

## FOIA Resource

FOIA/PA REQUEST

Case No.:

2015-033A

Date Rec'd.

5/18/2015

Specialist:

Related Case:

2015-0272

**From:** Lawrence Criscione (b) (6)  
**Sent:** Friday, May 15, 2015 2:03 PM  
**To:** Satorius, Mark; Ash, Darren; Vietti-Cook, Annette  
**Cc:** Andoh, Roger; Hester, Janice; FOIA Resource; Tom Devine; Dave Lochbaum  
**Subject:** Appeal for FOIA/PA-2015-0272  
**Attachments:** 2015-0272 Final Response.pdf

Mark/Darren/Annette,

Please process this email as a FOIA appeal.

Nearly two years ago I submitted a FOIA request for records regarding the 2012-09-18 letter I wrote to the NRC Chairman concerning flooding concerns at the Oconee Nuclear Station. On June 12, 2013 I received an acknowledgement letter from the NRC indicating that my request had been assigned tracking number 2013-0262.

Please note that FOIA 2013-0262 was made under the Freedom of Information Act and made no mention to the Privacy Act.

Six hundred and seventy days later and after appealing to the Office of Government Information Services (OGIS) of the National Archives and Records Administration (NARA), I finally received a response. That response was redacted to the point of being useless to me. Despite President Obama's direction that "agencies should adopt a presumption in favor of disclosure", most of the information I sought was redacted through an overzealous abuse of FOIA exemption 5.

Please recall the following instructions issued by our President in his inauguration day memorandum regarding the Freedom of Information Act:

The Freedom of Information Act should be administered with a clear presumption: In the face of doubt, openness prevails. The Government should not keep information confidential merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears. Nondisclosure should never be based on an effort to protect the personal interests of Government officials at the expense of those they are supposed to serve. In responding to requests under the FOIA, executive branch agencies (agencies) should act promptly and in a spirit of cooperation, recognizing that such agencies are servants of the public.

As an agency which boasts about its supposed openness, we should be following the President's guidance. Instead, in our handling of FOIA 2013-0262 we violated every sentence from the paragraph above.

On May 3, 2015 I appealed your response. That appeal was assigned tracking number 2015-0027A and I am due a response on June 3, 2015.

I have been told on several occasions by the NRC that I am not allowed to make additions to the scope when making a FOIA appeal. For example, since FOIA 2013-0262 did not mention the Privacy Act, I am not allowed to request that the records released to me on April 13, 2015 be re-redacted in accordance with the Privacy

Act. Also, FOIA 2013-0262 did not specifically define the exact records since the exact records were not known. As a result, some portions of interest to me in some of the records were marked "out of scope". It is my understanding that I cannot request these portions in my FOIA appeal but instead must request them via new FOIA requests (which was the intent of Privacy Act request 2015-0272).

Privacy Act request 2015-0272 was made under the Privacy Act vice the FOIA and it requested a very specific record--a record not precisely specified under FOIA 2013-0262.

Privacy Act request 2015-0272 was inappropriately closed to FOIA appeal 2015-0027A (see attached response). In this email, I am appealing that response.

It is possible that in your appeal to FOIA 2015-0027A you will follow President Obama's guidance and release to me the records I seek without your unnecessary and abusive redactions. If that turns out to happen, then there is no need to process FOIA/PA 2015-0272. However, I believe that at this point it was premature to close FOIA/PA 2015-0272. I would like FOIA/PA 2015-0272 to remain open at least until appeal 2015-0027A has been responded to. If, at that point, the records I sought under FOIA 2013-0262 are finally released without redaction, then you may legitimately close FOIA/PA 2015-0272. However, if the record requested under FOIA/PA 2015-0272 remains redacted in your response to appeal 2015-0027A, then I expect that record to be processed under the Privacy Act as requested in FOIA/PA 2015-0272.

I live in (b) (6) but work in (b) (6). Please conduct all correspondence with me electronically at this email address. If there is something I must pick up in person, please contact me at (b) (6).

V/r,  
Larry  
Lawrence S. Criscione  
(b) (6)

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