

**RESPONSE TO FREEDOM OF  
INFORMATION ACT (FOIA) / PRIVACY  
ACT (PA) REQUEST**

2005-0194

5

RESPONSE  
TYPE☐

FINAL

☒

PARTIAL

REQUESTER

David Lochbaum

DATE

FEB 17 2006

**PART I. -- INFORMATION RELEASED**

- ☐ No additional agency records subject to the request have been located.
- ☐ Requested records are available through another public distribution program. See Comments section.
- ☐ APPENDICES  
Agency records subject to the request that are identified in the listed appendices are already available for public inspection and copying at the NRC Public Document Room.
- ☒ APPENDICES  
**G,H** Agency records subject to the request that are identified in the listed appendices are being made available for public inspection and copying at the NRC Public Document Room.
- ☐ Enclosed is information on how you may obtain access to and the charges for copying records located at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD 20852-2738.
- ☒ APPENDICES  
**G,H** Agency records subject to the request are enclosed.
- ☐ Records subject to the request that contain information originated by or of interest to another Federal agency have been referred to that agency (see comments section) for a disclosure determination and direct response to you.
- ☒ We are continuing to process your request.
- ☐ See Comments.

**PART I.A -- FEES**

AMOUNT \*

\$

☐

You will be billed by NRC for the amount listed.

☐

None. Minimum fee threshold not met.

☐

You will receive a refund for the amount listed.

☐

Fees waived.

\* See comments  
for details**PART I.B -- INFORMATION NOT LOCATED OR WITHHELD FROM DISCLOSURE**

- ☐ No agency records subject to the request have been located.
- ☒ Certain information in the requested records is being withheld from disclosure pursuant to the exemptions described in and for the reasons stated in Part II.
- ☒ This determination may be appealed within 30 days by writing to the FOIA/PA Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Clearly state on the envelope and in the letter that it is a "FOIA/PA Appeal."

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

The incoming FOIA/PA-2005-0194 request is located in ADAMS at ML050980122.

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

Russell A. Nichols

NRC FORM 464 Part II (6-1998)	U.S. NUCLEAR REGULATORY COMMISSION	FOIA/PA  2005-0194	DATE  FEB 17 2006
<b>RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) / PRIVACY ACT (PA) REQUEST</b>			

**PART II.A -- APPLICABLE EXEMPTIONS**

APPENDICES  
**H, I**

Records subject to the request that are described in the enclosed Appendices are being withheld in their entirety or in part under the Exemption No.(s) of the PA and/or the FOIA as indicated below (5 U.S.C. 552a and/or 5 U.S.C. 552(b)).

- ☐ Exemption 1: The withheld information is properly classified pursuant to Executive Order 12958.
- ☒ Exemption 2: The withheld information relates solely to the internal personnel rules and procedures of NRC.
- ☐ Exemption 3: The withheld information is specifically exempted from public disclosure by statute indicated.
  - ☐ Sections 141-145 of the Atomic Energy Act, which prohibits the disclosure of Restricted Data or Formerly Restricted Data (42 U.S.C. 2161-2165).
  - ☐ Section 147 of the Atomic Energy Act, which prohibits the disclosure of Unclassified Safeguards Information (42 U.S.C. 2167).
  - ☐ 41 U.S.C., Section 253b, subsection (m)(1), prohibits the disclosure of contractor proposals in the possession and control of an executive agency to any person under section 552 of Title 5, U.S.C. (the FOIA), except when incorporated into the contract between the agency and the submitter of the proposal.
- ☒ Exemption 4: The withheld information is a trade secret or commercial or financial information that is being withheld for the reason(s) indicated.
  - ☒ The information is considered to be confidential business (proprietary) information.
  - ☐ The information is considered to be proprietary because it concerns a licensee's or applicant's physical protection or material control and accounting program for special nuclear material pursuant to 10 CFR 2.790(d)(1).
  - ☐ The information was submitted by a foreign source and received in confidence pursuant to 10 CFR 2.790(d)(2).
- ☒ Exemption 5: The withheld information consists of interagency or intraagency records that are not available through discovery during litigation. Applicable privileges:
  - ☒ Deliberative process: Disclosure of predecisional information would tend to inhibit the open and frank exchange of ideas essential to the deliberative process. Where records are withheld in their entirety, the facts are inextricably intertwined with the predecisional information. There also are no reasonably segregable factual portions because the release of the facts would permit an indirect inquiry into the predecisional process of the agency.
  - ☐ Attorney work-product privilege. (Documents prepared by an attorney in contemplation of litigation)
  - ☒ Attorney-client privilege. (Confidential communications between an attorney and his/her client)
- ☒ Exemption 6: The withheld information is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy.
- ☒ Exemption 7: The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated.
  - ☐ (A) Disclosure could reasonably be expected to interfere with an enforcement proceeding (e.g., it would reveal the scope, direction, and focus of enforcement efforts, and thus could possibly allow recipients to take action to shield potential wrongdoing or a violation of NRC requirements from investigators).
  - ☒ (C) Disclosure would constitute an unwarranted invasion of personal privacy.
  - ☐ (D) The information consists of names of individuals and other information the disclosure of which could reasonably be expected to reveal identities of confidential sources.
  - ☐ (E) Disclosure would reveal techniques and procedures for law enforcement investigations or prosecutions, or guidelines that could reasonably be expected to risk circumvention of the law.
  - ☐ (F) Disclosure could reasonably be expected to endanger the life or physical safety of an individual.
- ☐ OTHER (Specify)

**PART II.B -- DENYING OFFICIALS**

Pursuant to 10 CFR 9.25(g), 9.25(h), and/or 9.65(b) of the U.S. Nuclear Regulatory Commission regulations, it has been determined that the information withheld is exempt from production or disclosure, and that its production or disclosure is contrary to the public interest. The person responsible for the denial are those officials identified below as denying officials and the FOIA/PA Officer for any denials that may be appealed to the Executive Director for Operations (EDO).

DENYING OFFICIAL	TITLE/OFFICE	RECORDS DENIED	APPELLATE OFFICIAL		
			EDO	SECY	IG
Samuel J. Collins	Regional Administrator, RI	Appendix I, Appendix H/2, H/3, H/5-7, H/9, H/11-14	<input checked="" type="checkbox"/>		
James D. Dyer	Director, Office of Nuclear Reactor Regulation	Appendix H/8	<input checked="" type="checkbox"/>		
Eliot B. Brenner	Director, Office of Public Affairs	Appendix H/1, H/4, H/10		<input checked="" type="checkbox"/>	

Appeal must be made in writing within 30 days of receipt of this response. Appeals should be mailed to the FOIA/Privacy Act Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, for action by the appropriate appellate official(s). You should clearly state on the envelope and letter that it is a "FOIA/PA Appeal."

**APPENDIX G**  
**RECORDS BEING RELEASED IN THEIR ENTIRETY**

<b><u>NO.</u></b>	<b><u>DATE</u></b>	<b><u>DESCRIPTION/(PAGE COUNT)</u></b>
1.	12/8/03	E-mail from Markley to Hayden, New Info - 60 Minutes to Interview Alleger (1 page)
2.	2/2/04	E-mail from Blough to Richards, Significant Letter to PSEG re: Safety concerns at Salem and Hope Creek (3 pages)
3.	2/18/04	E-Mail from Meyer to Markley, Meeting w/workers cancelled & Lochbaum perspective (3 pages)
4.	2/20/04	E-Mail from Miller to Collins, Salem/HC Alleger (2 pages)
5.	2/24/04	E-mail from Markley to Blough, Let's do a TA Briefing on Salem/HC SCWE before 3/28 (1 page)
6.	2/27/04	E-Mail from Travers to Meyer, Alleger's last minute meeting invitation (1 page)
7.	3/11/04	E-Mail from Meyer to Blough, PSEG to drop-in on Diaz on Monday (3 pages) attaching 3/9/04 Memo to Bergman from Roberts, Briefing Package for Drop-In Visit on march 15, 2004, by PSEG, re: Hope Creek Generating Station & Salem Nuclear Generating Station, Unit Nos. 1 and 2 (22 pages)
8.	3/17/04	E-Mail from Goodman to Blough, Tomorrow's Meeting on Salem and Hope Creek (1 page)
9.	3/24/05	E-Mail from Franovich to Sheron, Salem Hope Creek Letters (1 page)
10.	4/9/04	E-Mail from Madden to Meyer, Salem Review Meeting (1 page)
11.	5/11/04	E-Mail from Rosenberg to Cai, Input for GAO Q&A (2 pages)

12. 5/11/04 E-Mail from Collins to Rgn 1 Hope Creek & Salem, Request for Status fo staff efforts at Salem/Hope Creek (2 pages)
13. 5/13/04 E-Mail from Clifford to Collins, SCWE Meeting (1 page)
14. 5/17/04 E-Mail from Barber to Clifford, SCWE Meeting (1 page)
15. 5/25/04 E-mail from Holden to Blough, Fax (2 pages)
16. 6/3/04 E-Mail from Blough to Holody, Salem/Hope Creek (3 pages)
17. 6/9/04 E-Mail from Collins to Blough, UCS recommendations for Salem/Hope Creek (13 pages)
18. 6/10/04 E-Mail from Berkow to Collins, UCS recommendations for Salem/Hope Creek (1 page)
19. 6/16/04 E-Mail from Berkow to Blough, UCS recommendations for Salem/Hope Creek (2 pages)
20. 7/6/04 E-Mail from Merschhoff to Wiggins, Salem/Hope creek (1 page)
21. 7/16/04 E-Mail from Blough to S/HC SCWE Ctrpts (5 pages)
22. 7/29/04 E-Mail from Cobey to Collins, Concurrence on Letter to PSEG re: Work Environment (3 pages)
23. 7/29/04 E-mail from Collins to Cobey, Talking Points for Bill Borchardt Briefing (13 pages)
24. 10/13/04 E-Mail from Headquarters Operations Officer 1 from Holody, Hope Creek Allegation (1 page)
25. 1/6/05 E-Mail from Wiggins to Holody, Action Required (2 pages)
26. 1/6/05 E-Mail from Blough to Holody, Add' Merrifield briefing to the list of milestones on the OI discrim case review (4 pages)
27. 1/9/05 E-mail from Collins to Wetzel, Action required (1 page)
28. 1/9/05 E-Mail from Cobey to Wingfield, Hope Creek Discrimination Case (4 pages)
29. 1/30/05 E-mail from Persensky to Blough, Nuclear Safety Culture Eroding FAST at Salern and Hope Creek (3 pages)

30. 3/4/05

E-Mail from Reyes to Collins, Dr. Kymn Harvin-IEEE Award,  
Request for NRC Attend (1 page)

**APPENDIX H  
RECORDS WITHHELD IN PART**

<b><u>NO.</u></b>	<b><u>DATE</u></b>	<b><u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u></b>
1.	12/9/03	E-Mail from Otin to Hayden, Salem Alleger & 60-Minutes (1 page) Ex. 5
2.	01/28/04	E-Mail from Meyer to Markley, Salem Letter Comm Plan Underway (3 pages) attaching 01/28/04 Letter to Ferland from Miller, Work Environment for Raising and Addressing Safety Concerns at the Salem and Hope Creek Generating Stations (4 pages) (PUBLIC ML040280476) attaching Communications Plan for PSEG Work Environment Letter (4 pages) Ex. 5 - Part
3.	2/3/04	E-Mail from Blough to Meyer, Anderson Letter re: NRC Letter (1 page) attaching 2/3/04 E-Mail from Harvin to <a href="mailto:EXN1@nrc.gov">EXN1@nrc.gov</a> (2 pages) Ex. 7C
4.	3/4/05	E-Mail from Collins to Wiggins, Dr. Kymn Harvin-IEEE Award Request for NRC Attend (1 page) (Release) attaching 3/4/05 E-Mail from Collins to Blough (1 page) (Ex 5 Part)
5.	3/5/04	E-Mail from Blough to Persensky, Significant Letter to PSEG re: Safety Concerns at Salem and Hope Creek (3 pages) Ex. 5
6.	3/23/04	E-Mail from Collins to Blough, Salem Review Panel (3 pages) Ex. 2
7.	4/12/04	E-Mail from Collins to Blough, Salem Review Meeting at 10:30 am Today (2 pages) Ex. 2
8.	6/21/04	E-mail from Clifford to Holody, Green Ticket GT20040385 (1 page) Ex. 5
9.	8/23/04	E-Mail from Collins to Blough, Yesterday's Meeting Salem/HC Alleger (3 pages) Ex. 7C

10. 11/18/04 E-Mail from Matakas to Blough, Tomorrow's News Tonight (3 pages) (2 pages released) Ex. 4, 5
11. 12/10/04 E-Mail from Orr to Malone, Salem and Hope Creek Coordination Team Meeting 04-04 Agenda (12 pages) (2 pages released) Ex. 2, 5
12. 1/14/05 E-Mail from Lewis to Arrighi, Sensitive Alleg Material (1 page) Ex. 5
13. 3/25/05 E-Mail from Hansell to Nolan, Latest Version of Comm Plan for Release of OI Reports (8 pages) (3 pages released) Ex. 5
14. 3/28/05 E-Mail from Franovich to Blough, Letters on Salem/Hope Creek OI findings (1 page) Ex. 6

**APPENDIX I  
RECORDS WITHHELD IN THEIR ENTIRETY**

<b><u>NO.</u></b>	<b><u>DATE</u></b>	<b><u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u></b>
1.	3/3/04	E-Mail from Farrar to Chandler, PSEG's survey by Synergy (1 page) Ex. 5
2.	4/15/04	E-Mail from Farrar to Longo, 10 CFR 21 allegation (2 pages) Ex. 5
3.	Undated	Handwritten Notes (17 pages) Ex. 7C
4.	Undatd	Communication Plan & Notification Sequence Regarding Receipt & Docketing of PSEG Assessment Reports (3 pages) Ex. 5