

2011-0259

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**RESPONSE TO FREEDOM OF
INFORMATION ACT (FOIA) / PRIVACY
ACT (PA) REQUEST**RESPONSE
TYPE ☒ FINAL ☐ PARTIAL

REQUESTER

Deborah Brancato

DATE

AUG 09 2011

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 A** 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** 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 B** 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.

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None. Minimum fee threshold not met.

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You will receive a refund for the amount listed.

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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 request is in ADAMS at ML11171A072.

Records with a ML Accession Number are publicly available in the NRC's Public Electronic Reading Room at <http://www.nrc.gov/reading-rm.html>. If you need assistance in obtaining these records, please contact the NRC's Public Documents Room (PDR) at 301-415-4737, or 1-800-397-4209, or by e-mail to PDR.Resource@nrc.gov.

See Part I.C Comments (continued)

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

for Donna L. Sealing

Russell A. Nichols

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

DATE

AUG 09 2011

PART I.C. COMMENTS (Continued)

In telephone conversations with NRC staff on 6/27 & 7/6 the scope was clarified to provide the following:

1) A copy of the updated Final Safety Analysis Report (UFSAR), which contains the seismic design criteria (The UFSAR was provided in the NRC response to FOIA-2011-0256); 2) GSI 199 information (Generic Safety Issues); 3) ASLB Hearing information from 1977; 4) Technical Reports on the Ramapo Fault System; 5) Non-sensitive information on the individual plant examination for external events (1990's); and 6) the identification of records that are already publicly available in the NRC electronic reading room (ADAMS). Records subject to this scope are identified on the enclosed appendices.

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

2011-0259

AUG 09 2011**PART II.A -- APPLICABLE EXEMPTIONS**APPENDICES
B

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 practices 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).
- ☐ Disclosure will harm an identifiable private or governmental interest.
- ☐ 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 wrong doing or a violation of NRC requirements from investigators).
- ☐ (C) Disclosure could 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
Dr. Brian W. Sheron	Director, Office of Nuclear Reactor Regulation	Appendix B	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input 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 A
RECORDS ALREADY PUBLICLY AVAILABLE

<u>NO.</u>	<u>DATE</u>	<u>ACCESSION NUMBER</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1.	03/28/77	ML100290336	Geotechnical Investigation of Ramapo Fault Sys in Region of Indian Point Generating Station, Vols I & II Part A. (660 pages)
2.	03/28/77	ML102590303	Geotechnical Investigation of Ramapo Fault Sys in Region of Indian Point Generating Station, Vols I & II Part B. (310 pages)
3.	10/12/77	ML110870042	Legal Decision in the Matter of: Consolidated Edison Company of New York, Inc and Power Authority of the State of New York, Seismic Concerns at Indian Point. (162 pages)
4.	04/21/00	ML003710298	Indian Point 3, Supplemental Responses to Request for Additional Information Regarding Response to Generic Letter 88-20, Supplement 4: Individual Plant Evaluation for External Events. (35 pageS)
5.	12/15/04	ML042990090	G20040574 – Alex Mathiessen Ltr, re. Seismic Hazard Analysis for the Indian Point Nuclear Power Plant. (14 pages)
6.	09-02/10	ML101970221	NRC Information Notice 2010-018: Generic Issue 199, "Implications of Updated Probabilistic Seismic Hazard Estimates in Central and Eastern United States on Existing Plans. (6 pages)
7.	04/21/00	ML003710298	Indian Point 3, Supplemental Response to Request for Additional Information Regarding Response to Generic Letter 88-20, Supplement 4: Individual Plant Evaluation for External Events. (35 pages)
8.	02/24/98	ML080150363	Letter from P. Kinkel, Consolidated Edison to NRC on Indian Point, Unit 2, Response to Request for Additional Information re: Individual Plant Examination of External Events. (50 pages)

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|-----|----------|-------------|---|
| 9. | 09/30/98 | ML080150360 | Letter from J. Knubel, NY Power Authority to NRC on Indian Point, Unit 3, Response to Request for Additional Information re: GL-88-020, Supplement 4 on Individual plant Evaluation for External Events. (22 pages) |
| 10. | 08/13/99 | ML100470780 | SER concluding that licensee IPEEE complete with regard to info requested by Suppl 4 to GL 88-20 & associated guidance in NUREG-1407 & IPEEE results reasonable given IP2 design, operation & history. (11 pages) |

**APPENDIX B
RECORDS BEING WITHHELD IN PART**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	12/06/95	Letter from S. Quinn, Consolidated Edison to NRC on Indian Point, Unit 2 Final Response to GL-88-0202, Supplement 4 on Individual Plant Examination for External Events for Severe Accident Vulnerabilities. (467 pages) / EX 7F
2.	09/26/97	Letter from J. Knubel, NY Power Authority to NRC on Indian Point, Unit 3, Transmittal of Individual Plant Examination of External Events (IPEEE). (671 pages total, 661 pages released) / EX 7F
3.	02/15/01	Letter from G. Wunder, NRR to M. Kansler, Entergy on Review of Individual Plant Examination of External Events - IP3, (w/Enclosure). (68 pages) / EX 7F