



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

June 16, 2015

Lawrence Criscione

(b)(6)

IN RESPONSE REFER  
TO FOIA/PA-2015-0034A  
(FOIA/PA-2015-0260)

Dear Mr. Criscione,

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your May 15, 2015, email, in which you appealed the agency's May 15, 2015, response to your May 4, 2015, Freedom of Information Act request (FOIA/PA 2015-0260) for "all emails in the possession of Philip Niedzielski-Eichner that were either sent or received on September 18, 19, or 20, 2012."

On May 7, 2015, Ms. Nina Argent sent an email to you requesting clarification of your request. In your response you confirmed that you were seeking "all email correspondence sent/forwarded by Mr. Philip Niedzielski-Eichner regarding your email/letter dated September 18, 2012, which was sent to Mr. Philip Niedzielski-Eichner by Chairman MacFarlane." You also confirmed that you wanted the search to be limited to the dates of September 18, 19, and/or 20, 2012. (Please see the attached email.)

In response to your request the Office of the Secretary (SECY) was tasked with locating records responsive to your request. SECY conducted a search that included searching previous FOIA requests, the former Chairman's office files, and her emails. No responsive records were located. SECY was unable to access the email account of Mr. Philip Niedzielski-Eichner, who is no longer an NRC employee.

In your appeal you stated that the email you are seeking is on page 4 of the agency's response to FOIA-2014-0335 and FOIA-2014-0354 but was marked as "outside of scope" in that response. (Please see attached). We have reviewed the information redacted as "outside of scope" on page 4 of that response, and determined that the information is not responsive to your May 4, 2015, FOIA request because this information is not email correspondence sent or forwarded by Mr. Philip Niedzielski-Eichner.

As described in this letter, the agency conducted a reasonable and adequate search for records responsive to your request and located no records. Therefore, I am denying your appeal.

This is the NRC's final decision. As set forth in the FOIA (5 U.S.C. 552(a)(4)(B)), you may obtain judicial review of this decision in a district court of the United States in the district in which you reside or have your principal place of business. You may also obtain judicial review in the district in which the NRC's records are located or in the District of Columbia.

The 2007 FOIA amendments created the Office of Government Information Services (OGIS) to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation.

L. Criscione

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You may contact OGIS in any of the following ways:

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road-OGIS  
College Park, MD 20740  
E-mail: [ogis@nara.gov](mailto:ogis@nara.gov)  
Telephone: 202-741-5770  
Fax: 202-741-5769  
Toll-free: 1-877-684-6448

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Ash', with a long horizontal line extending to the left.

Darren B. Ash  
Deputy Executive Director  
for Corporate Management  
Office of the Executive Director for Operations

Enclosures:  
As stated

## Argent, Nina

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**From:** Lawrence Criscione (b) (6)  
**Sent:** Thursday, May 07, 2015 1:43 PM  
**To:** Argent, Nina  
**Subject:** Re: 2015-0260 - Request for Clarification

That's correct

Sent from my iPhone

On May 7, 2015, at 10:41 AM, Argent, Nina <[Nina.Argent@nrc.gov](mailto:Nina.Argent@nrc.gov)> wrote:

Good morning.

I have just sent your acknowledgment letter via email but needed further clarification of your request.

Since your request is not clear as it is written, I am emailing you to request clarification. I am interpreting your request to read this way:

All email correspondence sent/forwarded by Mr. Nedzielski-Eichner regarding your email/letter dated September 18, 2012, which was sent to Mr. Nedzielski-Eichner by Chairman McFarlane.

This search is limited to the dates of September 18, 19, and/or 20<sup>th</sup>, 2012.

Before tasking this request to the appropriate program office, I will need to have this clarification from you. With this email, your request will be placed on hold until we hear back from you. If we do not hear from you within ten business days, we will assume you are no longer interested.

Please respond by May 21, 2015, so that we can continue processing.

Thank you!

*Nina Argent*  
Government Information Specialist  
OIS/CSD/FPIB  
U.S. Nuclear Regulatory Commission  
Mailtop: T-5F18  
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[Nina.Argent@nrc.gov](mailto:Nina.Argent@nrc.gov)