton, Thomas; Peters, Sean; Cardenas, Daniel
Subject: RE: Need-to-Know requirements for SUNSI

Larry,

Please see my replies adjacent to your questions.

Thank you,

Ron

Ronald E. Gagnon
OIS / PMPD / IPB

United States Nuclear Regulatory Commission
One White Flint North
11545 Rockville Pike, Mail Stop O-6H11
Rockville, MD 20852
Office: 301-415-6873

From: Criscione, Lawrence
Sent: Friday, February 27, 2015 3:23 PM
To: Gagnon, Ronald
Cc: Janney, Margie; Correia, Richard; Sullivan, Randy; Perkins, Richard; Bensi, Michelle; Sancaktar, Selim; Philip, Jacob;

Mitman, Jeffrey; Ferrante, Fernando; Barnes, Valerie; Desaulniers, David; O'Donnell, Edward; Kanney, Joseph; Patterson, Malcolm; King, Mark; Burton, Thomas; Peters, Sean; Cardenas, Daniel

Subject: RE: Need-to-Know requirements for SUNSI

Thanks Ronald. I've copied some colleagues on this email so they can see your answer below and so that they might contact you if they have their own questions about it.

I've highlighted two items below that are still unclear (subject matter expert and need-to-know determination):

- 1.a) Who are the subject matter experts for flooding and dam failures? Check with your office leadership.
- 1.b) What document designates them as such? Check with your office leadership.
- 1.c) What guidance do they use to determine what is sensitive and what is not? Check with your office leadership, (reference internal NRC SUNSI, SGI, Classified guidance).
- 1.d) If you disagree with their determination, is there an appeal process?

As you probably already know, NRC has a mechanism in place where differing professional opinions can be discussed and resolved. The NRC Differing Professional Opinions Program, Management Directive 10.159 states the following objectives: To foster informal discussions with peers and supervisors on issues involving professional judgments that may differ from a currently held view or practice, To establish a formal process for expressing differing professional opinions (DPOs) concerning issues directly related to the mission of NRC, To ensure the full consideration and prompt disposition of DPOs by affording an independent, impartial review by knowledgeable personnel, To ensure that all employees have the opportunity to (a) express DPOs in good faith, (b) have their views heard and considered by NRC management, and (c) be kept fully informed of the status of milestones throughout the process, To protect employees from retaliation in any form for expressing a differing opinion, To recognize submitters of DPOs when their DPOs have resulted in significant contributions to the mission of the agency, To provide for agency-wide oversight and monitoring, to ensure that implementation of these procedures accomplishes the stated objectives, and to recommend appropriate changes when required.

- 2.a) For SUNSI, do we (i.e. the technical staff) need to obtain our supervisor's permission prior to sharing information with a Congressional office? This question is outside the scope of SUNSI. Please check with your leadership for official NRC policies regarding communications with Congress. The Office of Congressional Affairs should be able to articulate current policies regarding this question.
- 2.b) For SUNSI that is related to nuclear safety issues or to agency policies on applying FOIA redactions (i.e. not PII, allegation material, or other highly specific forms of SUNSI that have nothing to do with typical NRC correspondence and reports) do we need our supervisor's permission prior to discussing the information with our NRC colleagues who are not formally assigned to work on the issue? That is, can I share nuclear safety information with my NRC co-workers even though that information has been designated SUNSI and they have not been formally assigned to work on the issue? Please check with your leadership and the FOIA office (if you have a FOIA redaction question). As you are aware, in addition to having authorized access to SUNSI information there is a need to know component to SUNSI. In order to allow access to another party, an authorized holder of SUNSI information must make a determination that a prospective recipient requires access to specific information to perform or assist in a lawful and authorized governmental function.
- 2.c) If I can get to it in ADAMS, can I assume I have a de-facto right to know it? Perhaps, but not exclusively. For example, if a document has been mistakenly categorized / entered into ADAMS it does not give an employee the right to view or distribute it without the proper access credentials. If a government employee came across a classified document on-line through a Google search, that government employee is not authorized access unless they have the proper clearance and need to know, even though the document is easily available to anyone searching for it. If not, how do I determine that I have accessed a document that I have no right to see and to whom do I report it? One way to report a document spill would be by advising your supervisor and accessing the following link: <http://www.internal.nrc.gov/incident.html> (please note that other notifications may be necessary depending on the type of spill).

R/
Larry

From: Gagnon, Ronald
Sent: Friday, February 27, 2015 2:15 PM
To: Criscione, Lawrence
Cc: Janney, Margie; Correia, Richard
Subject: RE: Need-to-Know requirements for SUNSI

Good afternoon Larry,

It was a pleasure speaking with you this afternoon. During our conversation we explored several topics including your questions below. We discussed the Controlled Unclassified Program (CUI) and how it would consolidate the SUNSI and SGI programs at the NRC, and how it would offer a government-wide, uniform way of handling sensitive unclassified information. You asked the following SUNSI related questions:

1. If I am referencing a document marked SUNSI, since there are no portion markings how do I determine what material is SUNSI and what is not? If I reference anything in the document, must my new document now be marked as SUNSI?

Derivative products should always be marked to ensure that the sensitive information in the document is fully protected according to agency policy. If the document is not portion marked, then the entire document is considered SUNSI until such time as a subject matter expert determines otherwise. Documents that are marked SUNSI and not portion marked can be reviewed by the originator to determine which portion is sensitive, ie. 2.390 information. A derivative document using any information from a SUNSI document that is not portion marked must have the referenced portion marked as SUNSI.

2. How do I determine need-to-know with regard to SUNSI? If I come across an interesting nuclear issue (e.g. a nuclear site which some colleagues believe is inadequately protected from flooding), can I discuss that issue with my fellow employees or is there some type of vetting process I must use? That is, are unclassified and non-Safeguards nuclear safety concerns fair game for discussion with all NRC colleagues or must information be "silo-ed" into a tightly controlled group of individuals who are officially assigned to address the issue?

Need-to-know typically means a determination made by an authorized holder of information that a prospective recipient requires access to specific information to perform or assist in a lawful and authorized governmental function. This determination would be made by the leadership elements in the office where the work is performed.

Please let me know if I can be of further assistance.

Thank you for your questions,

Ronald E. Gagnon
OIS / PMPD / IPB

United States Nuclear Regulatory Commission
One White Flint North
11545 Rockville Pike, Mail Stop O-6H11
Rockville, MD 20852
Office: 301-415-6873

From: SUNSI Resource
Sent: Wednesday, February 25, 2015 7:44 AM
To: Gagnon, Ronald; Janney, Margie
Subject: FW: Need-to-Know requirements for SUNSI

From: Criscione, Lawrence
Sent: Wednesday, February 25, 2015 7:44:21 AM
To: SUNSI Resource
Cc: Correia, Richard; Peters, Sean; Perkins, Richard; Bensi, Michelle; Sancaktar, Selim; Philip, Jacob; Mitman, Jeffrey; Ferrante, Fernando; Barnes, Valerie; Desaulniers, David; ODonnell, Edward; King, Mark; Burton, Thomas; Patterson, Malcolm; Kanney, Joseph
Subject: Need-to-Know requirements for SUNSI
Auto forwarded by a Rule

SUNSI Resource:

I have some questions regarding SUNSI which my division director has been attempting to help me get answered. He provided me the following references but neither of them address the questions I have:

NRC's SRI guidance: <http://www.internal.nrc.gov/sunsi/security.html>
FAQs available on the SUNSI website address commonly requested topics: <http://www.internal.nrc.gov/sunsi/faq.html>

My questions are:

1. If I am referencing a document marked SUNSI, since there are no portion markings how do I determine what material is SUNSI and what is not? If I reference anything in the document, must my new document now be marked as SUNSI?
2. How do I determine need-to-know with regard to SUNSI? If I come across an interesting nuclear issue (e.g. a nuclear site which some colleagues believe is inadequately protected from flooding), can I discuss that issue with my fellow employees or is there some type of vetting process I must use? That is, are unclassified and non-Safeguards nuclear safety concerns fair game for discussion with all NRC colleagues or must information be "silo-ed" into a tightly controlled group of individuals who are officially assigned to address the issue?

Also, I have some comments about the "SUNSI Awareness Training" linked to from the SUNSI "Frequently Asked Questions" website (and attached to this email). On slide 6 a colloquial definition of SUNSI is provided as:

"Or put another way...If information appeared on the front page of the Washington Post and you cringe when you see it....It's probably sensitive".

I believe that:

- The above definition is deleterious to our goals of openness and transparency
- Unfortunately, your colloquial definition is broadly used within the NRC. That is, it is my experience that most SUNSI material is marked that way because if it "*appeared on the front page of the Washington Post*" it would make us cringe.

I'm not the only NRC employee who has been asking these questions. How we determine SUNSI is a concern shared by several of my colleagues.

Larry
Lawrence S. Criscione
573-230-3959

From: Correia, Richard
Sent: Wednesday, February 18, 2015 3:48 PM
To: Criscione, Lawrence
Cc: Peters, Sean; Madden, Patrick
Subject: RE: OIG Case 13-001 and OUO-SRI

Larry,

Turns our OIS is the agency lead for SUNSI (that includes OUO SRI). They sent me this link: <http://www.internal.nrc.gov/sunsi/security.html> as a source of information. Please take a look at the information at the link and let me know if it has the information you are seeking.

Regards

Rich

Richard Correia, PE
Director,
Division of Risk Analysis
Office of Nuclear Regulatory Research
US NRC

richard.correia@nrc.gov

From: Criscione, Lawrence
Sent: Thursday, February 12, 2015 11:28 AM
To: Correia, Richard
Subject: RE: OIG Case 13-001 and OUO-SRI

Thanks Rich.

Daniel Cardenas referred me to Admin but did not give me the name of a contact.

From: Correia, Richard
Sent: Thursday, February 12, 2015 9:08 AM
To: Criscione, Lawrence
Subject: RE: OIG Case 13-001 and OUO-SRI

Let me make some phone calls Larry

Richard Correia, PE
Director,
Division of Risk Analysis
Office of Nuclear Regulatory Research
US NRC

richard.correia@nrc.gov

From: Criscione, Lawrence
Sent: Wednesday, February 11, 2015 1:48 PM
To: Correia, Richard
Subject: OIG Case 13-001 and OUO-SRI

Rich,

Attached is the transcript from your 2012 interview with OIG concerning Case 13-001. It was provided to me as part of a Privacy Act request and I'm sending it along to you in case you would like a copy.

Please see my email below to Daniel Cardenas. I still have a lack of understanding on OUO-SRI, mostly stemming from the fact that—unlike SGI and classified information—it (1) is not portion marked, (2) has no derivative classifiers, and (3) is applied to such broad topics that it has no well-defined need-to-know (e.g. who has a need-to-know about the Oconee flooding issues? Is it only the narrow set of NRR employees addressing it? Or is it any concerned NRC employee who might have an opinion that adds to the discussion?).

V/r,

Larry

From: Criscione, Lawrence
Sent: Wednesday, February 11, 2015 1:37 PM
To: Cardenas, Daniel
Subject: OIG Case 13-001

Dan,

Attached is the transcript from your 2012 interview with OIG concerning Case 13-001. It was given to me as part of a Privacy Act request and I'm sending it along to you in case you would like a copy.

The investigation for Case 13-001 closed on September 11, 2013.

As part of the resolution to the PEER v. NRC lawsuit, the on September 13, 2013 the NRC publicly released the two documents which were the subject of the NRC Form 183 security incident which was filed against me on September 20, 2012. Those documents can be found at:

<http://pbadupws.nrc.gov/docs/ML1325/ML13256A372.pdf>
<http://pbadupws.nrc.gov/docs/ML1325/ML13256A370.pdf>

The only redactions to those documents are my home address, my cell phone number and my personal email account. This indicates—to me—that I was not in error when I failed to mark these documents as "Official Use Only – Security-Related Information".

Given that OUO-SRI documents are not portion marked, I still have no understanding of:

1. How I am to determine what exactly in those documents is OUO-SRI
2. How—when I am preparing a downstream document which references information found in OUO-SRI documents—I am to determine the final designation of my document and who the authority is if I have questions
3. To whom do I appeal if I do not agree with the OUO-SRI designation of a document
4. How to determine who has a "need to know" with regard to OUO-SRI information

R,

Larry

From: Criscione, Lawrence
Sent: Tuesday, June 10, 2014 9:27 AM
To: Correia, Richard; Weber, Michael; Sheron, Brian; Madden, Patrick; Peters, Sean; Sullivan, Randy; Burrows, Sheryl; O'Donnell, Edward
Subject: Who Determines Need-to-Know?

Thanks Rich.

I'd like to clarify though that even if we have a precise definition, a large part of my concern is "Who determines need-to-know?"

For example, if I am confident that a document marked "Not for Public Disclosure" can go to a congressional office, can I send it to them or must I first go through OGC and OCA?

Or, if I am confident that an INL contractor has a need to know proprietary information we got from INPO, can I directly send it to him or do I first need to consult with my supervisor, the NRC owner of the INPO MOU, OGC, etc.?

From: Correia, Richard
Sent: Tuesday, June 10, 2014 7:02 AM
To: Criscione, Lawrence; Weber, Michael; Sheron, Brian; Madden, Patrick; Peters, Sean; Sullivan, Randy; Burrows, Sheryl; O'Donnell, Edward
Subject: RE: Need Assistance from RES and NTEU

Larry,

I contacted folks in the Information Security Branch of NSIR and they pointed out that "need to know" is defined in 10CFR73.2 for handling safeguards information. I'm not certain if it would have a similar definition for SUNSI. I'll follow up with OGC on whether need to know has a definition for SUNSI.

Rich

Richard Correia, PE
Director,
Division of Risk Analysis
Office of Nuclear Regulatory Research
US NRC

richard.correia@nrc.gov

From: Criscione, Lawrence
Sent: Monday, June 02, 2014 5:50 PM
To: Weber, Michael; Sheron, Brian; Correia, Richard; Madden, Patrick; Peters, Sean; Sullivan, Randy; Burrows, Sheryl; O'Donnell, Edward
Subject: Need Assistance from RES and NTEU

Please see my October 25, 2012 email below to Dan Cardenas. I've highlighted several questions in that email which I never received answers to.

On October 25, 2012 I was directed to review our SUNSI guidance and to discuss it with the chief of the Facilities Security Branch. I reviewed the guidance but had some questions which, 19-months later, I still do not know the answers to.

I would like the assistance of RES management and the NTEU in obtaining answers from Mr. Cardenas. I believe I am not the only one at the NRC who is unclear as to what exactly constitutes a "need to know" and "conducting official government business". Better clarifying these terms, especially with regard to OIG Case 13-001 which led to a criminal referral to the Department of Justice, is in the interest of the NRC staff.

If you have advice for me as to how to obtain answers from the requisite SUNSI experts, please let me know.

Thank you,
Larry
Lawrence S. Criscione
573-230-3959

From: Criscione, Lawrence
Sent: Monday, June 02, 2014 5:35 PM
To: Cardenas, Daniel; Ross-Lee, MaryJane
Cc: Beasley, Benjamin; Peters, Sean; Correia, Richard; Sullivan, Randy; NTEU, Chapter 208; Burrows, Sheryl
Subject: FW: Questions

Dan,

Attached to this email is a document entitled "*Exhibit 3 to OIG Case 13-001*" which I received today in response to FOIA 2014-0236. The memo is undated. Could either you or MaryJane please tell me the date on which MaryJane sent this memo to Rich Correia? Was it before or after our correspondence in the email trail below?

On February 4, 2013 agents of the NRC's Inspector General approached the Assistant US Attorney's office in Springfield, IL and requested of them that I be indicted on federal felony charges (18 USC §1030) for obtaining supposed security-sensitive information from a government database (i.e. NRC internal ADAMS) and supposedly colluding to distribute that information to the public (e.g. via a Congressional hearing). The information of concern was my September 18, 2012 letter to the NRC Chairman, the email distributing it, and the nine reference documents. These are the same documents of concern in our email trail below.

In an October 25, 2012 email (included immediately below) I asked you a series of questions regarding MD 12.6, various guidance you directed me to review (found at <http://www.internal.nrc.gov/sunsi/>), and an explanation of what exactly constitute "need to know" and "conducting official government business". I have highlighted those questions in the email below. The documents attached to this email refer to some of those questions.

I never received any answers to the questions I posed to you 19 months ago in the email below. And after being the subject of an OIG criminal investigation for the distribution of supposed security related documents to individuals without a supposed "need to know", I still do not know the answers to the questions I pose below. OIG Case 13-001 has been closed for over 9 months. Please provide me answers to my questions below as I am still uncertain what exactly I can and cannot share with our Congressional overseers and the precise channels I am required to follow.

I look forward to your answers.

Thank you,
Larry
Lawrence S. Criscione
573-230-3959

From: Criscione, Lawrence
Sent: Thursday, October 25, 2012 9:37 PM
To: Cardenas, Daniel
Cc: Beasley, Benjamin; Coe, Doug; Ross-Lee, MaryJane; Pretzello, Andrew; Skidmore, Karen; O'Donnell, Edward; Sullivan,

Randy
Subject: Questions

Dan,

I have some questions regarding the guidance on the OIS SUNSI website and MD 12.6.

#1) In the attached document "2005-10-26 guidance.pdf" I've highlighted a sentence stating that portion markings are not required. However, in the document "2010-04-27 guidance.pdf" I've highlighted where it states:

***When is portion or page marking required?** On documents that may be released following redaction of sensitive information. If an entire page is not sensitive, place marking adjacent to the sensitive information.*

I am a big believer in portion markings. It frustrates me to no end that none of the 2008-2012 OUO correspondence between the NRC and Duke Energy regarding Jocassee Dam is portion marked. This correspondence clearly meets the instructions above for requiring that the documents be portion marked. That is, the overwhelming majority of the pages in the NRC/Duke correspondence have portions that are not sensitive and this NRC correspondence with a licensee concerning a serious safety concern should certainly *be released following redaction of sensitive information*. Yet there are no portion markings. Which guidance is correct: the 2005-10-26 or the 2010-04-27 guidance? Should NRR's correspondence with Duke Energy from May 2010 through the present have been portion marked?

#2) On page 2 of the attached "NRC Policy for Handling Marking and Protection SUNSI.pdf" I have highlighted a paragraph on "Need-To-Know Access". This paragraph contains the words:

"...no person, including employees of the U.S. Government, NRC, may have access to SUNSI unless that person has an established need-to-know the information for conducting official business."

I am unclear what exactly constitutes "*an established need-to-know the information for conducting official business*." Some of my co-workers (particularly Richard Perkins, but many others as well) expressed concern to me that flooding issues at Oconee Nuclear Station and Fort Calhoun were not being adequately addressed. Although it is my job (and the job of all NRC employees) to take allegations from licensees, I do not believe it is my job (i.e. "*conducting official business*") to take allegations from my fellow NRC co-workers. Nonetheless, I reviewed some of the source documents regarding Jocassee Dam because I was concerned with the opinions I was hearing expressed from my co-workers. It was not my job to review these documents. Most of the review of these documents occurred after normal working hours, including times when – although allowed to be in the office or on Citrix – I am not allowed to formally work (i.e. beyond 8 pm, Sundays, while using annual leave/credit hours). Since I was reviewing this information on my own time and not "*for conducting official business*", was I violating the "Need-to-Know".

Although I have only shared SUNSI with "*employees of the U.S. Government*", I am not certain all of them had "*an established need-to-know the information for conducting official business*":

- Does a staffer on the Senate Committee on Homeland Security & Governmental Affairs have "*an established need-to-know the information for conducting official business*"? If he does, must I send him through the Office of Congressional Affairs? Am I violating "Need-to-Know" by directly sending him references he requested?
- Does the intern for Representative Duncan of South Carolina's 3rd congressional district have "*an established need-to-know the information for conducting official business*" when she is not investigating any matter for a congressional oversight committee and I am merely copying her as a courtesy to keep her representative abreast of a concern regarding a nuclear plant in his district?
- Does the Office of the Special Counsel have "*an established need-to-know the information for conducting official business*" when the information is not being formally submitted with an OSC Form 12?

- Does the Downstate Director (i.e. Springfield, IL office chief) of Senator Durbin have “an established need-to-know the information for conducting official business” when I am merely meeting with him to get his advice as to whether or not my senator would be willing to write the NRC Chairman regarding the NRC’s SUNSI policies?

#3) Assuming that the US Special Counsel or a congressional staffer has “an established need-to-know”, I am uncertain as to what is required by the “Access” requirements on page 5 of Part II of MD 12.6. Prior to sharing SUNSI with the US Special Counsel or congressional staffers, before providing the information must I first consult the three parties listed in MD 12.6:

- NRC office originating the information
- Office that has primary interest in the information
- Source from which the information was derived

#4) If I am writing a letter regarding how the Office of Nuclear Reactor Regulation is inappropriately stamping safety-related correspondence as “Security-Related Information”, and if I am sending that letter to the US NRC Chairman and copying it to concerned congressional offices, and if I do not believe that marking the letter is essential to ensure proper handling and to ensure all persons having access to the letter will be aware that it (1) must not be publicly released and (2) must be distributed only to those who have a need-to-know to conduct official business, then am I in violation of MD 12.6 because I did not stamp the letter “Official Use Only – Security-Related Information”?

I was asked by a congressional staffer last month whether I believed the “Security-Related Information” stamps were hindering the open discussion of the Jocassee Dam/Oconee issue amongst the NRC staff. His concern was based on the fact that some of NRR’s Jocassee Dam correspondence contain the stamp “Limited Internal Distribution Permitted”. My answer to him was that, although I believed these stamps were inappropriately keeping a serious safety concern from public scrutiny, these markings were not in any way hindering the professional internal discussion of concerns regarding Jocassee Dam. Based on what I have read in MD 12.6 tonight, I do not know if I still agree with that answer. When possible, I would like to meet with you regarding the four questions above. Also, I have had people within the NRC request to see my 2012-09-18 letter to the chairman but I have been unwilling to share it with anyone since being told I was violating SUNSI guidance by not properly stamping it OOU – SRI. I would like to review that letter with you and get your assessment as to how it should be stamped.

R,

Larry

From: Criscione, Lawrence
Sent: Thursday, October 25, 2012 5:50 PM
To: Cardenas, Daniel
Subject: RE: Information Release

The version of MD 12.6 that is linked to in the SUNSI website is from December 20, 1999. Is this the version I am supposed to review or is there a more current revision?

From: Cardenas, Daniel
Sent: Thursday, October 25, 2012 5:39 PM
To: Criscione, Lawrence
Cc: Beasley, Benjamin; Coe, Doug; Ross-Lee, MaryJane; Pretzello, Andrew; Skidmore, Karen; ODonnell, Edward; Sullivan, Randy
Subject: Re: Information Release

Larry-

If you have read and understand the SUNSI guidance, then a meeting may not be necessary. I will contact you if a meeting is necessary. In regards to transmission of SUNSI outside the NRC, please contact your supervisor as identified

in MD 12.6 and follow applicable guidance located on the OIS SUNSI website.

Regards.

Dan
~ Sent from an NRC Blackberry ~

Daniel Cardenas, Chief
Facilities Security Branch
Division of Facilities and Security
Office of Administration
U. S. Nuclear Regulatory Commission

Office Email: Daniel.Cardenas@nrc.gov
Office Number: (301) 415-6184
Cell Number: (b)(6)
Fax Number: (301) 415-5132

From: Criscione, Lawrence
To: Cardenas, Daniel
Cc: Beasley, Benjamin; Coe, Doug; Ross-Lee, MaryJane; Pretzello, Andrew; Skidmore, Karen; ODonnell, Edward; Sullivan, Randy
Sent: Thu Oct 25 17:31:31 2012
Subject: RE: Information Release

Daniel,

My Outlook calendar is up to date through the end of the year. I should be able to review MD 12.6 and the other guidance by tomorrow morning.

The only personnel outside the NRC to whom I have provided "Official Use Only – Security Related Information" are either with the Office of the Special Counsel, staffers of US Senators or staffers of members of the US House of Representatives. I will not release any additional information to the Office of the Special Counsel or to members of the US Congress until I have met with you.

Please send me a copy of the NRC Form 183 mentioned below so that I may review it prior to our meeting.

Is my union steward allowed to accompany me to the meeting?

V/r,
Larry Criscione
573-230-3959

From: Cardenas, Daniel
Sent: Thursday, October 25, 2012 5:01 PM
To: Criscione, Lawrence
Cc: Beasley, Benjamin; Coe, Doug; Ross-Lee, MaryJane; Pretzello, Andrew; Skidmore, Karen
Subject: Information Release
Importance: High

Mr. Criscione-

I have received a NRC Form 183 "Report of Security Incident" indicating that you have released information (Official Use Only – Security Related Information, etc) to personnel outside of the NRC. This release of information must "stop" immediately. The guidance for handling Sensitive Unclassified non-Safeguards Information (SUNSI) is identified in MD

12.6 and on the OIS webpage. Please see the following link, which provides detailed information on the handling of this type of information.

<http://www.internal.nrc.gov/sunsi/>

If you have released any other information, you must cease these activities, and report the releases to the Director, Division of Facilities and Security.

Please schedule a time to discuss this matter with me.

Regards.

Daniel Cardenas
Chief, Facilities Security Branch
Division of Facilities and Security, Office of Administration

Location: T6-E31
Office Email: Daniel.Cardenas@nrc.gov
Office Number: (301) 415-6184
NRC Blackberry: (b)(6)
NRC Fax: (301) 415-5132

Criscione, Lawrence

From: Criscione, Lawrence
Sent: Thursday, May 19, 2016 8:13 AM
To: Kirkwood, Sara; Holahan, Gary; Clark, Theresa
Cc: tomd@whistleblower.org; 'LSCriscione@gmail.com'
Subject: Keeping inundation levels from the public
Attachments: Toops' Interview.pdf

Sara, et. al.,

The Toops family was washed out of their home when the upper reservoir at Taum Sauk failed on 2005-Dec-14.

Although this has nothing to do with nuclear power, I encourage you to read the short 2½ page transcript of the their interview with the Missouri State Highway Patrol. On the third page Jerry Toops mentions how Ameren's emergency action plan for a failure of the upper reservoir "*showed the water stooping short of his house*".

In actuality, **most** of the water did stop short of his house. The flooding models accurately predicted the course of the bulk of the water. However, a rouge splash demolished his house and flushed him and his family out into the night.

Had Ameren's emergency action plan been in the public domain, it is possible that some group (e.g. an environmental group, a university) might have studied the plan and found its inadequacies. I admit that it is likely that, had this plan been public, no one would have reviewed it and found its flaws. But you will never convince me that making it public would have caused Jerry Toops and his family to be the victims of an Al-Qaeda plot to destroy the reservoir. There are very valid reasons for inundation studies to be in the public domain; the only reason for keeping these studies from the public are—as termed by the President—"*speculative or abstract fears*".

Larry
Lawrence S. Criscione
573-230-3959

From: Criscione, Lawrence
Sent: Thursday, May 05, 2016 4:24 PM
To: Desaulniers, David <David.Desaulniers@nrc.gov>
Subject: FW: Taum Sauk Upper Reservoir Failure - December 14, 2005

Attached is the Missouri State Highway Patrol interview of the Toops family. It's 2½ pages long and a real easy read; reads like a newspaper article.

Somewhere in the lengthy email trail below is a link to a very damning (pun intended) report by the staff of the Missouri Public Service Commission. I could have written a much worse assessment of Ameren's failed safety culture, but given the political influence that can be exerted on the MoPSC, the report is pretty good.

This made the national news the night it happened but even in Missouri was forgotten about within a month. Had it occurred in July instead of December, it would be one of the seminal disaster we all know about—maybe not up there with the Titanic and TMI but well discussed in engineering circles. With hundreds of dead campers, the production-over-safety of the Ameren officials and the wholesale destruction of incriminating emails on the part of some managers would have seen scrutiny in criminal courts instead of a stern rebuke by some Public Service Commission staffers.

From: Criscione, Lawrence
Sent: Tuesday, March 26, 2013 9:08 AM
To: Hiland, Patrick <Patrick.Hiland@nrc.gov>
Cc: joseph.ehasz@wgint.com
Subject: RE: Taum Sauk Upper Reservoir Failure - December 14, 2005

FERC leveled their largest fine to date against Ameren (\$15 million) due to the organizational failing that led to the Upper Reservoir failure. I am not aware of what changed in FERC's regulations, but Joseph Ehasz was one of the contractors who either reviewed or performed the FERC assessment of the event and could likely inform you of all the regulatory enhancements which occurred.

To my knowledge though, dams do not have "Tech Specs" like nuclear plants do. When the Taum Sauk disaster occurred, there was a common mode failure affecting both channels of level indications that were used to shut off the pumps during a reservoir fill. At a nuclear plant, we would never allow continued operation with a known common mode failure of two channels of safety equipment.

What had happened was the stand pipes for the level indications were known to be moving in their brackets in a manner which caused indicated level to read lower than actual level. While waiting for an outage to fix the stand pipe brackets, the temporary "solution" was to recalibrate the level channels so that indicated level matched actual level. The problem with this "solution" is that it did not address the root cause – the movement of the standpipes. That is, the newly calibrated level could (and did) still drift if the standpipes again moved. I am confident that few nuclear plants would ever continue to operate in such a reckless situation, but we aren't dealing with nuclear plant operators and managers – we are dealing with hydro.

I'm not willing to take on faith that Duke Energy's non-nuclear management is any better than Ameren's, but even if I were there are still concerns regarding the workers. I've worked the back shift at power plants and know what goes on. The items Duke Energy committed to are excellent things to do, but as barriers to a nuclear accident they do not even begin to compare to building a flood berm.

Note in Jerry Toops' testimony to the Missouri State Highway Patrol (last page of the attached 4 page document) that Ameren's calculations prior to the Taum Sauk Disaster showed the flood waters stopping just shy of his house and Ameren's emergency plan committed to giving him a 12 minute warning. The only warning he got was the tremendous rumble of boulders, trees and water rushing down Proffit Mountain. And the "steady state" flood volume might have stopped just shy of his house, but a dynamic wave demolished his home and nearly killed him, his wife and three children. I think a noble effort has been done by Duke Energy to estimate the flooding effects due to a dam break, but like Ameren their estimation could be a little off.

If this was 1971 we would be requiring Duke Energy to deterministically show that they could protect against a catastrophic failure of the Lake Jocassee Dam. I recognize that "that ship has sailed" – that based on the poor understanding of dam failure frequencies that was present in the 1970s we gave them a license without requiring a deterministic evaluation. To be quite honest, I do not have an issue with them abandoning their plans for a flood wall. We cannot live with a $2.8E-4$ /year risk at 104 US reactors, but we can certainly live with that risk at 3 reactors in South Carolina. My concerns are:

- We haven't been transparent and open with the public about this issue
- As an agency we haven't dealt effectively with this issue over the past six years and there are important lessons to be learned from that but for some reason, unlike the utilities we regulate, we have no method for capturing poor organizational performance and analyzing it for ways to improve
- I see no security concerns surrounding Oconee/Jocassee, but others do (particularly in NRR) and yet I am not aware of any formal study or evaluation that has been done to determine whether or not the Lake Jocassee Dam is adequately protected from sabotage

The decision on what to allow at Oconee is ultimately up to the Commissioners. I can be satisfied with whatever decision they come up with as long as they and the public are fully aware of the risks and are aware of the limitations/uncertainties of the various studies and assessments. Jeff Mitman is the first to admit that his 2.8E-4/yr number might not be the actual number for Jocassee – it's merely the most accurate estimate he can provide from the available data. Likewise, any assessment we do on Duke Energy's evaluations and contingencies must acknowledge the limitations of what we can estimate and the limited confidence we can place on human barriers (e.g. procedures, policies).

I've copied Joseph Ehasz. Hopefully he can inform us of what changes occurred at FERC regulated facilities as a result of Taum Sauk or point us to the FERC documents which discuss those changes. I am certain there were many improvements.

I appreciate NRR holding public meetings on the Jocassee/Oconee concerns.

From: Hiland, Patrick
Sent: Tuesday, March 26, 2013 8:12 AM
To: Criscione, Lawrence
Subject: RE: Taum Sauk Upper Reservoir Failure - December 14, 2005

If my memory cells are still working, I believe FERC imposed requirements/expectations on a number of hydro units they regulate including DUKE's Jocassee? Believe I recall their normal operating pool level was lowered in response to Taum Sauk? Not sure if I recall all the facts.

From: Criscione, Lawrence
Sent: Monday, March 25, 2013 5:11 PM
To: Boska, John; Wilson, George; Miller, Ed; Bensi, Michelle; Monninger, John; Hiland, Patrick; Mitman, Jeffrey; Ferrante, Fernando; Kanney, Joseph; Chung, Donald; jriccio@greenpeace.org; joseph.ehasz@wgint.com
Subject: FW: Taum Sauk Upper Reservoir Failure - December 14, 2005

Attached is some of the information on Taum Sauk. The "Toops' Interview" is only three pages but is an excellent example of the important role engineers and technicians (and the federal bureaucrats who regulate them) have in ensuring the safety of the public. Most of the other documents are all either one or two pages. One of them is an Ameren press release from the day of the accident.

A more detailed discussion of the event is found in the attached 85 page 2007-10-24 report from the staff of the Missouri Public Service Commission to the commissioners, which can be found at:

<http://psc.mo.gov/CMSInternetData/Electric/Taum%20Sauk%20Report%2010-24-07.pdf>

The staff report has some good details on the Safety Culture failures at Ameren which led to the event. Duke Energy might be right to discount the engineering aspects of Taum Sauk, but it is my experience from working at four utilities and seven reactor sites that the organizational aspects of the Taum Sauk event cannot be discounted. I think it is excellent that they once a shift check turbidity of leaks through the dam and that they have a video camera on it. And I think it is excellent that they have procedures to shut down the reactors based on incoming storms, rising turbidity, or high water levels. And I think they have every right to brag about these measures and to credit them in their analyses. But keep in mind that not all the workers operating these plants behave as they are supposed to and when they need to. Probabilistic Risk Assessment does not model human errors well and ignores errors of commission altogether.

Larry Criscione

From: Criscione, Lawrence
Sent: Saturday, July 24, 2010 12:17 AM
To: 'gbaecher@umd.edu'

Cc: Philip, Jacob; Beasley, Benjamin; Kauffman, John; Perkins, Richard; Kanney, Joseph

Subject: FW: Taum Sauk Upper Reservoir Failure - December 14, 2005

Dr. Baecher,

I enjoyed the seminar today.

You mentioned the Taum Sauk Upper Reservoir failure. In 2005 I was working for the utility which owned Taum Sauk and as a teenager in Missouri I spent four summers working in a town near where the disaster occurred. Except during the six summers I spent in the navy, I have visited Johnson Shut-ins State Park at least once a summer since I was 11 and have camped there on four occasions. I even visited it in 2006 & 2007 when it was closed to swimming because of the disaster.

The pumps/turbines at the Taum Sauk Plant are controlled by the operators at Bagnell Dam 100 miles away (as the crow flies – it's about 200 miles on Missouri winding highways). Although there is security and maintenance at Taum Sauk (and maybe an equipment operator) the control room operators are at Bagnell Dam.

Taum Sauk was built in the early 1960s by shaving the top off of Proffit Mountain (a fitting name) and building an earthen/rock reservoir with the rubble. There was no spill way. As far as I know, water only entered and left through a tunnel at the bottom of the reservoir which led to the pumps/turbines at the bottom of the mountain.

Taum Sauk was meant for occasional summer peaking and was never expected to be in service 12 months a year. However, it was a very profitable plant for Ameren and they did some upgrades to it since the 1960s. By 2005 it was being used most days of the year. Like all hydro, it had become an extremely important generation asset now that MISO has financial penalties for members who both overbid and underbid their daily power (since hydro plants can be placed on and off the grid in minutes, Taum Sauk became a treasured "jewel" when the new MISO rules were implemented early last decade).

Taum Sauk had a major outage early last decade and a liner was installed in it along with a new level sensing system. The stand pipes for the level system moved upward for some reason. This affected multiple channels on both the primary and backup sensors (redundant electrical trains, but a common mode failure in the stand pipes which all used the same mounting brackets). Ameren was aware of this problem but continued to operate the plant.

In October 2005, the faulty levels sensors caused the water level in the upper reservoir to be filled too high causing there to be not enough "free board" at the top of the reservoir. Although this had probably been occurring for a while, it was not really noted because the loss of "free board" had not yet caused any problems (more water might be bad for the dam, but it's good for the dam operator). However, on the day in question in October 2005, high winds from Hurricane Rita caused waves in the upper reservoir which were high enough to overtop the walls at the point of lowest free board. Enough water overtopped to cause significant "wash out" of the road to the reservoir. Some engineers from Ameren were at the top of the reservoir and witnessed the overtopping. This led to some emails being generated between engineering, operations, I&C and dispatching (in their investigation the MSHP uncovered some of these emails, but most were only known because they were alluded to in other emails having themselves been deleted from a server in the week following the accident). Some I&C technicians had been complaining for a while about the faulty level indications and wanted it fixed. Some engineers agreed with them. Upper management gave them lip service, but whenever an outage window was decided it was postponed due to generation commitments.

I can't remember all the details (it's in the Missouri State Highway Patrol's 1000+ page mind numbing report), but some "band aid" to the level problem was implemented without an outage. I believe it involved merely changing the electrical calibration to account for the believed movement of the standpipes which, of course, did nothing to address the fact that the stand pipes were still liable to move further.

In the early morning of December 14, 2005, I was the Shift Technical Advisor in the Control Room of the Callaway Nuclear Plant when the Generation Supervisor from St. Louis (who had been promoted from the Callaway Plant Senior Reactor Operator ranks just a year earlier) told us that the level at Taum Sauk had rapidly dropped to zero and they think the Upper Reservoir may have failed.

The operators at Bagnell Dam had been filling Taum Sauk for several hours (I believe it took 9 to fill) when electric prices were low in the middle of the night. The level controls had all drifted to the point that the pumps did not automatically shut off. Had he been paying attention, the operator may have noticed that indicated level had quit rising (even though indicated level was reading low, if it's not rising but the turbines are still pumping this should clue you in that there is a problem).

With the dam overtopping, it was merely a matter of time before the earthen/rock wall decayed to the point that it catastrophically failed sending a wall of water down the side of Proffit Mountain.

The wall of water stripped all the trees, boulders and soil from the mountainside leaving a bedrock scar. At the base of the mountain, it overshot the banks of the Black River and flowed up the gradual slope of the flood plain on the opposite bank cutting down the forest in its path. Many of the boulders were deposited in this area. Once sufficient water had pooled in the flood plain, it flowed down the Black River in a huge torrent. The Johnson Shut-ins camp ground is along the river banks and for the most part about ten vertical feet above the river (maybe less). The restrooms and showers were built away from the river where the flood plain meets the base of the hills. These brick structures were demolished by the water and tree trunks. The camp grounds were the tents and RVs set up was completely demolished.

In one sense the Taum Sauk Upper Reservoir Failure is not a "near miss" because it is an event that actually happened. However, to me it is a "near miss". Johnson Shut-ins is possibly the most popular state park in Missouri. It's located where the Black River falls through a granite field. The river diverges into dozens of side channels all with little pools and waterfalls. It is a very popular day and overnight destination. The main reason I have only camped there four times is because of the difficulty in getting a camp site – you need to know your plans a year in advance. It is not an exaggeration to state that had the Taum Sauk failure occurred in the early morning hours of July or August instead of December, there would have been hundreds of corpses littered amongst the debris in the shut-ins and floating in the lower reservoir (many of whom would be young children).

The only humans whose lives were threatened by the catastrophe were the Toops family. You can read their harrowing ordeal for yourself in the three page MSHP interview I've attached.

Jerry Toops was the superintendent of Johnson Shut-ins State Park. His house was in the forest at the far edge of the flood plain from Proffit Mountain. In all my years going to Johnson Shut-ins (and I literally went every weekend some summers as a teenager) I never knew a house was there because of all the trees. None of those trees are still standing. As the main torrent of water was pooling in the flood plain, a couple stories high "splash" travelled up the gentle contours of one of the feeder creeks, losing many of its boulders and tree trunks along the way. This splash hit the Toops house, knocking it off its foundation and causing it to float "upstream" and break apart. Jerry Toops, his wife and seven month old son, his three year old daughter and his five year old son were all flushed out into the night. They could do nothing but "go with the flow". Jerry ended up in a tree that was high enough that he could not climb out of it when the water receded. His wife was sent swimming in the frigid water while trying to hold her seven month old son's head above water. She could hear her five year old son in the darkness but could do nothing to help him. She had no idea where her three year old daughter was.

Miraculously, all of the Toops survived. Tanner Toops (the 5 year old) "died" but in the cold water the emergency responders were able to revive him. No one knows how, but the three year old girl was alive when found by the rescuers.

Ameren paid the Toops \$20 million dollars and had them sign a draconian confidentiality statement; you'll only hear their story from the MSHP report – they are very leery to discuss the incident with their friends in the state park service for fear of violating the terms of their settlement.

The "Rizzo" engineering firm did the failure report of the incident. They blame it on a number of causes, but chiefly place the blame on poor construction. Although it is true (at least I have always assumed so, but your lecture today seemed to point to the opposite) that an earthen reservoir like that could never be built today on a mountain top without a spillway, that was not the cause of the accident. The accident was entirely preventable and was a result of what we in the nuclear industry call a poor "Safety Culture":

1. Production over safety (postponement of non-commercially lucrative projects which require a plant outage)
2. Not listening to technicians and engineers
3. Cutting back on personnel (a \$15/hour security guard with a walkie talkie assigned to watch the reservoir fill could have prevented the entire incident)
4. Technicians and engineers afraid to make a stand against upper management

Had one of the engineers demanded his way and got the outage scheduled to fix the level sensors, the reservoir failure would have never happened. Unfortunately though, no one would have known what catastrophe was averted – including the engineer who would have torpedoed his career if he took that stand. At the utilities, Safety Culture begins and ends at the top. 100 engineers complaining about something will not result in any safety if the management refuses to listen to the ones brave enough to stand up to them. And what of the engineer who does risk his career? If the accident is avoided he's viewed as nothing more than a "Chicken Little" who claimed the sky was falling when actually nothing happened.

Originally the State of Missouri demanded that Ameren re-plant the mountainside which was ruined, but later reversed the decision. Geology professors have been taking students to Taum Sauk since the 1960s to see the rock formations exposed where the tunnels were cut for the power house. These same professors convinced the state to leave the bedrock scar in place; Missouri has millions of acres of forest but only one bedrock scar. It's a pretty impressive sight if you ever get a chance to see it. The trees trunks were harvested and the debris was cleared from the shut-ins, but the debris in the flood plan is still there.

The new Taum Sauk from your power point slide show looks pretty impressive. My friends back at Ameren tell me that insurance companies picked up the entire tab.

Larry Criscione

From: Criscione, Lawrence
Sent: Friday, March 19, 2010 3:32 PM
To: Kanney, Joseph
Cc: Perkins, Richard
Subject: Taum Sauk Upper Reservoir Failure - December 14, 2005

Joe,

Here's some information on the Taum Sauk Upper Reservoir Failure we discussed earlier today. I don't know if it's pertinent to any of the studies you guys are doing (it was essentially a "man-made" event and not an act of nature) but it makes for some interesting reading if nothing else.

I certainly believe that there is a calculable probability of "man-made" dam failure for any pump storage unit. A nuclear plant susceptible to flooding from a reservoir with pump make-up capability should be required to calculate the probability of the catastrophic failure of the reservoir from a human/equipment performance event.

Larry

From: Criscione, Larry S.
Sent: Monday, December 19, 2005 2:57 PM
To: 'jhodges@mozona.net'; 'atimperm@wvu.edu'
Subject: FW: Johnson Shut-Ins Tsunami

Importance of Stewardship and Responsibility

From: **Lawrence Criscione** (lscriscione@hotmail.com)

Sent: Fri 1/30/09 12:28 AM

To: Will Kraus (will.kraus@house.mo.gov); Jeanette Oxford (jeanette.oxford@house.mo.gov)

Cc: Jeff Davis (jeff.davis@psc.mo.gov); Jeanette Oxford (jmo4rep@juno.com); Casey Exendine (casey.exendine@house.mo.gov); Sheryl Gregory (sheryl.gregory@psc.mo.gov); Michael Taylor (michael.taylor@psc.mo.gov); William Jones (william.jones@nrc.gov); Marty Gelfand (marty.gelfand@mail.house.gov); Houlihan Bill (bill_houlihan@durbin.senate.gov); Llona Weiss (llona_weiss@mccaskill.senate.gov); Wess Henderson (wess.henderson@psc.mo.gov)

Attachments: MSHP Interview of Toops.PDF (287.0 KB)



Representative Kraus and Oxford,

Attached to this email are the notes which Missouri State Highway Patrol Sergeant Wiedemann took when he interviewed Jerry and Lisa Toops following the Taum Sauk disaster.

I am sure you are aware that Jerry Toops was the superintendent of Johnson Shut-Ins State Park when the upper reservoir at Taum Sauk was over-topped and subsequently failed.

The three page interview summary is pretty intense. Imagine you were Lisa Toops when, on a cold December morning, you heard the deafening noise of the wall of trees and water as your house began to fill with water and break apart. Imagine hearing your five year-old son calling for you as he attempts to swim in the frigid water and you can do nothing to help him because you are fighting to swim yourself while keeping your 7 month-old son's head above water. You have no idea where your three-year-old daughter is. Imagine spending the weeks before Christmas praying that your three children, in the intensive care unit of the hospital, survive.

As tragic as the Toops' ordeal was, anyone who has visited Johnson Shut-ins State Park in July knows how lucky we were that the accident happened in December, when just the Toops were in the path of the water. It is not an exaggeration to state that there would have been hundreds of dead campers floating in the lower reservoir had the disaster occurred in the early hours of July vice December.

The wall of water which destroyed the Toops home was just a fraction of the roughly 3000 MW-hr of energy released down the mountainside in the torrent of water. The reactor core at Callaway Plant has more than 12,000 times as much energy stored in it as the Taum Sauk upper reservoir had.

Although not required, having an operator (or even just a night watchman) present at the top of the reservoir to monitor the filling evolution would have prevented the disaster. Ameren's Emergency Action Plan for the reservoir stated that the Toops would have 12 minutes warning if the upper reservoir were to break, however Ameren made no attempt to meet this commitment by assigning someone to visually monitor the reservoir for failure. The only warning the Toops had was the deafening sound of the torrent, stripping trees and boulders from the mountainside as it swept towards their house.

Many of the causes of the Taum Sauk disaster are also present at the Callaway Nuclear Plant: minimal staffing of operators, management ignoring the concerns of craft personnel, postponement of maintenance on equipment not necessary for the production of electricity, reluctance of engineers to aggressively challenge management.

I believe that a new nuclear plant in mid-Missouri is the best option we have to meet our future electricity demands. However, we need to ensure that any new nuclear reactors, as well as the current one, will be operated by a utility which is willing to forego some of its profits in the interest of safety. Ameren might operate Callaway Plant in strict compliance to bureaucratic processes, but that does not in and of itself make it safe. Callaway Plant must be staffed with workers who recognize what is right and are willing to challenge their superiors when allowed practices are inadequate. I once fit that description, and the management of the Operations Department drove me away because of it.

Please read the attached summary of the Toops' interview and consider the importance of stewardship and responsibility when entrusted with operating a power plant.

MISSOURI STATE HIGHWAY PATROL
REPORT OF INVESTIGATION

STATE CONTROL NO.: 05 362 024 001 REPORT DATE: 01/31/06
REPORTING OFFICER: SERGEANT W. W. WIEDEMANN 0696 TROOP OF OCCURRENCE: G
OCC TYPE: TAUM SAUK RESERVOIR BREACH
COUNTY: REYNOLDS SCENE PROCESSED: N
DATE/TIME: DECEMBER 14, 2005
OFFENSE STATUS: INVESTIGATION CONTINUING DDCC AT SCENE: N
LOCATION: LESTERVILLE

VICTIM NAME: TOOPS, JERRY W.
ADDRESS: [REDACTED] MIDDLEBROOK, MO 63656
DOB: [REDACTED]
PHYSICAL DSC: SEX: M RACE: [REDACTED]
PHONE NUMBER: HOME [REDACTED] WORK [REDACTED]

*Tanner 5 years old
Tara 3 years old
Tucker 7 months old*

DETAILS OF INVESTIGATION

INTERVIEW OF THE TOOPS

1. On January 31, 2006, I continued the investigation into the failure of the Taum Sauk upper reservoir. During this investigation, I interviewed Jerry W. Toops and Lisa A. Toops at the Reynolds County Sheriff's Department.
2. On January 31, 2006, at 1333 hours, I met with Jerry and Lisa Toops at the Reynolds County Sheriff's Department. They also had their attorney with them, Steve D. Burmeister, telephone number 816-373-5590. The Toops agreed to talk to me about what had occurred on the morning of December 14, 2005, when the Taum Sauk upper Reservoir broke. The Toops are identified as follows:
 - a. Jerry W. Toops, date of birth [REDACTED] Missouri 63656, telephone number [REDACTED]
 - b. Lisa A. Toops, date of birth [REDACTED] Missouri 63656, telephone number [REDACTED]
3. Lisa Toops told me that present in their house that night was her husband, Jerry, and their three children. The children were identified as Tanner J. Toops, date of birth [REDACTED] Tara R. Toops, date of birth [REDACTED] and Tucker N. Toops date of birth [REDACTED]
4. Lisa had gotten up around 0400 hours and fed Tucker on the couch in their living room. She had then laid down on the couch and gone to sleep with Tucker. Lisa was awakened by a loud rumbling like a train. She at first thought it was a tornado and quickly got up with Tucker. She yelled to Jerry to help her get the kids. Lisa started down the hall to Tanner's room. The house began to fill with water as she got into the bedroom. Lisa helped Tanner to the top bunk and told him to say a prayer and hold his breath. The room rapidly filled with water completely covering the three of them. Lisa was trying to figure out how to get out of the water when the roof "cracked open". The three of

them were washed out of the house at this time.

5. Lisa was able to hold Tucker's head above water while they were washed away from the house. She was able to touch bottom after several minutes of floating in the waters. Lisa was able to get up and walk out of the water. She then heard Tanner calling to her. She answered him encouraging him to swim. Lisa then carried Tucker with her as she waded back into the water. She was able to swim to Tanner, who was still swimming in the water. She was able to get to him and pull him back to the shallow water. Lisa was too cold, tired, and numb at this time to walk. She pulled the children next to her and sat down in the shallow water. Lisa heard voices but lost consciousness. She woke up in the ambulance and was told they were working on her son. Lisa did not recall anything else until she was in the hospital. She was told that her entire family had been found. Lisa described her injuries as severe hypothermia and a serious case of poison ivy.

6. Jerry Toops began to tell me what had happened to him on the morning of December 14, 2005. Jerry had been sleeping in his bed when he heard Lisa scream. He heard a loud noise like a jet engine. He immediately recognized it to be rushing water. Jerry knew they were in danger from the reservoir. Jerry got out of bed and made it about two feet towards the baby's crib when the room exploded. Jerry said he rolled with it and found himself covered with water outside the house. He was able to swim to the surface and could only see water, trees, and boulders. He was able to swim to the house and climb on top of the roof. He ran around the roof of the house looking for his family, but was unable to find anybody. He then felt the roof began to move as the house floated off the foundation. Jerry continued to look for his family, but was unable to see anybody in the dark. The house began breaking up, and Jerry dropped into the water. He continued to swim with the debris from the house. The house eventually completely broke up. Jerry grabbed the tops of several trees trying to climb out of the water, but each time the tree came uprooted and washed away with him. He later saw a line of cedar trees and was able to grab one of them. Jerry climbed into the tree and waited until help arrived. Jerry thought he waited in the tree for approximately one and one-half hours.

7. While in the tree, Jerry heard someone calling. He answered and was told to wait; they couldn't get to him. Approximately fifteen minutes later, a second person got to him and helped him walk to the ambulance. Jerry told them the names of his family and about the intern who was living in temporary quarters near the Shut Ins. While he was in the ambulance, rescuers brought his son, Tucker, into the ambulance. Jerry heard Tucker crying and knew he was alive. They next brought Tara in, and she was unconscious. Rescuers later told him they had found the rest of his family; and they were alive. They were then transported to the hospital. Jerry described his injuries as hypothermia, a bulging disc, a puncture in his right foot, and his feet have been numb since the incident. He stated the children all suffered severe hypothermia. Tucker also had scratches all over his body. Tanner had to be resuscitated as he had stopped breathing. During the re-warming process, he also suffered four separate burns on his thighs. Lisa and Jerry were released from the hospital later that day. The children required more extensive hospital stays.

8. Jerry said he had been the superintendent at the park for

approximately six years. During this time, he was aware of the previous leaking problems at the upper reservoir. He was also aware the liner had been put in the reservoir. He had never been told of any overtopping or problems that were occurring at the reservoir. Jerry had received an emergency action plan from Ameren UE. This plan included a diagram showing the areas that would be inundated by water in the event of a breach. The plan showed the water stopping short of his house. He had also been told in the event of a breach, he would be immediately called giving him approximately twelve minutes to evacuate his family before the water would reach his residence. Jerry was upset that he had not received any warning that the dam had broken. He was also unaware the reservoir was remotely pumped and no one was watching the reservoir to see it breaking and notify him. This he felt caused him not to be notified before the water struck his residence. The interview was concluded at approximately 1500 hours.

9. This investigation is continuing.

W. W. Wiedemann, Sergeant
Division of Drug and Crime Control

WWW:klb

Criscione, Lawrence

From: Criscione, Lawrence
Sent: Tuesday, May 17, 2016 8:49 AM
To: Kirkwood, Sara; Holahan, Gary; Clark, Theresa
Cc: 'tomd@whistleblower.org'; Mitman, Jeffrey; Bensi, Michelle; Philip, Jacob; Perkins, Richard
Subject: RE: RE: Meeting next week

Sara,

I look forward to meeting with you this morning.

Several colleagues of mine have expressed concerns regarding how the agency is handling flooding issues and have indicated they would like to meet with your team to discuss their concerns. Their concerns relate to the two bulleted items in your email below. Jeff Mitman, Michelle Bensi, Jake Philip and Richard Perkins are all willing to meet with your team.

Jeff Mitman has specific concerns regarding Jocassee/Oconee in that the flooding analysis being used does not take into account the Lake Jocassee Dam failing from overtopping. These concerns fall under the first bulleted item in your email below.

Jeff Mitman, Michelle Bensi and Jake Philip have expressed concerns regarding the agency's response to Section 402 of Public Law 112-074. Their concerns were expressed in an October 2014 non-concurrence that was primarily authored by Dr. Bensi. Jake has also expressed concerns regarding water-tight seals for power plant penetrations. These concerns fall under the second bulleted item in your email below, although they are not necessarily limited to the plants mentioned.

Richard Perkins has concerns regarding the manner in which the screening analysis report for Generic Issue 204 (flooding at nuclear power plant sites due to upstream dam failures) was redacted. Mr. Perkins' concerns were the primary motivation behind my 2012-Sep-18 letter to the NRC Chairman.

In a 2012-Oct-15 letter to the Chairman of the Senate Committee on Homeland Security & Governmental Affairs I noted that there is no interagency process for ensuring that dams upstream of nuclear reactor plants are guarded to the same design basis threat (DBT) that the NRC requires nuclear power plants (NPP) to be guarded to. I realize that it is not within the NRC's authority to dictate the guard force required at dams regulated by Federal Energy Regulatory Commission (FERC) or maintained by the US Army Corps of Engineers (USACE). However, since the catastrophic failure of the Oconee Nuclear Station would lead to a reactor accident at Oconee, it is illogical to require that Oconee be guarded against a specific DBT yet to not—after 8 years of claiming the flood height at Oconee due to a Jocassee Dam failure is non-public security-related information—have done any study to determine whether or not the same DBT that we believe could cause an accident at Oconee could also breach the Lake Jocassee Dam.

That is, to my knowledge no one has studied what the design basis threat to the Lake Jocassee Dam is and whether or not that dam is adequately guarded against that threat. If the same DBT that could threaten Oconee could also be capable of destroying the Lake Jocassee Dam, then reason dictates that the Lake Jocassee Dam must be guarded against that DBT. I recognize this is an interagency problem the NRC would like to avoid. But we have a duty to address it for Oconee and for all other susceptible reactors. What is the design basis threat capable of destroying the dam? Is that threat less than or equal to the DBT for Oconee? If so, then the Lake Jocassee Dam needs to be guarded against that DBT. Just because this is an interagency problem does not mean the NRC can ignore it.

A similar concern exists regarding insider threats. When I worked in the nuclear industry, I needed to be screened into PADS (Personnel Access Data System?) to ensure there was nothing adverse in my

background. Can an insider threat at the Jocassee Dam pump storage station cause the dam to fail? If so, are the requirements for background checks and fitness-for-duty at the Jocassee Dam pump storage station the same or greater than the requirements at Oconee?

I don't know if you consider my concerns regarding external and internal security threats at the Lake Jocassee Dam to fall within the two bulleted items in your email below, but they certainly need to be addressed.

Also, I did not mention the silo-ing issue in my disclosure to the OSC because I only became aware of it recently. You should address what is driving the NRC to silo flooding information and the potential impact of that silo-ing upon the agency's Open and Collaborative Work Environment.

V/r,
Larry
573-230-3959

From: Kirkwood, Sara
Sent: Wednesday, May 11, 2016 4:27 PM
To: LSCriscione@gmail.com; Criscione, Lawrence <Lawrence.Criscione@nrc.gov>; 'tomd@whistleblower.org' <tomd@whistleblower.org>
Subject: RE: RE: Meeting next week

Dear Mr. Devine,

This note is to confirm that members of the Flooding Working Group will interview your client, Mr. Criscione, on Tuesday, May 17th, 10:00 a.m., at NRC Headquarters, Room O1F22. The interview will be transcribed.

NRC Headquarters
One White Flint North Building (OWFN)
11555 Rockville Pike
Rockville, MD 20852.

The purpose is to interview Mr. Criscione about the allegations he presented to the Office of the Special Counsel (OSC) regarding the risk of flooding at 19 specific plants located downstream from dams. In response to the referral from OSC, Chairman Burns convened a working group to conduct an investigation into the matters referred to him. Please note that the working group's investigation is limited in scope to issues referred by OSC. Our investigation, and thus our interview is limited to the following:

- Whether the NRC has failed to require the Oconee Nuclear Station in South Carolina to take corrective measures to safeguard the plant from potential flooding should the Lake Jocassee Dam fail.
- Whether the NRC has also failed to require the following nuclear power stations (Arkansas Nuclear, Beaver Valley, Browns Ferry, Columbia, Cooper, Fort Calhoun, H.B. Robinson, Hope Creek/Salem, Indian Point, McGuire, Peach Bottom, Prairie Island, Sequoyah, South Texas, Surry, Three Mile Island, Waterford, and Watts Bar) to take appropriate measures to protect against the risk of flooding in the event of upstream dam failures.

You will be registered in the visitor access system. Upon arrival to the building, your vehicle will be subject to a routine screening, the security officer will direct you to a parking space, once parked, please walk around to the front of the OWFN building to check in at the security desk with a valid ID.

The following link provides directions to NRC Headquarters
<http://www.nrc.gov/about-nrc/locations/hq.html>

Map for Visitor vehicle entrance

Criscione, Lawrence

From: Criscione, Lawrence
Sent: Friday, May 20, 2016 6:00 AM
To: Kirkwood, Sara; Holahan, Gary; Clark, Theresa
Cc: tomd@whistleblower.org; 'LSCriscione@gmail.com'; Mitman, Jeffrey
Subject: Clarification regarding pumps at Peach Bottom

Sara, et. al.,

Yesterday I made the argument that if the NRC was going to allow certain plants to not be protected against credible floods and instead rely on mitigation efforts to prevent core damage and containment failure, then we should treat mitigation equipment at those plants in a manner similar to how we treat the FSAR required protective equipment (e.g. write the required mitigation equipment into the licensing basis).

As an example as to how we have limited control over mitigation equipment, I pointed to some pumps at Peach Bottom which are stored under a staircase attached to a block wall. Jeff Mitman informed me that those pumps are not necessarily part of FLEX since his encounter with them was pre-Fukushima. They might have been purchased as b.5.B equipment, an enhancement to improve MSPI or due to some other commitment to the NRC but pre-date FLEX and might or might not be included in FLEX.

But my point still stands. Throughout the industry, improvements to safety have been made by licensees purchasing and installing mitigative equipment either to improve their MSPI score, as part of b.5.B initiatives, or as part of FLEX. This equipment is not surveilled and maintained in the same manner as the protective equipment included in the plant's Technical Specifications nor are these plants restricted from operating when this equipment is unavailable. My point yesterday was for those plants that have credible flooding risks for which the equipment required by their operating license is insufficient to protect against, if we are going to allow them to continue to operate based on the assumption that post-flood mitigative efforts will satisfactorily prevent core damage and/or release, then we need to ensure positive controls are in place to ensure the required mitigative equipment is kept in a location and state of repair that ensures its availability when needed.

Also, I encourage you to speak to Jeff in that—in addition to his concerns that the impoundment level used in the flooding calculations at Oconee is non-conservative—he makes an argument that mitigative strategies at Oconee are not viable to prevent core damage.

Larry

Lawrence S. Criscione
Reliability & Risk Engineer
RES/DRA/HFRB
T10-B44
(573) 230-3959

Criscione, Lawrence

From: Criscione, Lawrence
Sent: Saturday, September 10, 2016 2:43 PM
To: Weber, Michael; Hackett, Edwin; Correia, Richard; Thaggard, Mark; Peters, Sean
Subject: Request an Open Door Meeting on Tuesday, Sept. 13
Attachments: highlighted draft.pdf

Mike et. al.,

First off, the attached document is potentially going to be forwarded by the US Special Counsel to the President and thus the US Office of Special Counsel asks that it not be disseminated publicly at this time. So please do not forward the attached document.

I would like to meet to discuss:

1. the attached comments submitted to the US Office of Special Counsel in accordance with 5 USC 1213(e)(1), and
2. the fifty highlighted ADAMS references on pp. 88-92 of the attached.

My daughter is getting married on September 24th and my last day in Rockville prior to her wedding is Tuesday (Sept. 13).

If we cannot meet this Tuesday, some date after Sept. 24th is fine. Never meeting is fine too if that is what you prefer. But I believe, if we are going to meet, the sooner the better.

Also, I would like Ed, Rich, Mark and Sean at our meeting. It's fine with me if any of them are not present due to either scheduling conflicts or due to their desire not be involved. I would like to invite them as a courtesy to keep them directly informed and also because apparently some of them have been involved in discussions with OIG and OGC regarding the ADAMS documents mentioned above.

Regarding the attached document, one of two things will happen with it:

- It will not convince the OSC to reject the Chairman's 2016-June-30 response. If this is the case, it will eventually be forwarded it by the OSC to the NRC Chairman, the President and our House and Senate oversight committees. It will also be released to the public by the OSC.
- It will convince the OSC to reject the Chairman's 2016-June-30 response. If this is the case, it will be discarded by the OSC in lieu of future comments from me.

It's not my place to tell you what to read and what not to read. But I suspect that regardless of which scenario above plays out, the attached document is something you are going to want to be familiar with at some point. That being the case, I would prefer that you at least read pp. 30-40, pp. 48-49, and pp. 14-17 (in that order of importance) prior to our Tuesday meeting since those are the pages that reference the ADAMS records that are likely of most controversy.

The various sections on pp. 8-49 are in the order that I consider to be most germane to least germane with regard to my argument that the Chairman's investigation of my flooding concerns was inadequate; these sections are all disconnected and can be read in any order. If you would like to read the Chairman's response (i.e. the document on which I am commenting), it can be found at ML16195A368. That document, my comments, as well as all the highlighted references were added to ADAMS package ML16195A365. If you cannot see some of the references, that is because they you do not have viewer rights to them. You should have viewer rights to all the records for which I am still listed in ADAMS as an "owner".

While preparing my 5 USC 1213(e)(1) comments, I entered into ADAMS documents which I intended to reference in those comments. On July 20 and August 3 I submitted Sensitivity Reviews for the first batches of documents. Yesterday (Sept. 9), while preparing the Sensitive Reviews for the document entered into ADAMS after August 3rd, I realized that twenty of the documents I had earlier entered into ADAMS had either been removed or were no longer visible to me.

Jennene referred me to Rich who was out on Friday; so I spoke with Mark Thaggard. From my conversation with Mark, it was apparent that RES had been meeting with OGC and OIG regarding the documents I had placed in ADAMS in July and August.

I do not expect my chain of command to inform me every time OIG and OGC ask about me. But regarding to these ADAMS documents, it is highly inefficient and ineffective to keep me out of the discussions. It is the tactic of an organization trying to subvert the actions of one of its concerned technical staff and not the tactic of an organization with a strong Open and Collaborative Work Environment looking to understand and resolve the concerns of its technical staff.

On Tuesday, I would like to meet with my RES chain of command and explain why I need the records entered into ADAMS by me in July, August and September to be declared "Official Agency Records" and to be publicly available. I do not expect any commitments to be made by you at that time; all I expect is an opportunity to inform you of my position and to answer any questions you might have.

I assume it is possible that either all or some of these records will not be declared as "Official Agency Records" or that either all or some of them will not be made Publicly Available. If you agree with those possibilities, then I would also like to discuss my options for—outside of using NRC ADAMS—publicly posting these documents in a place where I can reference them in my comments.

Thank you,

Larry

Lawrence S. Criscione
Reliability & Risk Engineer
RES/DRA/HFRB
T10-B44
(573) 230-3959

Criscione, Lawrence

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Sent: Saturday, September 10, 2016 2:43 PM
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Thank you,

Larry

Lawrence S. Criscione
Reliability & Risk Engineer
RES/DRA/HFRB
T10-B44
(573) 230-3959

Criscione, Lawrence

From: Criscione, Lawrence
Sent: Friday, September 09, 2016 5:15 PM
To: Peters, Sean; Correia, Richard
Cc: Thaggard, Mark
Subject: ADAMS records concerning OSC File No. DI-15-5254
Attachments: NRC Form 665s for ADAMS reference related to OSC File No. DI-15-5254.pdf

Sean/Rich,

Attached are five NRC Form 665s for some records I added to ADAMS in order to reference them in my comments on the Chairman's 2016-June-30 response to the Office of Special Counsel concerning the agency's handling of flooding at nuclear power plants. Jennene—as well as I—should be listed as the owner on all the below mentioned records.

On July 20, 2016 I sent Jennene a list of five documents to make Official Agency Records in ADAMS. On August 3, 2016 I sent her a list of another 17 documents. These documents are listed in ML16232A001. As of today, I can no longer see these records in ADAMS other than ML16202A536 (a 2016-May-9 email from me to Kirkwood, Holahan and Clark) and ML16200A049 (a letter sent to Dave Lochbaum). I was informed by Jennene that they have been removed from ADAMS.

In May, the US Office of Special Counsel referred my disclosure regarding the NRC's handling of flooding due to upstream dam failures to the NRC Chairman for a response. The NRC Chairman submitted his response to the US Special Counsel on June 30, 2016 and Sheri Shilling forwarded that response to me in accordance with 5 USC 1213(e)(1) on July 7, 2016.

Yesterday, I submitted my comments on the Chairman's response. In those comments, 119 ADAMS records are referenced, 66 of which I placed in ADAMS over the past two months specifically to enable me to reference them in my comments. Twenty of these have since been removed (according to Jennene—I have no reason to doubt Jennene, but the other possibility is that they are still in ADAMS but I am no longer able to view them).

If the NRC will be removing all my references from ADAMS, please let me know so I can re-submit my comments to Ms. Shilling with different references.

Although I had no idea the NRC would remove my ADAMS references, yesterday it became apparent to me that the NRC was likely to block making many of my references either Official Agency Records or Publicly Available—either of which would inhibit me from linking to them. With that in mind, I reached out to Lucas Hixson about posting some of my records at EnvironmentalArchives.com. I sent him 25 records last night and on Sunday plan to compile more to send. However, this was never meant to be the primary source of my reference—only a public internet link. I believe it appropriate that my primary source be NRC ADAMS.

Thirty-seven records are contained on the attached forms. I have done the sensitivity analysis and none of them contain any sensitive information:

1. ML16195A368 is the Chairman's 2016-June-30 response to the Special Counsel Carolyn Lerner. Per the OSC's processes, the Chairman wrote his response to be a public document and there is nothing sensitive in it. HOWEVER, that response is to be graded by the OSC and forwarded to the President and the NRC's House and Senate oversight committees. With that in mind, the OSC asked that the response not be shared. It is currently in ADAMS with restricted viewing rights. Other than the two of you, myself and Jennene, only eight NRC personnel have been assigned viewing rights (Perkins, Bensi, Philip, Kanney, Ferrante, Mitman, Pohida, and Patterson). These eight were subject matter experts who were assisting me with commenting upon the report. None of them require continued

viewing rights. It is my recommendation that the agency not make ML16195A368 an "Official Agency Record" until informed by the OSC that they are releasing the Chairman's response.

2. ML16195A369 is Sheri Shilling's July 7, 2016 letter to me forwarding the Chairman's 2016-June-30 response in accordance with 5 USC 1213(e)(1). There is nothing sensitive in this record. However, I recommend that the agency not make ML16195A369 an "Official Agency Record" until informed by the OSC that they are releasing the Chairman's response. Access to ML16195A369 is restricted similar to ML16195A368.
3. ML16242A333 and ML16252A004 are, respectively, my comments in accordance with 5 USC 1213(e)(1) and Tom Devine's cover letter forwarding those comments to the OSC. There is nothing sensitive in either of these records. However, I recommend that the agency not make these records "Official Agency Records" until informed by the OSC that they are releasing these records.
4. ML16232A001 contains the sensitivity reviews done for the five records sent to Jennene in July and the seventeen sent in August. There is nothing sensitive about this document.
5. ML16236A018 contains a style sheet used by the personnel doing the NRC staff assessments of the flooding reviews. I placed it in ADAMS because it was one of two guidance documents I could find for doing staff assessments. There is nothing sensitive about this document.
6. ML16236A019 is a video of flooding into the Auxiliary Building at the St. Lucie nuclear power plant on January 9, 2014. I referenced it in my comments to the OSC because the incident occurred AFTER the plant had done their post-Fukushima flooding walkdowns. There is nothing sensitive about this video. It shows a passageway in the Auxiliary Building with water flowing from a non-descript electrical panel and an Equipment Operator standing in a several inches of water in front of an electrical switchgear. It also shows a flooded contamination area.
7. ML16236A021 is an email from Vic McCree distributing the video mentioned above. This record also contains a congratulatory email from Bill Dean. There is nothing sensitive in this record. I referenced it in my comments to the OSC to highlight Vic's concerns regarding flooding.
8. ML16236A230 is a 2010-Feb-13 memo from George Wilson requesting a generic issue on flooding from dam failures. It was my first exposure to the dam failure issue and thus the beginning of this saga for me. I referenced it in an early draft of my comments to the OSC, but in the final version it only appears in the list of references. I believe it to be a valid agency record, but do not require it to support my comments (although I prefer to retain it in ADAMS since it made it into the references section). There is information in this memo that at one point was considered sensitive, but no longer is. All the information contained within it is already in the public domain.
9. ML16237A004 are some 2013-Mar-25 emails released to me under the Freedom of Information act with a power point presentation attached that was presented by Duke Energy at an NRC public meeting. All this material is already in the public domain and is thus not sensitive.
10. ML16237A005 is an email that was released to me under the Freedom of Information Act. All this material is already in the public domain and is thus not sensitive.
11. ML16237A006 is an update to a FOIA appeal sent from me to the EDO. It consists entirely of information already in the public domain and is thus not sensitive.
12. ML16237A007 is an email I received from Jim Riccio of Greenpeace. Coming from Greenpeace, it is by definition already in the public domain and is thus not sensitive.
13. ML16238A005 through ML16238A009 are interview transcripts released to me under the Freedom of Information Act. I have placed them in ADAMS in order to reference them in my comments to the OSC. Having already been released under the Freedom of Information Act, they are already in the public domain and thus not sensitive.
14. ML16238A010 and ML16238A011 are recordings of my 2013-Jan-17 interrogation by the NRC Office of the Inspector General. I have placed them in ADAMS in order to reference them in my comments to the OSC. They were released to me as part of the settlement to a Privacy Act lawsuit and are thus already in the public domain and not sensitive.
15. ML16238A013 is a record released to me under the Freedom of Information Act. It is already in the public domain and therefore there is nothing sensitive about this record.
16. ML16238A014 is a record released to me under the Freedom of Information Act. It is already in the public domain and therefore there is nothing sensitive about this record.
17. ML16239A085 is a letter informing me that the Inspector General had closed his investigation of me for releasing flooding related information to Congress. Also contained in this record is the settlement agreement that required him to submit this letter to me. This letter was written to me as a public citizen

as part of a court approved settlement to a lawsuit and therefore is not the property of the agency. I have entered it into ADAMS in order to reference it in my comments to the OSC—to show that I was only informed of the closure of the IG's investigation of me due to a requirement in a legal settlement and that this information came fourteen months after the NRC first threatened me with felony charges, thirteen months after the DoJ rejected the NRC's request for an indictment, and seven months after the NRC closed their investigation of me. The only possible claim to sensitivity regarding this document is to protect my privacy and I have obviously waived that right to privacy by including it as a reference in my public comments to the OSC. There is therefore nothing sensitive about this record.

18. ML16242A344 is a sworn authorization that the FOIA office requested I sign. Although I do not reference it in my OSC comments, this record pertains to the many of the other documents referenced in those comments and I have placed it in ADAMS so it is clear to anyone who might question the NRC's release of potentially private information about me that I have waived my expectation of privacy. There is nothing sensitive about this record.
19. ML16244A000 is an interview transcript released to me as part of the settlement of a Privacy Act lawsuit and is thus already in the public domain and not sensitive. I have placed it in ADAMS in order to reference it in my comments to the OSC.
20. ML16244A001 and ML16244A007 are recordings of my 2013-Jan-17 interrogation by the NRC Office of the Inspector General. I have placed them in ADAMS in order to reference them in my comments to the OSC. They were released to me as part of the settlement to a Privacy Act lawsuit and are thus already in the public domain and not sensitive.
21. ML16244A008 is an email I wrote to Commissioner Ostendorff. I contains attachments that were at one time considered sensitive but have since been released. This document is not sensitive.
22. ML16244A009 is a record released to me under the Freedom of Information Act and is thus already in the public domain and not sensitive.
23. ML16245A000 contains records that were released to me under the Freedom of Information Act. It also contains a 10 CFR 2.206 petition that I submitted as a member of the public. Nothing in it is sensitive.
24. ML16245A001 contains records that were released to me under the Freedom of Information Act. It also contains two emails discussing items from a recent IAEA trip by two human and organizational factors personnel. Nothing in it is sensitive.
25. ML16245A002 contains a record released to me under the Freedom of Information Act and is thus already in the public domain and not sensitive.

This email was originally started as the transmittal of sensitivity reviews of the records listed above, but during the preparation of it I noticed that records I had entered into ADAMS were no longer present. I just discussed this issue with Mark.

As US citizens we have a First Amendment right to criticize our government. That right is not absolute. There are laws that prohibit the release of confidential medical information, military secrets, proprietary information, safeguards information, etc. No one is on shaky ground when enforcing these laws. However, I would tread carefully were I to be in a position to tell a subordinate what information they can and cannot share publicly. I have information needed to make my case to the US Office of Special Counsel regarding the NRC's handling of flooding issues (including violation of the FOIA, failure to ensure dams are protected from hostile action, Safety Culture impediments such as retaliatory investigations, and unwarranted restriction of information both internally and with our public stakeholders). Restricting me from placing that information in ADAMS is one thing. But it is completely different to use administrative rules to inhibit my First Amendment right to criticize how my government is addressing significant public concerns. If there is information—generated by me or given to me under the FOIA—that I cannot share publicly, I need to know what statute prevents it.

If the NRC will not allow the above references to be placed in ADAMS, then I would like a timely answer as to what information I am legally restricted from publicly sharing on my own. I have already submitted my comments to the Office of Special Counsel. However, it is certainly not too late to withdraw that submittal and to re-submit it with references to public servers instead of to NRC ADAMS.

Please let me know expeditiously what the NRC intends with regard to the ADAMS records mentioned in this email and those submitted in August and July.

ML16242A333 (my comments to the OSC) is currently checked out by me. The copy in ADAMS has a watermark denoting it as a "Predecisional Draft". In one sense, there is nothing predecisional about the document: it contains the verbatim text I submitted to the OSC with the exception of the watermark. The watermark is retained to ensure it is not inadvertently released too early. The document in ADAMS is a draft only in the sense that the watermark must be removed (it was not submitted to the OSC with the watermark). I would also like an opportunity to finish adding the hyperlinks prior to it becoming an "Official Agency Record". In order to finish this task, I need to know which ADAMS references will be in the public NRC ADAMS, which I must place onto an outside server, and which cannot be made public.

Thank you,

Larry

Lawrence S. Criscione
Reliability & Risk Engineer
RES/DRA/HFRB
T10-B44
(573) 230-3959



ADAMS DOCUMENT SUBMISSION

Instructions for completing NRC Form 665 - "Cheat Sheet" (ML15313A310)

Document Owner Criscione, L.S.	Originated By Criscione, L.S.	Phone No. (Enter 10 digits) (573) 230-3959	Mail Stop TWFN/10B44	LAN ID LSC4	Date 2016-Sept-9
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If documents are to be put into a package and have the same release properties, list the Document Titles or Accession Numbers below in the order they should appear. Documents with different release properties and sensitivity levels should be listed on additional forms in the order they should appear. Examples (ML16035A181)

Note: Document Owner is solely responsible for setting the Availability, Document Sensitivity and Document Security Access Level.

Document No.	Total Number of Documents in this package
Document Title(s) or Accession No. ML16195A368, 2016-Jun-30 Response by the NRC Chairman to the US Special Counsel regarding OSC File No. DI-15-5254	

Package Title (if necessary):

Is this a brief title that can be changed by DPC according to template instruction?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
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SUNSI Review has been completed (for Publicly Available Documents)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Initials <i>JSC</i>
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Document AVAILABILITY (select one)

<input checked="" type="checkbox"/> Publicly Available (Indicate Release Date) <table border="1"> <tr><td><input type="checkbox"/> Immediate Release</td></tr> <tr><td><input type="checkbox"/> Normal Release</td></tr> <tr><td><input checked="" type="checkbox"/> Delay Release Until</td></tr> <tr><td style="text-align: center;">Date</td></tr> </table> <table border="1"> <tr><td><input checked="" type="checkbox"/> Non-Sensitive</td></tr> <tr><td><input type="checkbox"/> Non-Sensitive Copyright</td></tr> </table> <p>Note: Package to be marked for release if two or more documents within the package are publicly available</p>	<input type="checkbox"/> Immediate Release	<input type="checkbox"/> Normal Release	<input checked="" type="checkbox"/> Delay Release Until	Date	<input checked="" type="checkbox"/> Non-Sensitive	<input type="checkbox"/> Non-Sensitive Copyright	<input type="checkbox"/> Non-Publicly Available MD 3.4 Non-Public Item Code (A.3-A.7, B1) Document SENSITIVITY (select one) <table border="1"> <tr> <td><input type="checkbox"/> A.7 Sensitive Internal Info - Periodic Review Required (all other sensitive internal info)</td> <td><input type="checkbox"/> A.4 Sensitive - Proprietary</td> </tr> <tr> <td><input type="checkbox"/> A.7 Sensitive Internal Info - No Periodic Review (attorney work product & client privilege, and pre-decisional enforcement)</td> <td><input type="checkbox"/> A.3 Sensitive-Security Related - Periodic Review Required</td> </tr> <tr> <td><input type="checkbox"/> A.6 Sensitive - Fed, State, Foreign Gov't, International Agency Controlled Info</td> <td><input type="checkbox"/> B.1 Non-Sensitive</td> </tr> <tr> <td><input type="checkbox"/> A.5 Sensitive - PA/PII (includes Personally Identifiable Information (PII))</td> <td><input type="checkbox"/> B.1 Non-Sensitive - Copyright</td> </tr> </table>	<input type="checkbox"/> A.7 Sensitive Internal Info - Periodic Review Required (all other sensitive internal info)	<input type="checkbox"/> A.4 Sensitive - Proprietary	<input type="checkbox"/> A.7 Sensitive Internal Info - No Periodic Review (attorney work product & client privilege, and pre-decisional enforcement)	<input type="checkbox"/> A.3 Sensitive-Security Related - Periodic Review Required	<input type="checkbox"/> A.6 Sensitive - Fed, State, Foreign Gov't, International Agency Controlled Info	<input type="checkbox"/> B.1 Non-Sensitive	<input type="checkbox"/> A.5 Sensitive - PA/PII (includes Personally Identifiable Information (PII))	<input type="checkbox"/> B.1 Non-Sensitive - Copyright
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Special Instructions

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ADAMS DOCUMENT SUBMISSION

Instructions for completing NRC Form 665 - "Cheat Sheet" (ML15313A310)

Document Owner Criscione, L.S.	Originated By Criscione, L.S.	Phone No. (Enter 10 digits) (573) 230-3959	Mail Stop TWFN/10B44	LAN ID LSC4	Date 2016-Sept-9
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Note: Document Owner is solely responsible for setting the Availability, Document Sensitivity and Document Security Access Level.

Document No.	Total Number of Documents in this package
Document Title(s) or Accession No. ML16242A333 and ML16252A004	

Package Title (if necessary):

Is this a brief title that can be changed by DPC according to template instruction? Yes No

SUNSI Review has been completed (for Publicly Available Documents) Yes No Initials *QSC*

Document AVAILABILITY (select one)

<input checked="" type="checkbox"/> Publicly Available (Indicate Release Date) <table border="1"> <tr><td><input type="checkbox"/> Immediate Release</td></tr> <tr><td><input checked="" type="checkbox"/> Normal Release</td></tr> <tr><td><input type="checkbox"/> Delay Release Until</td></tr> <tr><td style="text-align: center;">Date</td></tr> </table> <table border="1"> <tr><td><input checked="" type="checkbox"/> Non-Sensitive</td></tr> <tr><td><input type="checkbox"/> Non-Sensitive Copyright</td></tr> </table> <p>Note: Package to be marked for release if two or more documents within the package are publicly available</p>	<input type="checkbox"/> Immediate Release	<input checked="" type="checkbox"/> Normal Release	<input type="checkbox"/> Delay Release Until	Date	<input checked="" type="checkbox"/> Non-Sensitive	<input type="checkbox"/> Non-Sensitive Copyright	<input type="checkbox"/> Non-Publicly Available MD 3.4 Non-Public Item Code (A.3-A.7, B1) Document SENSITIVITY (select one) <table border="1"> <tr> <td><input type="checkbox"/> A.7 Sensitive Internal Info - Periodic Review Required (all other sensitive internal info)</td> <td><input type="checkbox"/> A.4 Sensitive - Proprietary</td> </tr> <tr> <td><input type="checkbox"/> A.7 Sensitive Internal Info - No Periodic Review (attorney work product & client privilege, and pre-decisional enforcement)</td> <td><input type="checkbox"/> A.3 Sensitive-Security Related - Periodic Review Required</td> </tr> <tr> <td><input type="checkbox"/> A.6 Sensitive - Fed, State, Foreign Gov't, International Agency Controlled Info</td> <td><input type="checkbox"/> B.1 Non-Sensitive</td> </tr> <tr> <td><input type="checkbox"/> A.5 Sensitive - PA/PII (includes Personally Identifiable Information (PII))</td> <td><input type="checkbox"/> B.1 Non-Sensitive - Copyright</td> </tr> </table>	<input type="checkbox"/> A.7 Sensitive Internal Info - Periodic Review Required (all other sensitive internal info)	<input type="checkbox"/> A.4 Sensitive - Proprietary	<input type="checkbox"/> A.7 Sensitive Internal Info - No Periodic Review (attorney work product & client privilege, and pre-decisional enforcement)	<input type="checkbox"/> A.3 Sensitive-Security Related - Periodic Review Required	<input type="checkbox"/> A.6 Sensitive - Fed, State, Foreign Gov't, International Agency Controlled Info	<input type="checkbox"/> B.1 Non-Sensitive	<input type="checkbox"/> A.5 Sensitive - PA/PII (includes Personally Identifiable Information (PII))	<input type="checkbox"/> B.1 Non-Sensitive - Copyright
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Special Instructions

Submitted By	Phone No. (Enter 10 digits)	Mail Stop	LAN ID	Date Submitted to DPC
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ADAMS DOCUMENT SUBMISSION

Instructions for completing NRC Form 665 - "Cheat Sheet" (ML15313A310)

Document Owner Criscione, L.S.	Originated By Criscione, L.S.	Phone No. (Enter 10 digits) (573) 230-3959	Mail Stop TWFN/10B44	LAN ID LSC4	Date 2016-Sept-9
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Document No.	Total Number of Documents in this package
Document Title(s) or Accession No. ML16195A369, 2016-July-7 Letter from the US Office of Special Counsel to Lawrence Criscione regarding (b)(6),(b)(7)(A),(b)(7)(C) USC 1213(e)(1) to comment on the 2016-June-30 response from the NRC Chairman to the US Special Counsel concerning OSC File No. DI-2015-5254	

Package Title (if necessary):

Is this a brief title that can be changed by DPC according to template instruction?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
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SUNSI Review has been completed (for Publicly Available Documents)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Initials <i>LSC</i>
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Document AVAILABILITY (select one)

<input checked="" type="checkbox"/> Publicly Available (Indicate Release Date) <table border="1"> <tr><td><input type="checkbox"/> Immediate Release</td></tr> <tr><td><input checked="" type="checkbox"/> Normal Release</td></tr> <tr><td><input type="checkbox"/> Delay Release Until</td></tr> <tr><td style="text-align: center;">Date</td></tr> </table> <table border="1"> <tr><td><input checked="" type="checkbox"/> Non-Sensitive</td></tr> <tr><td><input type="checkbox"/> Non-Sensitive Copyright</td></tr> </table> <p>Note: Package to be marked for release if two or more documents within the package are publicly available</p>	<input type="checkbox"/> Immediate Release	<input checked="" type="checkbox"/> Normal Release	<input type="checkbox"/> Delay Release Until	Date	<input checked="" type="checkbox"/> Non-Sensitive	<input type="checkbox"/> Non-Sensitive Copyright	<input type="checkbox"/> Non-Publicly Available MD 3.4 Non-Public Item Code (A.3-A.7, B1) Document SENSITIVITY (select one) <table border="1"> <tr> <td><input type="checkbox"/> A.7 Sensitive Internal Info - Periodic Review Required (all other sensitive internal info)</td> <td><input type="checkbox"/> A.4 Sensitive - Proprietary</td> </tr> <tr> <td><input type="checkbox"/> A.7 Sensitive Internal Info - No Periodic Review (attorney work product & client privilege, and pre-decisional enforcement)</td> <td><input type="checkbox"/> A.3 Sensitive-Security Related - Periodic Review Required</td> </tr> <tr> <td><input type="checkbox"/> A.6 Sensitive - Fed, State, Foreign Gov't, International Agency Controlled Info</td> <td><input type="checkbox"/> B.1 Non-Sensitive</td> </tr> <tr> <td><input type="checkbox"/> A.5 Sensitive - PA/PII (includes Personally Identifiable Information (PII))</td> <td><input type="checkbox"/> B.1 Non-Sensitive - Copyright</td> </tr> </table>	<input type="checkbox"/> A.7 Sensitive Internal Info - Periodic Review Required (all other sensitive internal info)	<input type="checkbox"/> A.4 Sensitive - Proprietary	<input type="checkbox"/> A.7 Sensitive Internal Info - No Periodic Review (attorney work product & client privilege, and pre-decisional enforcement)	<input type="checkbox"/> A.3 Sensitive-Security Related - Periodic Review Required	<input type="checkbox"/> A.6 Sensitive - Fed, State, Foreign Gov't, International Agency Controlled Info	<input type="checkbox"/> B.1 Non-Sensitive	<input type="checkbox"/> A.5 Sensitive - PA/PII (includes Personally Identifiable Information (PII))	<input type="checkbox"/> B.1 Non-Sensitive - Copyright
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Special Instructions

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ADAMS DOCUMENT SUBMISSION

Instructions for completing NRC Form 665 - "Cheat Sheet" (ML15313A310)

Document Owner Criscione, L.S.	Originated By Criscione, L.S.	Phone No. (Enter 10 digits) (573) 230-3959	Mail Stop TWFN/10B44	LAN ID LSC4	Date 2016-Sept-9
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Document No.	Total Number of Documents in this package
Document Title(s) or Accession No. ML16232A001, ML16236A018, ML16236A019, ML16236A021, ML16236A230, ML16237A004, ML16237A005, ML16237A006, ML16237A007, ML16238A005, ML16238A006, ML16238A007, ML16238A008, ML16238A009, ML16238A010, ML16238A011, ML16238A013, ML16238A014, ML16239A085, ML16242A333 , ML16242A344 (ML16242A333 is being submitted on a separate form)	

Package Title (if necessary):

Is this a brief title that can be changed by DPC according to template instruction?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
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SUNSI Review has been completed (for Publicly Available Documents)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Initials <i>QSC</i>
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<input type="checkbox"/> A.7 Sensitive Internal Info - No Periodic Review (attorney work product & client privilege, and pre-decisional enforcement)	<input type="checkbox"/> A.3 Sensitive-Security Related - Periodic Review Required														
<input type="checkbox"/> A.6 Sensitive - Fed. State, Foreign Gov't, International Agency Controlled Info	<input type="checkbox"/> B.1 Non-Sensitive														
<input type="checkbox"/> A.5 Sensitive - PA/PII (includes Personally Identifiable Information (PII))	<input type="checkbox"/> B.1 Non-Sensitive - Copyright														

Document SECURITY ACCESS LEVEL

<input checked="" type="checkbox"/> Document Processing Center = Owner	<input checked="" type="checkbox"/> NRC Users = Viewer
<input type="checkbox"/> Limited Document Security (Defined by Group or User e.g., Joe Smith = Owner)	

Package Accession No.	ADAMS Template No.	RIDS Code (if applicable)	Other Identifiers
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Special Instructions

Submitted By	Phone No. (Enter 10 digits)	Mail Stop	LAN ID	Date Submitted to DPC
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