

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

2012-0325

4

RESPONSE
TYPE

INTERIM



FINAL

REQUESTER

Jim Riccio

DATE

APR 21 2015

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.
- ☒

GROUP I

 Agency records subject to the request that are identified in the specified group are already available in public ADAMS or on microfiche in the NRC Public Document Room.
- ☒

GROUP J, K

 Agency records subject to the request that are contained in the specified group are being made available in public ADAMS.
- ☐

GROUP

 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:* Congress allowed agencies to 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 that we give to all requesters; it should not be taken as an indication that any of these excluded records do, or do not, exist.
- ☒ We have withheld certain information in the records from disclosure 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 this determination 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 on your request.
- ☐ You may appeal this final determination within 30 calendar days of the date of this response, by writing to the FOIA Officer, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001. Please be sure to mark your letter/envelope or email that it is a "FOIA Appeal."

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

The incoming request is available in ADAMS as ML12263A087. Records with an 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 Document Room (PDR) at 301-415-4737, or 1-800-397-4209, or by email to PDR.Resource@nrc.gov.

To facilitate your review, comment boxes may appear on pages to refer you to documents (by their ML #) already available in public ADAMS, or to refer you to related documents in other interim responses to your request, or to otherwise provide clarification..

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

Roger D. Andon

**RESPONSE TO FREEDOM OF INFORMATION
ACT (FOIA) / PRIVACY ACT (PA) REQUEST**DATE **APR 21 2015****PART II.A -- APPLICABLE EXEMPTIONS**

- GROUP **K** Records subject to the request that are contained in the specified group 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 4702(b), 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, Nuclear Regulatory Research	Group K	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
William M. Dean	Director, Nuclear Reactor Regulation	Group K	<input checked="" 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."

Group I

FOIA/PA NO: 2012-0325

RECORDS ALREADY PUBLICLY AVAILABLE

- 1. ML14135A408 – Applied Research & Engineering Sciences (ARES) Letter to Duke Energy, dated January 29, 2007, subject: “Duke Energy Carolinas, LLC, Contract NE 23546 – Letter Report and Transmittal of Supporting Data – ARES TASK NO. 0630302.01.**
- 2. ML073241045 – NRC Letter to Duke Power Co., dated November 20, 2007, subject: “Reconsideration of Final Significance Determination Associated with Standby Shutdown Facility Flood Barrier White Finding.”**
- 3. ML090570779 – NRC Letter to Duke Energy, dated April 30, 2009, subject: “Evaluation of Duke Energy Carolinas, LLC (Duke), September 26, 2008 Response to NRC Letter dated August 15, 2008, related to External Flooding at Oconee Nuclear Station, Units 1, 2, and 3 (Oconee) (TAC NOS. MD8224, MD8225, and MD8226).”**
- 4. ML091470265 – Duke Energy Letter to NRC, dated May 20, 2009, subject: “Duke Energy Carolinas, LLC, Oconee Nuclear Station, Units 1, 2, and 3, Renewed Facility Operating License, DPR-38, DPR-47, and DPR-55, Docket Nos. 50-269, 50-270, and 50-287, Request for Extension of Duke Response Time to Referenced Letter.”**

5. ML093380701 – Duke Energy Letter to NRC, dated November 30, 2009, subject: “Duke Energy Carolinas, LLC, Oconee Nuclear Station, Units 1, 2, and 3, Renewed Facility Operating License, DPR-38, DPR-47, and DPR-55, Docket Nos. 50-269, 50-270, and 50-287, Oconee External Flood Analyses and Associated Corrective Action Plan.”

6. ML100210199 – Duke Energy Letter to NRC, dated January 15, 2010, subject: “Duke Energy Carolinas, LLC, Oconee Nuclear Station, Units 1, 2, and 3, Renewed Facility Operating License, DPR-38, DPR-47, and DPR-55, Docket Nos. 50-269, 50-270, and 50-287, Oconee External Flood Interim Actions.”

7. ML12363A085 – NRC Letter to Duke Energy, dated January 29, 2010, subject: “Evaluation of Duke Energy Carolinas, LLC (Duke), November 30, 2009 Response to NRC Letter dated April 30, 2009, related to External Flooding at Oconee Nuclear Station, Units 1, 2, and 3 (Oconee) (TAC NOS. ME3065, ME3066, and ME3067).”

8. ML100470053 – Duke Energy Letter to NRC, dated February 8, 2010, subject: “Duke Energy Carolinas, LLC, Oconee Nuclear Station, Units 1, 2, and 3, Renewed Facility Operating License, DPR-38, DPR-47, and DPR-55, Docket Nos. 50-269, 50-270, and 50-287, Oconee External Flood, Response to Request for Additional Information (RAI).”

9. ML100610674 – Duke Energy Letter to NRC, dated February 26, 2010, subject: “Duke Energy Carolinas, LLC, Oconee Nuclear Station, Units 1, 2, and 3, Renewed Facility Operating License, DPR-38, DPR-47, and DPR-55, Docket Nos. 50-269, 50-270, and 50-287, Oconee External Flood Revised Commitment.”

10. ML103430047 – Duke Energy Letter to NRC, dated March 5, 2010, subject: “Duke Energy Carolinas, LLC, Oconee Nuclear Station, Units 1, 2, and 3, Renewed Facility Operating License, DPR-38, DPR-47, and DPR-55, Docket Nos. 50-269, 50-270, and

50-287, Oconee External Flood, Response to Request for Additional Information (RAI)."

11. ML101600468 – Duke Energy Letter to NRC, dated May 27, 2010, subject: "Duke Energy Carolinas, LLC, Oconee Nuclear Station, Units 1, 2, and 3, Renewed Facility Operating License, DPR-38, DPR-47, and DPR-55, Docket Nos. 50-269, 50-270, and 50-287, Oconee External Flood; Revision of Commitment from January 15, 2010, Letter."

12. ML12363A086 – NRC Letter to Duke Energy, dated June 22, 2010, subject: "Confirmatory Action Letter – Oconee Nuclear Station, Units 1, 2, and 3 Commitments to Address External Flooding Concerns (TAC NOS. ME3065, ME3066, and ME3067)."

13. ML101900305 – Memorandum from Lois James, Chief, Probabilistic Risk Assessment Operational Support Branch, Division of Risk Assessment, NRR, to Benjamin Beasley, Chief, Operating Experience and Generic Issues Branch, Division of Risk Analysis, RES, dated July 19, 2010, subject: "Identification of a Generic External Flooding Issue Due to Potential Dam Failures."

14. ML102170006 – Duke Energy Letter to NRC, dated August 2, 2010, subject: "Duke Energy Carolinas, LLC, Oconee Nuclear Station, Units 1, 2, and 3, Renewed Facility Operating License, DPR-38, DPR-47, and DPR-55, Docket Nos. 50-269, 50-270, and 50-287, Oconee Response to Confirmatory Action Letter (CAL) 2-10-003."

15. ML110280153 – NRC Letter to Duke Energy, dated January 28, 2011, subject: "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, ME3066, and ME3067)."

16. ML111460063 – Duke Energy Letter to NRC, dated April 29, 2011, subject: “Duke Energy Carolinas, LLC, Oconee Nuclear Station, Units 1, 2, and 3, Renewed Facility Operating License, DPR-38, DPR-47, and DPR-55, Docket Nos. 50-269, 50-270, and 50-287, Oconee Response to Confirmatory Action Letter (CAL) 2-10-003.”

17. ML11174A138 – NRC Letter to Duke Energy, dated August 18, 2011, subject: “Oconee Nuclear Station, Units 1, 2, and 3, Assessment of Duke Energy Carolinas, LLC’s April 29, 2011, Response to Confirmatory Action Letter regarding Modifications to Address External Flooding Concerns (TAC NOS. ME6133, ME6134, and ME6135).”

18. ML11294A341 – Duke Energy Letter to NRC, dated October 17, 2011, subject: “Duke Energy Carolinas, LLC, Oconee Nuclear Station, Units 1, 2, and 3, Renewed Facility Operating License, DPR-38, DPR-47, and DPR-55, Docket Nos. 50-269, 50-270, and 50-287, 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.”

19. ML090510269 – NRC Information Notice 2012-02: Potentially Nonconservative Screening Value for Dam Failure Frequency in Probabilistic Risk Assessments, dated March 5, 2012.

20. ML13256A372 – Letter from Lawrence Criscione to Chairman Allison Macfarlane, NRC, dated September 18, 2012.

21. ML12053A016 – Duke Energy Letter to NRC, dated February 17, 2012, subject: “Duke Energy Carolinas, LLC, Oconee Nuclear Station, Units 1, 2, and 3, Renewed Facility Operating License, DPR-38, DPR-47, and DPR-55, Docket Nos. 50-269, 50-270, and 50-287, Duke Energy’s Recommended Revisions to the Oconee Nuclear Station Section of NRC’s Screening Analysis Report for

the Proposed Generic Issue on Flooding of Nuclear Power Plant Sites Following Upstream Dam Failure.”

- 22. ML12164A399 – Duke Energy Letter to NRC, dated June 8, 2012, subject: “Duke Energy Carolinas, LLC (Duke Energy), Oconee Nuclear Station (ONS), Units 1, 2 and 3, Docket Nos. 50-269, 50-270, 50-287, Renewed License Nos. DPR-38, DPR-47, and DPR-55 Response to NRC Request for Information Pursuant to 10 CFR 50.54(f) Regarding the Flooding Aspects of Recommendations 2.1 and 2.3 of the Near-Term Task Force Review of Insights from the Fukushima Dai-ichi Accident.”**
- 23. ML14058A028 – NRC-prepared slides for the NRR LT meeting on the subject of “Oconee Flood Protection and the 10 CFR 50.54(f) Response”, dated October 21, 2008 (attachment to document J/2).**
- 24. ML14135A408 – Duke-prepared slides on the subject of “Oconee Nuclear Station External Flood NRR Meeting, Rockville, MD”, dated December 4, 2008.**
- 25. ML091380424 – Duke-prepared on the subject of “Oconee Nuclear Station External Flood NRR Meeting, Rockville, MD”, dated May 11, 2008 (attachment to document J/3).**
- 26. ML092380305 – Duke-prepared slides on the subject of “Oconee Nuclear Station External Flood Technical Meeting, Rockville, MD”, dated August 27, 2009.**
- 27. ML13066A420 – Oconee ICM Inspection Matrix (attachment to document J/9).**
- 28. ML13039A084 – Generic Failure Rate Evaluation for Jocassee Dam, dated March 15, 2010 (attachment to document J/10).**

29. ML13256A372 – Letter from Larry Criscione to Chairman Macfarlane, dated September 18, 2012 (attachment to document K/34).

30. ML081640244 – NRC Letter to Duke Energy, dated August 15, 2008, subject “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 with enclosure, “Documents Related to Failure of the Jocassee Dam at Oconee Nuclear Station, Units 1, 2, and 3” w/ enclosure, “Documents Reviewed Related to Failure of the Jocassee Dam at Oconee Nuclear Station” (ML12363A132) (both are included in the attachment referred to as References.pdf” in document K/34)

31. ML082390669 – Email from Jack Grobe, NRR, to Leonard Olshan, NRR, et al., dated August 26, 2008, on the subject of “Proposal for a Risk Analysis of the Failure of the Jocassee and Keowee Dams to Assess the Potential Effects on the Safe Shutdown Facility of Oconee Nuclear Station, with attached proposal.

32. ML12012A006 – DG-1285, Sec. 2.1, pages 11-18.