

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

2005-0194

15

RESPONSE
TYPE ☐ FINAL ☒ PARTIAL

REQUESTER

David Lochbaum

DATE

AUG 02 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 **Q,S** 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 **Q,S** 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

- ☐ 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

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

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PART II.A -- APPLICABLE EXEMPTIONSAPPENDICES
Q,S

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 2.390(d)(1).
- ☐ 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 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
Guy P. Caputo	Director, Office of Investigations	Appendix S/1, 3, 42	<input checked="" type="checkbox"/>		
Michael R. Johnson	Director, Office of Enforcement	Appendix S/2, 18, 19, 24, 41, 45, 48, 49, 56, 58	<input checked="" type="checkbox"/>		
Samuel J. Collins	Regional Administrator, RI	Appendix Q/1-21, Appendix S/4-17, 20-23, 25-40, 43, 46-47, 58-71	<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 Q
RECORDS BEING WITHHELD IN PART

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	Undated	Letter to { } from { } (2 pages) Ex. 7C
2.	Undated	Planned Approach for Response to Green Ticket G20040385 (2 pages) Ex. 5
3.	Undated	PSEG Work Environment Issues (5 pages) Ex. 5
4.	Undated	E-Mail from Gray to Orr, Time frame & authenticity of PSEG root cause report (1 page) Ex. 7C
5.	Undated	Salem/Hope Creek allegations (1 page) Ex. 7C
6.	10/21	Interviews (5 pages) Ex. 7C
7.	March 18	PSEG/Allegation Project Plan (2 pages) Ex. 7C
8.	Undated	Letter to { } from { } (7 pages) Ex. 7C
9.	Undated	Letter to { } from { } (2 pages) Ex. 7C
10.	Undated	To { } from { } (6 pages) Ex. 7C
11.	Undated	Letter to { } from { } (2 pages) Ex. 7C
12.	Undated	Letter to { } from { } (3 pages) Ex. 7C
13.	Undated	Letter to { } from { } (4 pages) Ex. 7C
14.	Undated	Letter to { } from { } (4 pages) Ex. 7C
15.	Undated	Interviews Conducted Regarding Salem/Hope Creek SCWE (1 page) Ex. 7C
16.	Undated	Summary Information (2 pages) Ex. 7C

17. Undated SL1.wpd (2 pages) Ex. 7C
18. 2001 Salem/Hope Creek Allegation Background/Chronology (2 pages)
Ex. 7C
19. Undated Transcribed Interviews (6 pages) Ex. 7C
20. Undated Draft complaint2.doc (12 pages) Ex. 7C
21. Undated 200-2002 Timeline (4 pages) Ex. 7C

APPENDIX S
RECORDS WITHHELD IN PART

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	1/7/05	E-Mail from Wilson to Blough, Hope Creek Discrimination Case (3 pages) Ex. 7C
2.	1/19/05	E-Mail from Vito to Jarriel (5 pages) Ex. 2, 7C
3.	1/11/05	E-Mail from Wilson to Holody, Salem/Hp CK Discrimination Case 1-2003-0145 (1 page) Ex. 7C, 7E
4.	1/12/05	E-mail from Holody to Collins, Salem/Hp. CK Discrimination Case 1-2003-045 (4 pages) (3 pages released) Ex. 7C, 7E
5.	1/14/05	E-Mail from Cobey to Wiebe, Updated Projected Schedule for handling the OI report on PSEG Alleged Discrimination (4 pages) (3 pages released) Ex. 5
6.	01/20/05	E-Mail from Johnson to Reactors (3 pages) Ex. 7C, 7E
7.	01/27/05	E-Mail from Wingfield to Barber, Follow-Up re: FYI (4 th qtr SCWE Metrics & ERB for NOSC) (3 pages) Ex. 7C
8.	2/16/05	E-Mail from Collins to Kane, CMR. Merrifield Periodic Notes - Feb 15 (1 page) Ex. 7C
9.	4/8/05	E-Mail from Blough to DRP All, OI results finalized in high-profile cases (6 pages) Ex. 7C
10.	2/23/05	E-Mail from Wiebe to Vito, Soliciting input for time to ad-hoc ARB last RI-2003-A-0110 OI Case (2 pages) Ex. 7C
11.	2/24/05	E-Mail from Holody to Vito, Soliciting input for time to ad-hoc ARB last RI-2003-A-0110 case (3 pages) Ex. 7C
12.	2/24/05	E-mail from Kock to Vito, Soliciting input for time to ad-hoc ARB last RI-2003-A-0110 OI case (1 page) Ex. 7C

13. 2/28/05 E-Mail from Holody to Cobey, Salem and Hope Creek (1 page) Ex. 7C
14. 2/28/05 E-Mail from Trocine to Lewis, OI-1-2004-002 (2 pages) Ex. 7C
15. 2/28/05 E-Mail from Johnson to Cobey, Salem and Hope Creek (3 pages) Ex. 7C
16. 3/3/05 E-Mail from Collins, Breaking More Ground (1 page) Ex. 7C
17. 3/7/05 E-Mail from Vito to Jarriel, Salem and Hope Creek (2 pages) Ex. 7C
18. 3/7/05 E-Mail from Kock to Vito, Hope Creek (1 page) Ex. 7C
19. 3/7/05 E-Mail from Merschhoff to Jarriel (1 page) Ex. 7C
20. 3/7/05 E-Mail from Cobey to Uhle, Salem and Hope Creek (3 pages) Ex. 5
21. 3/7/05 E-Mail from Collins to Outlaw, IEEE Honor Shared with You (6 pages) Ex. 7C
22. 3/7/05 E-Mail from Holody to Wiebe, ARB Form for 1-2003-A-0110 (1 page) Ex. 7C
23. 3/7/05 E-Mail from Vito to Barth, Letters to Harvin (1 page) Ex. 7C
24. 3/7/05 E-Mail from Arrighi to Leigh, Salem/Hope Creek (3 pages) Ex. 7C
25. 3/8/05 E-Mail from Johnson to Leigh (1 page) Ex. 2
26. 3/9/05 Allegation Review Board Disposition Record (3 pages) Ex. 7C
27. 3/9/05 E-mail from Wiebe to RIAI Allegation, Talking Points for ARB RI-2003-A-0110 Discussion (2 pages) Ex. 7C
28. 3/9/05 E-Mail from Blough to Holody, Updated Projected Schedule for dispositioning OI Case 1-2003-045 (2 pages) Ex. 7C
29. 3/9/05 E-Mail from Holody to Blough, Updated Projected Schedule for dispositioning OI Case 1-2003-045 (4 pages) (3 pages released) Ex. 7C
30. 3/9/05 E-Mail from Johnson to Kock, Talking Points for ARB RI-2003-

A-0110 Discussion (4 pages) (3 pages released) Ex. 5

31. 3/11/05 E-Mail from Collins to Sheron, 050304Dr Kymm Harvin (5 pages) Ex. 7C
32. 3/14/05 E-Mail from Barber to Holody, Comm Plan (7 pages) (2 pages released) Ex. 5
33. 3/17/05 E-Mail from Jarriel to Holody, Comm Plan (8 pages) (2 pages released) Ex. 5, 7C
34. 3/21/05 E-Mail from Blough, Call to me (1 page) Ex. 7C
35. 3/22/05 E-Mail from Urban to Leigh, Salem/Hope Creek Letters (13 pages) (1 page released) Ex. 5
36. 3/22/05 E-Mail from Hansell to Goodman, Salem and Hope Creek Coordination Team Meeting 05-02 Agenda (7 pages) (1 page released) Ex. 2, 5, 7C
37. 3/23/05 E-Mail from Tift to Hansell, Final version of slides (16 pages) (2 pages released) Ex. 5
38. 3/23/05 E-mail from Vito to Blough, Call back to RI-2003-A-0110 allegor (1 page) Ex. 7C
39. 3/25/05 E-mail from Wiebe to Nolan, Latest Version of Comm Plan for Release of OI reports (7 pages) (1 page released) Ex. 5
40. 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
41. 3/25/05 E-Mail from Fretz to Nolan, EDO/Commissioner Merrifield presentations March 28 and 29 (17 pages) (16 pages released) Ex. 7C
42. 3/25/05 E-Mail from Jarriel to Wilson, Requesting Concurrence on David Lochbaum Letter (1 page) Ex. 5
43. 3/25/05 E-Mail from Hansell to Nolan, Latest Version of Comm Plan for Release of OI Reports (6 pages) (1 page released) Ex. 5
44. 3/28/05 E-Mail from Blough to Collins, FYI this is the Comm Plan for Region 1 Salem/Hope Creek OI Results (8 pages) (3 pages released) Ex. 5

45. 3/28/05 E-Mail from Fretz to Urban, Salem/Hope Creek Letters (2 pages) Ex. 5, 7C
46. 3/28/05 E-Mail from Marsh to Blough, Letters on Salem/Hope Creek OI findings (1 page) Ex. 7C
47. 3/28/05 E-mail from Franovich to Blough, Letters on Salem/Hope Creek OI findings (15 pages) (4 pages released) Ex. 5, 7C
48. 3/28/05 Dr. Kymm Harvin and Safety Concerns at PSEG's Salem and Hope Creek Generating Station (17 pages) (16 pages released) Ex. 7C
49. 3/29/05 E-Mail from Jarriel to Vito (2 pages) Ex. 5, 7C
50. 3/29/05 E-Mail from Vito to Jarriel, Update on Notifications re: { } (1 page) Ex. 7C
51. 3/29/05 E-Mail from Hansell to Shoop, Updated communication Plan (6 pages) (1 page released) Ex. 5
52. 3/29/05 E-mail from Hansell to Shoop, Communication Plan for Salem Hope Creek OI Investigation Results (6 pages) (1 page released) Ex. 5
53. 3/30/05 E-Mail from Jarriel to Vito, Update on Notifications re: { } (2 pages) Ex. 5, 7C
54. 3/30/05 E-Mail from Arrighi to Vito, Update on Notifications re: { } (2 pages) Ex. 5, 7C
55. 3/30/05 E-Mail from Vito to Jarriel, Update on Notifications re: { } (4 pages) Ex. 5, 7C
56. 3/30/05 E-Mail from Jarriel to Blough, Response to Lochbaum letter (6 pages) (3 pages released) Ex. 5
57. 3/31/05 E-Mail from Urban to Arrighi, Salem/Hope Creek Letters (12 pages) (11 pages released) Ex. 7C
58. 4/1/05 E-mail from Vito to Jarriel, Revised Lochbaum Letter (2 pages) Ex. 5
59. 4/4/05 E-mail from Cobey to Blough, Comm Plan - Results of OI investigations into discrimination and Wrongdoing at Salem/Hope

Creek (7 page) (1 page released) Ex. 5

- 60. 4/5/05 E-Mail from Vito, PSEG Letter (3 pages) Ex. 7C
- 61. 4/5/05 E-Mail from Wiebe to Blough, Minor Change to Comm Plan (7 pages) (1 pages released) Ex. 5
- 62. 4/5/05 E-Mail from Cobey to Blough, Phone call to RI-2003-A-0110 Alleger (4 pages) Ex. 7C
- 63. 4/5/05 E-Mail from Cobey to O'Daniell, Draft Daily Notice (4 pages) (3 pages released) Ex. 5, 7C
- 64. 4/5/05 E-Mail from Cobey to Vito, On NRC Website please (1 page) Ex. 7C
- 65. 4/5/05 Letter to Harvin from Vito, Concerns you Raised to the NRC Regarding Salem/Hope Creek (6 pages) (5 pages released) Ex. 7C
- 66. 4/6/05 E-Mail from Vito, Today's Letter from the NRC (3 pages) Ex. 7C
- 67. 4/6/05 E-Mail from Vito, Letters (1 page) Ex. 7C
- 68. 4/6/05 E-Mail from Vito to Holody, Don't blame the liars, blame the NRC (3 pages) Ex. 7C
- 69. 4/6/05 E-Mail from Ferdas to Cobey, discussion w/ { } Hope Creek (1 page) Ex. 7C
- 70. 4/6/05 E-mail from Welling to Cobey, Rebuttal Notes (3 pages) Ex. 7C
- 71. 4/8/05 E-Mail from Vito to Blough, clarification please (4 pages) Ex. 7C