

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

2016-0071

1

RESPONSE
TYPE ☒ INTERIM ☐ FINAL

REQUESTER

Lawrence Criscione

DATE

DEC 14 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 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 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)

This responds to your request for "all non-publicly available agency records generated since 09/18/2012, pertaining to docket numbers 05000269, 05000270 or 05000287 [Oconee Nuclear Station], and containing the word 'Jocassee'." You requested that we make these records available to you electronically by making them publicly available in ADAMS. Attached to this response is a listing of those records that are now available in public ADAMS in response to your request, under the ML#s set forth in the listing that was attached to your request. Other records, which have portions redacted as either non-responsive (because they do not pertain

[continued on next page]

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

Roger D. Andoh

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PART II.A -- APPLICABLE EXEMPTIONS

GROUP

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)
Portions not pertaining to Oconee/Jocassee are outside the scope of the request/nonresponsive

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
William M. Dean	Director, Nuclear Reactor Regulation	ML13079A228; ML13084A022	<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."

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PART I.C. COMMENTS (Continued)

to the "flooding vulnerability that Lake Jocassee poses to the reactors at Oconee") or exempt from disclosure, are already, or will be made, available in public ADAMS, albeit under different ML#s than the ones cited in the listing attached to your request. Note also that one of the records included on the listing, ML13045A371, had been incorrectly indexed under one of the Oconee docket numbers; as its name implies, it pertains to the Vogtle nuclear power plant. The error has now been corrected in ADAMS. The record has been treated as non-responsive to your request. Note also that two of the four restricted records that were identified by ADAMS support personnel by searching on the parameters we agreed upon, have also been treated as non-responsive to your request as they are Operator Licenses that do not pertain to the flooding vulnerability that Lake Jocassee poses to the Oconee reactors.

And, finally, please note that, with respect to the three letters you authored that are included in this response, because you asked that we make the records publicly available in ADAMS (and not just provide them to you), we have redacted your home address and cell phone number (or considered the version of the letter already publicly available in ADAMS as responsive, consistent with NRC's practice regarding Personally Identifiable Information (PII)).

The incoming request will be made available in ADAMS as ML15306A020. 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

FOIA/PA NO: 2016-0071

RECORDS ALREADY PUBLICLY AVAILABLE

In Their Entirety:

- 1. ML14322A748 – Staff Documentation of the Interim Actions Review Process (LIC-504) Associated with the Flooding Hazard Reevaluations for Recommendation 2.1 of the Near-Term Task Force for Oconee Nuclear Station, Units 1, 2, and 3 (December 2, 2014).**
- 2. ML12352A125 – Oconee Nuclear Station, Units 1, 2, and 3, Submittal of Emergency Plan, Volume A, Revision 2012-04 (December 13, 2012).**
- 3. ML13323A764 – Oconee Nuclear Station, Units 1, 2, and 3, Emergency Plan, Volume A, Revision 2013-01 (November 14, 2013).**
- 4. ML14164A131 – Oconee Nuclear Station, Units 1, 2, and 3, Assessment of Supporting Documentation Related to the Flooding Hazard Reevaluation Report (June 13, 2014).**
- 5. ML15022A215 – Oconee Nuclear Station, Units 1, 2, and 3 – Emergency Plan Revision 2014-003 (January 19, 2015).**
- 6. ML15142A507 – Oconee Nuclear Station, Units 1, 2, and 3 – Emergency Plan Revision 2015-003 (May 20, 2015).**

- 7. ML15183A011 – Oconee Nuclear Station, Units 1, 2, and 3 – Submittal of Emergency Plan Revision 2015-004 (June 25, 2015).**
- 8. ML14324A700 – Oconee Trip Report (November 20, 2014).**
- 9. ML14321A073 – Oconee Nuclear Station, Units 1, 2, and 3 – Emergency Plan Implementing Procedure Revision 2014-024 (November 10, 2014).**
- 10. ML15005A072 – Oconee Nuclear Station, Units 1, 2, and 3 – Submittal of Emergency Plan Implementing Procedure Revision 2014-026 (December 30, 2014).**
- 11. ML15009A043 - Oconee Nuclear Station, Units 1, 2, and 3, Emergency Plan Implementing Procedure, Revision 2014-027 (January 5, 2015).**
- 12. ML150071A023 – Oconee Nuclear Station, Units 1, 2, and 3 – Emergency Plan Implementing Procedures Manual, Volume 1, Revision 2015-002 (March 5, 2015).**
- 13. ML15113A801 – Duke Energy Carolinas, LLC submits EIPs, Rev. 5 to SR/0/A/2000/003, “Activation of the Emergency Operations Facility” and Rev. 4 to SR/0/A/2000/004, “Notification to States and Counties from the Emergency Operations Facility for Catawba, McGuire, and Oconee” (April 23, 2015).**
- 14. ML15142A506 – Oconee Nuclear Station, Units 1, 2, and 3 – Emergency Plan Implementing Procedures Manual Volume 1, Revision 2015-003 (May 20, 2015).**
- 15. ML15166A417 – Catawba, Units 1 and 2, McGuire, Units 1 and 2 and Oconee, Units 1, 2, and 3 – Transmits Emergency Plan Implementing Procedures (June 15, 2015).**

- 16. ML15176A261 – Oconee Nuclear Station, Units 1, 2, and 3 – Emergency Plan Implementing Procedures Manual, Volume 1, Revision 2015-004 (June 22, 2015).**
- 17. ML15232A495 – Catawba, McGuire, and Oconee – Transmittal of Emergency Plan Implementing Procedure, Revision 7 to SR/O/A/2000/003, “Activation of the Emergency Operations Facility” (August 20, 2015).**

In Part:

- 1. ML13240A016 – Oconee Nuclear Station, Units 1, 2, and 3, Enclosure 1, “Flooding Hazard Reevaluation Report” (March 6, 2013) – exemption 7F.**
- 2. ML13123A204 - Slides from Meeting with Duke Energy Carolinas, LLC, Oconee Nuclear Station, Units 1, 2, and 3, concerning the Flooding Hazard Reevaluation Report (March 25, 2013) – exemption 7F.**
- 3. ML13256A372 – LTR-12-0612, Letter from Lawrence Criscione re: Allegation Material – Concerns Lake Jocassee Dam and the Threat to Oconee Nuclear Station (September 18, 2012) – exemption 6.**