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Description of document: Federal Energy Regulatory Commission (FERC) records provided to Chairman Darrell Issa, House Oversight and Government Reform Committee, concerning the administration of the Freedom of Information Act (FOIA), 2011

Requested: 12-December-2011

Released date: 19-January-2012

Posted date: 12-March-2012

Source of document: Freedom of Information Act Request
Federal Energy Regulatory Commission
FOIA Contact
888 First Street, NE
Washington, DC 20426
Fax: (202) 208-2106
Email: foia-ceii@ferc.gov
[Electronic FOIA Request Form](#)

Note: This is one of several files on the same subject for various agencies available on governmentattic.org. See: <http://www.governmentattic.org/5docs/chairmanIssa.htm>

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Federal Energy Regulatory Commission
Washington, DC 20426

JAN 19 2012

Re: FOIA No. FY12-15
Release Letter

VIA EMAIL AND REGULAR MAIL

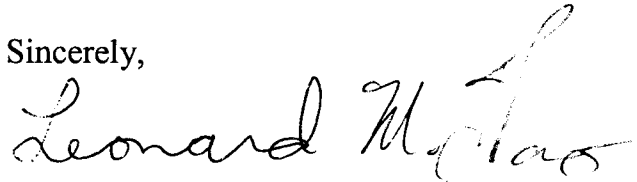
On December 12, 2011 you filed a request for information pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552 (2006), *amended by* OPEN Government Act of 2007, Pub. L. No. 110-175, 121 Stat. 2524, and the Federal Energy Regulatory Commission's (FERC or Commission) FOIA regulations, 18 C.F.R. § 388.108 (2011). Specifically, you requested:

- 1) An electronic copy of the records provided to the Honorable Chairman Darrell Issa, whose office had in January 2011 asked your agency for various data concerning the administration of the Freedom of Information Act; and
- 2) A copy of any correspondence whatsoever sent to Chairman Issa's office on the subject of the January 2011 inquiry, and any correspondence sent during calendar year 2011 to Chairman Issa's office on the subject of FOIA.

A search of the Commission's non-public files identified one document responsive to your request, a February 15, 2011 letter with five enclosures addressed to Chairman Issa's office. This document is enclosed in electronic format on the CD accompanying this letter. Please note, the personal addresses of individual FOIA requesters have been redacted from the enclosures pursuant to FOIA Exemption 6, which provides that an agency should not disclose "personnel...and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." *See e.g., Bibles v. Oregon Natural Desert Ass'n*, 519 U.S. 355 (1997); *National Ass'n of Retired Fed. Employees v. Horner*, 879 F.2d 873 (D.C. Cir. 1989).

As provided by FOIA and 18 C.F.R. § 388.110 of the Commission's regulations, any appeal from this determination must be filed within 45 days of the date of this letter. The appeal must be in writing, addressed to Michael Bardee, General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, and clearly marked "Freedom of Information Act Appeal." Please also send a copy to Charles A. Beamon, Associate General Counsel, General and Administrative Law, at the same address.

Sincerely,

A handwritten signature in cursive script, reading "Leonard M. Tao". The signature is written in dark ink and is positioned above the printed name and title.

Leonard M. Tao
Director
Office of External Affairs

Enclosure

9

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

OFFICE OF THE CHAIRMAN

February 15, 2011

The Honorable Darrell Issa
Chairman
House of Representatives
Committee on Oversight and Government Reform
Washington, D.C. 20515-6143

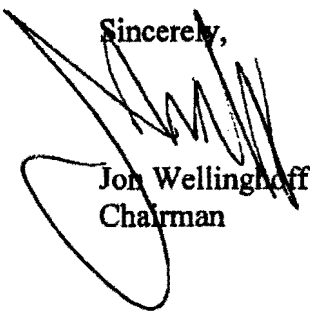
Dear Chairman Issa:

On January 25, 2011, the Federal Energy Regulatory Commission (FERC) received your request seeking to obtain the following data regarding Freedom of Information Act (FOIA) documents:

- **Item 1:** FOIA logs(s) for the five years preceding your request.
- **Item 2:** Identify each FOIA request that was submitted 45 days prior to your request in which FERC has not issued a complete and final response.
- **Item 3:** Provide all communications between FERC and any requester identified in item 2.
- **Item 4:** Identify any federal judicial action within the five years preceding your request, in which FERC has been ordered to pay any attorneys' fees or other litigation costs incurred by a FOIA requester.
- **Item 5:** Provide a copy of the court order requiring FERC to pay attorneys' fees or other litigation costs.

Please find enclosed our response, which includes FOIA logs that reflect requests received between January 25, 2006 and January 25, 2011. FERC has identified four FOIA requests, FY10-83, FY11-6, FY11-20 and FY11-22 that are responsive to item 2 and has also provided communications regarding these requesters. Lastly, FY08-26, has been identified as the only instance in which FERC was ordered to pay attorneys' fees and litigation costs. A copy of the court order regarding this mandate is included in this package.

Sincerely,



Jon Wellington
Chairman

Enclosures

FEDERAL ENERGY REGULATORY COMMISSION
ITEM 1= FOIA LOGS January 25, 2006 - January 25, 2011

Number	Requester Name	Date Received	Date Closed	HowClosed	Description Subject
FY11-00031-000	Giacchino, Leonardo	1/20/2011		Open	Documents related to the 2004 dispute regarding the construction of the new Cross-Sound Cable and the replacement of 1385 cable.
FY11-00030-000	Nicely, Janice	1/18/2011		Open	FERC administrative directives, handbooks and bulletins
FY11-00029-000	Eisler, Ben (Media)	1/12/2011		Open	Dominion Cove Point LNG, LP, CP09-60, CP05-130. (Documents regarding Washington Gas Light regarding gas leaks)
FY11-00028-000	Miozza, Michael	1/10/2011	2/8/2011	No Documents Found	Weaver's Cove CP04-36 regarding "Condition 77".□
FY11-00027-000	Ravnitzky, Michael	1/5/2011		Open	Processing/tracking file/folder/notes, emails, memos, letters, correspondence, re: -THREE longest pending (oldest) FOIA Requests.
FY11-00026-000	Brannan, Megan	12/29/2010	1/28/2011	Partially Denied	Contract awarded to Iron Mountain for Off Site Tape Vaulting Services. Solicitation # FERC11-0120A.
FY11-00025-000	Cassel, Judith	12/27/2010		Open	Submittals regarding wholesale electricity transactions submitted in Docket No. EL01-10 on or about August 16, 2001.
FY11-00024-000	Jones, Nate	12/17/2010	1/12/2011	Partially Denied	Ten oldest pending FOIA request at the end of FY2010.
FY11-00023-000	TEST RECORD	12/17/2010		TEST	TEST RECORD
FY11-00022-000	Grier, Maren	12/7/2010		Open -Rolling	Documents associated w/ proceedings against Great Lakes Gas Trans. RP10-149-000. .
FY11-00021-000	TEST RECORD	12/8/2010		TEST	TEST RECORD
FY11-00020-000	Batchelder, Stephen	12/2/2010		Open-Negotiated	Accession Number 20100629-0007 & 20100629-0008, (filed 6/29/2010) Gilman Stream, P-7473.
FY11-00019-000	Tanner, Silvia	11/30/2010	1/19/2011	Fully Granted	Merchant Energy, ER01-05-000 on 05/02/2001. Accession number is 20010508-0172..
FY11-00018-000	TEST REORD	12/2/2010		TEST	TEST RECORD
FY11-00017-000	McDaniel, Sandra	11/26/2010	1/12/2011	Fully Denied	Submittal 20101118-5075. Steckman Ridge, LP Semi-Annual Storage Repo
FY11-00016-000	Smith, Angel	11/24/2010	12/21/2010	Fully Denied	Steckman Ridge. Accession No. 20101118-5075 - Semi-Annual Storage Report.
FY11-00015-000	Bass, Frank (Media)	11/23/2010	12/17/2010	Fully Granted	Correspondence to between Jan. 1,2010, and the present, from the specific members of the U.S. House of Representatives.
FY11-00014-000	Phillips, Diane	11/19/2010	12/23/2011	Fully Denied	Weaver's Cove Energy, LLC, docket no. CP04-36. (Accession nos: 20091202-5023, 20100730-5212, 20100927-5257,2010929-5506.
FY11-00013-000	Fawcett, Rhoda	11/15/2010	12/23/2010	Fully Granted	Material regarding breach of PII, including training materials.
FY11-00012-000	Adams, Lesley	11/10/2010	12/10/2010	No Documents Found	Pipeline route data in an GSR shapefile or geodatabase for the Jordan Cove/Pacific Connector LNG, pipeline CP07-441 and CP07-444..
FY11-00011-000	Morgan, Patrick	11/9/2010	12/9/2010	Fully Denied	CP04-64-000. Accession #: 20060223-0012. Central NYOG Submittal of Phase 2 Project Images,

FEDERAL ENERGY REGULATORY COMMISSION
ITEM 1= FOIA LOGS January 25, 2006 - January 25, 2011

Number	Requester Name	Date Received	Date Closed	HowClosed	Description Subject
FY11-00010-000	Ladd, Karen (Media)	11/2/2010	11/8/2010	Withdrawal	Applications filed by Northeast Utilities or NStar regarding Northern Pass Transmission "Federal Approval of Financial Approach"
FY11-00009-000	Fawcett, Rhoda	11/2/2010	12/15/2010	Partially Denied	Documents from or to the Commission, the EEO Advisor, or FERC's EEO office staff, concerning the need for a contract EEO investigaton.
FY11-00008-000	Gibbs, Randall	11/1/2010	11/23/2010	Fully Denied	Study entitled "Feasibility of Brine Disposal in Picacho Basin, Arizona", Appendix 10-draft Resource Report 10 (Access No. 20101026-5121).
FY11-00007-000	Jamouneau, Dennis	10/28/2010	12/13/2010	Partially Denied	Records relating to an investigation performed IN07-32 and in any other docket in which the independence or tariff compliance of the MISO.
FY11-00006-000	Hay, Ellen	10/27/2010		Open -Rolling	Documents relating to PF10-23-000 including U.S. National Park Service; and SHPO; documents, correspondence, photos, & emails.
FY11-00005-000	Saltzburg, Lisa	10/25/2010	12/8/2010	Partially Denied	Records that relate to the economic feasibility of the RPA /draft Biological Opinion on the relicensing of Santee-Cooper, (P-199).
FY11-00004-000	Ives, Peggy (Media)	10/18/2010	12/1/2010	Fully Denied	Accession Number: 20070125-0196 filed Date: 1/19/2007. Joint application of APT Generation LLC et al - EC07-48).
FY11-00003-000	Stanley, William	10/12/2010	11/30/2010	Partially Denied	E-library accession number 20100201-5086, P-2210-090.
FY11-00002-000	Musial, James	10/12/2010	10/25/2010	Withdrawal	Application & attached documents- ER11-22 Midwest Independent.
FY11-00001-000	Jones, Nate	10/1/2010	11/17/2010	Partially Denied	Documents related to steps taken to comply with March 16, 2010 FOIA memo from White House.
FY10-00105-000	Klinski, Eunice	9/29/2010	10/8/2010	Withdrawal	Environmental records and documents referencing Oxychem Ingleside Plant and affiliated customers.
FY10-00104-000	Nicoll, David	9/29/2010	12/10/2010	Fully Denied	Documents related to White Cliff's pipeline approval & the determination of the regulated Transmission rates.
FY10-00103-000	Trautmann, Heather	9/24/2010	12/22/2010	Fully Denied	Data containing any reference to Crescent Bar Island. Priest Rapids P-2114, from and after January 1, 2005.
FY10-00102-000	Miozza, Michael	9/24/2010	12/16/2010	Fully Denied	Documents in Weaver's Cove, CP04-36, pertaining to vapor-gas dispersion mathematical models.
FY10-00101-000	McAllister, Edward (MEDIA)	9/23/2010	10/21/2010	Withdrawal	Privileged version of docket number CP04-386 submitted by Golden Pass LNG on Sept 22.
FY10-00100-000	Smathers, Jason (MEDIA)	9/9/2010	10/7/2010	No Documents Found	Records where the FOIA request was provided to an investigator/ investigative agency for investigation into the person requesting the records.
FY10-00099-000	Meirink, Melissa	9/10/2010	10/20/2010	Fully Granted	Requests relating to Ruby Pipeline, CP09-54-000 & PF08-9-000 from January 1, 2010 to present.
FY10-00098-000	Christensen, Eric	9/10/2010	10/18/2010	Partially Denied	EL01-10 - , August 21, 2001-transactional data submitted to FERC by sellers.
FY10-00097-000	Smathers, Jason	9/1/2010	10/15/2010	Partially Denied	Log of FOIA requests received since August 2010. .
FY10-00096-000	Latter, Daniel	8/31/2010	10/13/2010	Partially Denied	Accession 20100830-0008 / US Senate Harry Reid letter, Ruby Pipeline, CP09-54.

FEDERAL ENERGY REGULATORY COMMISSION
ITEM 1= FOIA LOGS January 25, 2006 - January 25, 2011

Number	Requester Name	Date Received	Date Closed	HowClosed	Description Subject
FY10-00095-000	Robertson, Brenda	8/30/2010	10/13/2010	Fully Denied	Submittal 20100706-0219 Sierra Pacific Power Co., power service agreement, ER10-1719..
FY10-00094-000	Swanstrom, Deborah	8/27/2010	10/12/2010	Fully Denied	Transactional data submitted in EL01-10 by Morgan Stanley August 21, 2001.
FY10-00093-000	Humrichouse, Richard	8/11/2010	9/3/2010	Fully Granted	The winning proposal pertaining to Solicitation Number FERC09-RFP-91048 & Award Number FERC09-C-91048..
FY10-00092-000	Ravnitzky, Michael	8/10/2010	9/23/2010	Partially Denied	Copy of each Ethics waiver provided at FERC since January 1, 2001.
FY10-00091-000	Flood, John (REFERRAL)	8/13/2010	8/23/2010	Fully Granted	Referred by the DOJ/FBI – FBI FOI/PA# 1133384-000. Regarding Reliant Resources, Inc., PA02-2.
FY10-00090-000	Naramore, Arch	8/9/2010	9/21/2010	Partially Denied	Bowersock memo dated 8/5/2010, accession number 20100806-0305,
FY10-00089-000	Rothchild, Jane	8/9/2010	8/20/2010	Withdrawal	Special Dam Safety Inspection Report by NY Regional Office for LS Starrett Co.'s Crescent Street Dam, 7/12/10, UL09-1.
FY10-00088-000	Pugh, Donald	8/9/2010	8/20/2010	Withdrawal	Special Dam Safety Inspection Report by NY Regional Office for LS Starrett Co.'s Crescent Street Dam, 7/12/10, UL09-1. Accession 20100730-0403
FY10-00087-000	McElhatton, James (Jim) (MEDIA- REFERRAL)	8/9/2010	9/3/2010	No Documents Found	OGE referred request to FERC re: waivers that were issued after employees acted in particular matters from which they should have been recused.
FY10-00086-000	Gerwin, Carolyn	8/6/2010	9/20/2010	Fully Denied	Ameren Corp. plan, reportedly filed with FERC on 8/2/2010, for new high-voltage transmission lines.
FY10-00085-000	Kelly, Claire	8/3/2010	8/23/2010	Partially Denied	Florida Gas Transmission - Phase VIII – UNREDACTED Landowner's List Accession #: 20081031-4009.
FY10-00084-000	Astle, Jason	7/26/2010	9/14/2010	Partially Denied	Documents related to the project to reline/recoat the penstock/tunnel at the Cabin Creek Facility prior to 10/2/2007.
FY10-00083-000	Clemmer, Teresa/ Parenteau, Patrick (ROLLING)	7/23/2010		Open-Rolling	Documents regarding the impact on the endangered Atlantic Salmon of FERC-licensed dams on the Little Androscoggin & Sebasticook Rivers.
FY10-00082-000	Budd-Fallen, Karen	7/23/2010	9/3/2010	Partially Denied	Documentation related to the Ruby Pipeline, April 5, 2010 Order / Final Environmental Impact.
FY10-00081-000	Shultz, James	7/23/2010	9/3/2010	Fully Denied	Final Historic Properties Management Plan, Piney Hydroelectric , P-309. Accession # 20051202-0151 / 20051202-0152.
FY10-00080-000	Johnson, Alana/ Gilmore, Hugh (CONSULTATION)	7/21/2010	9/7/2010	Fully Granted	CONSULTATION from Department of Treasury regarding California Energy Working Group.
FY10-00079-000	Willie, Karen	7/21/2010	9/1/2010	Partially Denied	Documents related to July 15, 2010, Order on Remand and Offer of Settlement, P-460.
FY10-00078-000	Morassini, Heather	7/13/2010	9/10/2010	Withdrawal	Records related to the Anadarko Petroleum Corp. especially communications regarding practices & complaints made against Anadarko.
FY10-00077-000	Keating, Francis	7/7/2010	8/3/2010	Fully Denied	Exhibit I of the Midland Cogeneration's Application for Authorization, Docket No. EC09-60-000, *(accession # 20090320-5084)
FY10-00076-000	Cordeiro, William	7/6/2010	7/14/2010	Withdrawal	Privileged & CEII components of FERC accession number 20040528-0048. Weaver's Cove Energy.

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Number	Requester Name	Date Received	Date Closed	HowClosed	Description Subject
FY10-00075-000	Rathey, Ronald (Union President -AFGE Local 421)	6/22/2010	8/4/2010	Fully Granted	Information relating to FERC's Hagerstown Satellite Office.
FY10-00074-000	Shlansky, David	6/16/2010	7/29/2010	Fully Granted	Documents since January 1, 2008, concerning the Vergennes Hydroelectric Project, FERC No. 2674.
FY10-00073-000	Unger, Robert	6/9/2010	7/2/2010	Withdrawal	Accession No. 20100415-5137 (Ryckman Creek Resources, PF10-18). Submitter provided material directly to requester.
FY10-00072-000	Melusky, Benjamin (STUDENT)	6/8/2010	7/2/2010	Partially Denied	Biographical information for FERC Commissioners between 2005 to 2009.
FY10-00071-000	Christensen, Eric	6/4/2010	7/19/2010	Fully Denied	EL10-56, Documents constituting the reference "Our preliminary review indicates that the \$400/MWh soft cap now applicable" in 131 FERC 61,145.
FY10-00070-000	Derrendinger, Luc	5/28/2010	6/23/2010	No Documents Found	Drawings Fort Edward dam, prior to it's removal in 1973. 1970 engineering study of the dam that is referenced in the FES issued in P-2482 in 5/73.
FY10-00069-000	Sullivan, Sean	5/21/2010	6/11/2010	Partially Denied	Accession nos. 20100520-0035, 20100520-0039, 20100520-0041, Southern Star metering station, 20100520-0042,
FY10-00068-000	Stachewicz, Jeff	5/21/2010	6/17/2010	Fully Granted	Relevant to FERC FERC06C60057 /copy of cost and technical proposals, Preferred Systems Solutions contract, public evaluation and scoring notes.
FY10-00067-000	Matthews, Marc	5/19/2010	6/3/2010	No Documents Found	Information regarding damage to the Canyon Chief Pipeline in or near Viosca Knoll Area Block 992.
FY10-00066-000	Lyons, Elizabeth	5/18/2010	6/3/2010	Fully Granted	P-2438 (Seneca Falls Power Co). # 19981215-0268 &19981210-0119. Correspondence discussing injunction issued by the Northern District to SPFC .
FY10-00065-000	Rich, Alexander (MEDIA)	5/12/2010	6/8/2010	Partially Denied	Information regarding meetings between FERC officials, anti-LNG groups & representatives of Oregon Depart. of Justice in 6/09. Jordan Cove Energy.
FY10-00064-000	Roblan, Arnie	5/12/2010	6/8/2010	Partially Denied	Communications between FERC Commissioners or advisors w/Rory Cox & Mr. Brent Foster during the week in 6/21/09 and 6/25/09.
FY10-00063-000	Sullivan, Sean (MEDIA)	5/10/2010	5/20/2010	Fully Denied	Accession no. 20100510-5005: Cultural resources report for Ruby Pipeline, CP09-54-000.
FY10-00062-000	Francis, Frances	5/4/2010	6/15/2010	Fully Granted	Documents pertaining to or used by the Commission regarding development of the tailwater ratings curve. (Erie Boulevard, P-2539).
FY10-00061-000	Turetzky, Ben	4/29/2010	6/11/2010	Fully Granted	Documents pertaining to land designated as "RECREATION COMPLEX" in the Licence, appendix R, P-2503 which took place in 1970.
FY10-00060-000	Bartoldus, Carrie (Media)	4/30/2010	5/27/2010	Partially Denied	Jordan Cove. Meeting notes, correspondence and audio files regarding conference calls w/ FERC Staff, Brent Foster & Rory Cox in June 2009. .
FY10-00059-000	Lieskovsky, Jozef	5/5/2010	7/1/2010	Fully Denied	Semi-Annual Storage Reports since 1/1/2006.
FY10-00058-000	Nahal, Harpreet	4/21/2010	5/13/2010	Withdrawal	Accession number: 20100416-0052 (Offer of Settlement, filed on April 16, 2010 in OR92-8, et. al.).
FY10-00057-000	Wilson, Lee	4/19/2010	5/17/2010	No Documents Found	Documents regarding the safety barriers at Jim Woodruff Dam for the last five years.

FEDERAL ENERGY REGULATORY COMMISSION
ITEM 1= FOIA LOGS January 25, 2006 - January 25, 2011

Number	Requester Name	Date Received	Date Closed	HowClosed	Description Subject
FY10-00056-000	Parenteau, Patrick / Clemmer, Teresa	4/15/2010	5/26/2010	Partially Denied	Documents regarding the impact on the endangered Atlantic Salmon of FERC-licensed dams on the Androscoggin and Kennebec Rivers in Maine.
FY10-00055-000	Garden, Kevin	4/14/2010	5/17/2010	No Documents Found	Illustrations, contracts, or meeting notes from the Stanislaus Planning Action Team (SPLAT) meetings related to FERC P-2130-033.
FY10-00054-000	Hendricks, Nathaniel	4/14/2010	11/16/2010	Closed - Fee issue	Documents regarding "ROCKEFELLER PIPELINES", in MILLENNIUM PIPELINE, CP98-150-006,
FY10-00053-000	Wattenmaker, Steven	4/13/2010	5/3/2010	Fully Granted	Existing contract between FERC and The Capitol Connection for provision of cable TV service and webcasting.
FY10-00052-000	Hendricks, Nathaniel	4/12/2010	6/18/2010	No Documents Found	MILLENNIUM PL, CP98-150-006 et al. Re: RICHARD FELL, FERC Compliance Monitor.
FY10-00051-000	Hendricks, Nathaniel	4/9/2010	12/21/2010	Closed - Fee issue	MILLENNIUM PL, CP98-150 et. al. WEEKLY STATUS REPORT, CONSTRUCTION STATUS REPORT, SPREAD No. 1, No. 47 through No. 100
FY10-00050-000	Meisner, Anastasia	4/7/2010	5/19/2010	Partially Denied	All documents relating to the encroachment issue identified in the FERC order issued on July 2, 2010 regarding the Coates family.
FY10-00049-000	Barnes, Kevin	3/31/2010	5/24/2010	Partially Denied	EC10-41-000 Filed-01/21/2010. Accession # 20100121-5068. Application of Wolverine Power Supply Cooperative, Inc. Exhibit I.
FY10-00048-000	Sadler, Jessica	3/30/2010	4/19/2010	Partially Denied	Documents that relate to the purchase of goods from ABC Management Technology between February 25, 2008 - February 25, 2010.
FY10-00047-000	Maroney, Tyler	3/30/2010	4/19/2010	No Documents Found	Documents naming Robert Cenci regarding J. Aron, Goldman Sachs or Constellation Energy and "power marketer" status.
FY10-00046-000	Giles, Jim (Media)	3/29/2010	4/19/2001	No Documents Found	Summaries of search warrants & subpoenas served by FERC investigators against: Google, Yahoo!, Microsoft, AOL, Facebook, Twitter & MySpace.
FY10-00045-000	Breland, Richard	3/17/2010	4/27/2010	Fully Granted	Documents referring Georgia Power Morgan Falls Dam (P-2237) to include Emergency Action Plan/ reports of inspections conducted by FERC 9/09.
FY10-00044-000	John, Maria	3/15/2010	4/6/2010	No Documents Found	Information regarding incidents (e.g. leaks or other releases) that took place on the "Bremen to Knoxville" PL, owned by Plantation PL.
FY10-00043-000	Perez, Tania	3/10/2010	5/6/2010	Fully Denied	Documents (including, but not limited to, Notices of Intent to Participate in Town Hall Meetings submitted by party other than Oregon LNG, CP09-6 & CP09-7 □
FY10-00042-000	Fite, Kate (REFERRAL)	3/8/2010	4/5/2010	Fully Granted	Referral from DOI. Ruby pipeline material. Draft documents. *Discretionary release
FY10-00041-000	Madoff, Abigail	3/5/2010	4/2/2010	Fully Granted	The request is to identify Senior Executive Service EmployeeS.
FY10-00040-000	McElhatton, Jim (MEDIA)	2/19/2010	4/13/2010	Partially Denied	Agency-specific report(s) prepared by the transition team during the approximate time period November 2008 and January 2009.

FEDERAL ENERGY REGULATORY COMMISSION
ITEM 1= FOIA LOGS January 25, 2006 - January 25, 2011

Number	Requester Name	Date Received	Date Closed	HowClosed	Description Subject
FY10-00039-000	Murdock, Daniel	2/12/2010	5/6/2010	Partially Denied	Documents concerning the construction of the Tuscola East Replacement Project, CP06-428-000.
FY10-00038-000	Kisicki, Aaron	2/12/2010		Fully Denied	Documents relied upon in formulating & implementing the Power Reliability Policy, in response to the U.S.-Canada Blackout Taskforce's final report.
FY10-00037-000	Mendelsohn, Roy	2/3/2010	3/16/2010	Fully Granted	P-1267 -Buzzards Roost Hydroelectric Facility. Correspondence, meeting minutes and e-mails between FERC & Greenwood County, SC 1/1/04 and 1/12/09.
FY10-00036-000	Waters, Thomas	2/2/2010	2/19/2010	Withdrawal	Response of The Detroit Edison Co. to Deficiency Letter - QM10-2-002, Accession No. 20100122-5093 filed on January 22, 2010.
FY10-00035-000	Graff, Jeffrey	2/2/2010	3/9/2010	Withdrawal	Appalachian Power, Annual Report filed pursuant to Shoreline Management Plan . 20100201-5086
FY10-00034-000	Phillips, Diane (REFERRAL)	2/1/2010	3/23/2010	Fully Denied	REFERRAL FROM: U.S. Army Corps of Engineers. Weaver's Cove, Application NAE-2004-2355.
FY10-00033-000	Barosh, Patrick	2/1/2010	3/15/2010	Withdrawal	Logs of bore holes shown in Weaver's Cove Resource report 6.
FY10-00032-000	Follador, Raymond	1/29/2010	3/8/2010	Withdrawal	Documents regarding Dominion Transmission Gateway, #pf09-15-000. #20100114-0090. *Submitter provided documents to requester.
FY10-00031-000	Steward, Jeffery	2/4/2010	3/25/2010	Partially Denied	Vacancy # MP-10-006 & MP-10-008, Name of selectees, Selection Panel members, Selection Plan Criteria including how the KSA's were weighted and scored.
FY10-00030-000	Hall, Larry (Sands, Benjamin) (PRIVACY ACT)	1/25/2010	3/1/2010	Privacy Act Request	PRIVACY ACT REQUEST. - No documents found
FY10-00029-000	Welch, Jeremy	1/25/2010	3/15/2010	Fully Granted	Written material, and photographs, submitted to FERC by David Langlois, 3rd party compliance monitor for FERC. Relates to "Welch Property" in Parke County, Indiana
FY10-00028-000	Fite, Katie	1/25/2010	3/18/2010	Fully Denied	Internal memos, letters, e-mails, etc. Administrative Record to date for the Ruby pipeline project.
FY10-00027-000	Martin, Amanda	1/11/2010	2/24/2010	Fully Denied	Accession # 20061017-0011; 10/13/2006; Sabine Pass LNG, LP submits certain information pertaining to the piling non-conformance review process, CP04-47.
FY10-00026-000	Walker, Deward	1/6/2010	1/29/2010	Withdrawal	Interim Draft and Progress Report and Ethnographic Study of RUBY PIPELINE LLC, CP09-54. Accession # 20091230-5020. I
FY10-00025-000	Miozza, Michael	1/4/2010	2/1/2010	Fully Granted	ioMosaic Corporation report, used to assess potential projects and ensure the safety and reliability of each jurisdictional LNG. November 2004
FY10-00024-000	McDaniel, Sandra & Joe	12/31/2009	2/19/2010	Fully Denied	20091201-5012 - (Privileged). Steckman Ridge Semi-Annual Storage Re. 20091201-5008 (CEII document - Processed in CE10-45).
FY10-00023-000	Krieger, Carol	12/23/2009	12/23/2009	Withdrawal	Hourly water level data for Weber Hydroelectric P-2566.
FY10-00022-000	Keeler, Mallory	12/16/2009	1/14/2010	Withdrawal	Enron (Empower Records).
FY10-00021-000	McKeaon, Kevin	12/11/2009	1/27/2010	Partially Denied	Correspondence or electronic mail between four members of Congress, or their Staff and FERC Staff:

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FY10-00020-000	Chin, Yvette	12/9/2009	1/22/2010	Partially Denied	Copies of the ten (10) oldest pending perfected FOIA requestslor FY2009 (October 2008 - September 30, 2009)..
FY10-00019-000	Jones, Ann Reiley	12/9/2009	2/2/2010	Partially Denied	accession no. 20091204-5142. Prefiling application PF10-4. Enbridge/Lacrosse PL - 12/4/09 (landowners list).
FY10-00018-000	Sanders, Shannon (ROLLING FOIA)	11/24/2009	3/15/2010	Partially Denied	Correspondence, written or electronic, from Senator Charles Grassley or any representative of Senator Grassley's office.
FY10-00017-000	Horton, Steven (PRIVACY ACT REQUEST)	11/18/2009	12/17/2009	Privacy Act Request	PRIVACY ACT REQUEST: - no documents found
FY10-00016-000	Ravnitzky, Michael	11/20/2009	12/17/2009	No Documents Found	Reports produced for Congress by FERC during the past three (3) years, and which are not posted on the public internet website.
FY10-00015-000	Timm, Jeri (ROLLING FOIA)	11/18/2009	1/11/2010	Discretionary Release in Full	Records between January 1, 2008 to the date of receipt of this request re Green Hydropower, Inc. or Joseph Francis.
FY10-00014-000	Leonard, Randy	11/18/2009	2/2/2010	Fully Granted	Assessment of Effects Reports for the AES Sparrows Point LNG Terminal filed under accession number I 20091110-5094.
FY10-00013-000	Enoch, Nicholas	11/18/2009	12/29/2009	No Documents Found	Participant plans filed during 2009 relating to transmission and/or hydroelectric projects in Arizona. PF07-11, P-11872 & P-13350
FY10-00012-000	Asselin, Heather (ROLLING FOIA)	11/12/2009	5/14/2010	Partially Denied	Documents from or sent to Panhandle Eastern from 2006 through 2009, re: Tuscola East End Enhancement and/or Replacement Project
FY10-00011-000	Sleeman, Roy	11/9/2009	11/24/2009	Fully Denied	Purchase price paid by J-POWER in the acquisition of the partial Interest of the Birchwood Power Station. #22080225-0190 & 0191.
FY10-00010-000	Clair, Susan	11/5/2009	12/22/2009	Partially Denied	Most recent, current contract re: FERC HQ, Washington, D.C., Inside and Outside Guard Services
FY10-00009-000	Anderson, Dave (ROLLING FOIA)	11/2/2009	3/3/2010	Fully Granted	Various accession numbers from the Hydro library. For P-2407:
FY10-00008-000	Adams, Lesley	10/28/2009	11/6/2009	Withdrawal	All privileged material regarding Jordan Cove/Pacific Connector LNG - Docket No.'s CP07-441 and CP07-444. K
FY10-00007-000	Terla, Shannon	10/23/2009	3/26/2010	Partially Denied	Landowners List for Phase VIII Expansion Project for FFlorida Gas, (CP09-17), October 31, 2008.
FY10-00006-000	Reilly, Malcolm (ROLLING FOIA)	10/19/2009	3/15/2010	Partially Denied	All documents regarding the collapse and rebuild of the Taum Sauk Reservoir. (P-2277).
FY10-00005-000	Allen, John	10/15/2009	11/6/2009	Transfer	Correspondence regarding preparation of environmental documents for license to Alabama Power for the Coosa River Project (P-2146-111).
FY10-00004-000	Sanderson, Bill (Media)	10/14/2009	1/22/2010	Withdrawal	NY ISO filing identifying the names of the three generators. (Accession No. 20100120-5114)

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FY10-00003-000	Wigell, Kevin	10/5/2009	1/21/2010	Withdrawal	Documents that identify names of the three generators reflected in the 9/4/09 by NY ISO. (Accession # 20100120-5114)
FY10-00002-000	LaVern, Geneva	10/5/2009	12/8/2009	Partially Denied	Landowner agreements/documents containing the names of landowners affected by the pipeline being constructed by Tennessee Gas PL (Fitchburg Expansion)
FY10-00001-000	Ruga, Elliott	10/2/2009	12/8/2009	Partially Denied	Tennessee Gas CD containing the final EA to construct pipeline and compression facilities in PA & NJ, CP09-444. Landowners list .
FY09-00114-000	Phillips, Dianne	9/30/2009	10/29/2009	Fully Denied	Report/CD entitled Oregon LNG - LNG Vapor Dispersion From Troughs prepared by CH-IV International. 8/20/09.
FY09-00113-000	Brush, William	9/30/2009	10/13/2009	Withdrawal	Annual reports. P-209 Appalachian Power. Submitter provided documents requester
FY09-00112-000	Claire, Susan	9/28/2009	10/27/2009	No Documents Found	Contract # FERC02DLM0001, Omniplex World Services Corp., FERC HQ, Washington, D.C, Inside & Outside Guard Services.
FY09-00111-000	Yavari, Shason	9/23/2009	11/5/2009	Partially Denied	RFP, Amendments, Award, and any modifications on contract #FERCO5-C-50335 that LAI holds.
FY09-00110-000	Ward-Willis, Nicholas	9/23/2009	11/5/2009	No Documents Found	Millennium Pipeline. Documents pertaining to state/federal audit of the pipeline project, or references to MBF Inspection Services, Inc.
FY09-00109-000	Phillips, Dianne	9/18/2009	10/22/2009	Partially Denied	CP07-52 Appendix 41-report entitled Thermal Radiation & Vapor Dispersions. July 10, 2009, Accession # 20090710-5104.
FY09-00108-000	Newman, Barry	9/21/2009	10/9/2009	No Documents Found	Information relating to the proposal by South Carolina Electric to construct additional reactors at the Virgil C. Summer Electric Generating
FY09-00107-000	Franck, Krystal	9/16/2009	10/1/2009	Withdrawal	Documents produced to Legal Times in November 1989, who cited documents obtained under the FOIA, re: Martha O. Hesse misuing agency funds.
FY09-00106-000	Ronnlund, Millicent	9/16/2009	10/14/2009	Withdrawal	CDs referenced in Accession Number 20000829-0341.
FY09-00105-000	Chin, Yvette M.	9/16/2009	10/15/2009	Partially Denied	Guidance or directives, etc, concerning the implementation of President Barack Obama's 1/21/09 memo.
FY09-00104-000	Janke, Bill	9/15/2009	10/22/2009	Partially Denied	# 20090910-0460, 9/8/09, Memo from David Capka to Jennifer Hill re: project safety. Tacoma-Ames Project, P-400.
FY09-00103-000	Nissen, William	9/15/2009	10/9/2009	Fully Granted	Correspondence between Allan Creamer, of FERC & Frank Simms with AEP re: docks at Smith Mountain and/or shoreline management plan.
FY09-00102-000	Ogle, Melanie	8/31/2009	9/29/2009	Partially Denied	CP08-431 - Accession # 20090410-5095 (Memorandum of Understanding - signed by Janet Selby)
FY09-00101-000	Sackheim, Kelly	8/26/2009	8/27/2009	Withdrawal	Accession # 20090824-5045 -Internal Draft Biological Assessment for Kilarc Cow Creek by PG&E, P-606.
FY09-00100-000	Larson, Lyle	8/24/2009	9/22/2009	Fully Granted	E-library accession # 19991029-0566. (ER99-2332)
FY09-00099-000	Morey, Sandra	8/24/2009	9/5/2009	Fully Denied	Spreadsheet analysis tool / computer software that FERC used to conduct evaluation of costs in the DEA for DeSabra-Centerville, P-803

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FY09-00098-000	Carroll, John	8/21/2009	9/5/2009	Fully Denied	Submittal #20080226-0147. Maps describing the Weaver Storage Field & protective boundries declared.
FY09-00097-000	Eurick, Janelle	8/18/2009	10/8/2009	No Documents Found	Documents in Mink Creek Hydroelectric, P-8646: comments, stream flow monitoring reports, fish and/or trout monitoring reports,
FY09-00096-000	Waterman, Richard (EDUCATION)	8/18/2009	9/30/2009	Partially Denied	Resumes of persons considered for or appointed to a Schedule C position, SES, Senate-confirmed presidential appointment from 1/20/01 -0/1/09.
FY09-00095-000	Steward, Jeffery	8/18/2009	9/16/2009	Partial Discretionary Release	Information regarding Vacancy Announcement.Name of the selectee(s), personnel who made the cert, criteria used by Selection Panel
FY09-00094-000	Burnette, Amelia	8/14/2009	9/14/2009	Fully Granted	Communications re: 401 water quality certification for the Catawba-Wateree Hydroelectric Project, P-2232,
FY09-00093-000	Fite, Katie	8/13/2009	10/8/2009	Fully Granted	Environmental survey reports by Ruby Pipeline, L.L.C. on August 7, 2009.
FY09-00092-000	Atwood, Amy	8/13/2009	10/9/2009	Fully Granted	Environmental survey reports by Ruby Pipeline Project on August 7, 2009.
FY09-00091-000	Telofsk, Richard	8/12/2009	8/31/2009	No Documents Found	List of all FERC FOIA Requests made by Friends of the Earth April 2009 through June 2009.
FY09-00090-000	Sodergreen, John	8/6/2009	9/3/2009	Fully Granted	FOIA requests received this year, and in 2008, including the detailed subject and who requested them.
FY09-00089-000	Phillps, Dianne	8/5/2009	9/24/2009	Partially Denied	Weaver's Cove Energy, Accession No. 20081008-4001 -PF08-18; Various documents in CP04-36;
FY09-00088-000	Genest, Erin - Auker, Dennis	8/5/2009	9/22/2009	Partially Denied	Accession # 19811208-0106, 19811204-0152. All priviledged pertaining to the Harris Bridge Project.
FY09-00087-000	Sanati, Cyrus (MEDIA)	8/3/2009	8/11/2009	Fully Denied	Non redacted copy of: JOINT OFFER OF SETTLEMENT, IN07-26-000.
FY09-00086-000	Ramsey, Sherri	8/3/2009	8/4/2009	Withdrawal	Application Filed on December 14, 2007 for Chestnut Ridge. Accession no. 20071218-0202)
FY09-00085-000	Speed-Bost, Regina	8/3/2009	9/15/2009	Fully Denied	Data filed by ANR on July 23, 2009 ANR, CP08-465.
FY09-00084-000	Donalson, Kyle	7/31/2009	9/14/2009	Fully Denied	CD-ROM with ANR transient model submitted 7/23/2009 in Docket No. CP08-465.
FY09-00083-000	Nolan, Paul	7/23/2009	8/20/2009	Fully Denied	10/31/08 -Memo discussing the semi-annual report on inoperative projects. Tacoma-Ames, P-400
FY09-00082-000	van Vonno, Fred	7/22/2009	3/3/2010	Partially Denied	Supplemental landowners list that was submitted on March 16, 2009 in CP09-17.
FY09-00081-000	Fournier, Mathieu	7/17/2009	7/22/2009	Withdrawal	MOBAY STORAGE HUB, CP06-398, Accession # Nos. 20060628-0002, 0003. Submitter provided documents.
FY09-00080-000	Greenblatt, Steven	7/16/2009	8/27/2009	Fully Denied	Unredacted versions of all direct witness testimony by FERC and Amaranth. IN07-26-004.
FY09-00079-000	Jeter, Ronald	7/15/2009	7/28/2009	Fully Denied	QF81-19 FILED 1/29/1982, ACCESSION NO. 19820222-0661. Petition of Resources Recovery for Declaratory Order.
FY09-00078-000	Johanek, Joan	7/14/2009	7/29/2009	Fully Denied	Filed 4/29/89, #19890505-0001-Addendum #1 to May 1988 design flood rept for Boney Falls.
FY09-00077-000	Desserault, Audrey	7/13/2009	7/28/2009	Fully Denied	# 20090605-0042, P-2244. Memo dated 6/3/09 summarizing the review of project safety for relicensing of the Packwood Lake

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FY09-00076-000	Smith, Angela (ROLLING REQUEST)	7/8/2009	3/12/2010	Partially Denied	cp08-15 any thing containing "smiths", things contains to drilling, smiths water, Steckman Ridge storage project, maps ,data,
FY09-00075-000	Osborne, Karen	7/8/2009	7/30/2009	Transfer	# 20090706-0027, 6/8/09, Follow-up to the 4/24/09 correspondence re: FERC relicensing on the Coosa River, P-82.
FY09-00074-000	Hackney-Szuch, Carol	6/23/2009	7/22/2009	Partially Denied	Internal Memo from David Capka to Timothy Welch. re Upper American River, P-2101. # 20090623-0005, 06/19/09.
FY09-00073-000	Cobean, Connor	6/23/2009	9/22/2009	Partially Denied	Privileged documents pertaining to Calais LNG's response to Commission Staff's comments. PF08-24. #: 20090514-0087.
FY09-00072-000	Gacek, Maria	6/17/2009	8/13/2009	Partially Denied	PF09-3-000, June 11, 2009, # 20090611-5101. Landowners list
FY09-00071-000	Lindquist, Carl	6/16/2009	11/23/2009	Partially Denied	Landowner list associated with FERC Docket CP09-68, accession # 20090326-5061.
FY09-00070-000	Boucher, Rebecca (MEDIA)	6/9/2009	8/6/2009	Withdrawal	Documents related to preparation of the Downeast LNG Project DEIS, May 15, 2009, CP07-52; CP07-53
FY09-00069-000	Lieskovsky, Jozef	6/10/2009	7/9/2009	Partially Denied	Huntsman 2009 Expansion, Application for a Certificate of Public Convenience & Necessity of Kinder Morgan, CP09-109. (# 20090406-5100).
FY09-00068-000	Samarajiva, Anuradha	6/3/2009	6/18/2009	No Documents Found	PacifiCorp explanation regarding its missing trader conversation tapes from 5/2/00 to 6/28/00 and from 7/11/00 to 7/24/00, EL00-95 and EL00-98,
FY09-00067-000	Casey, Susan	6/3/2009	7/15/2009	Partially Denied	Contracts between FERC and security contractors in DC, VA and MD/ Bargaining Agreements between unions representing security personnel.
FY09-00066-000	Howie, Nicholas	6/1/2009	6/15/2009	No Documents Found	Records of communication between FERC and Robert (Bob) F. McDonnell 2006-March 1, 2009,
FY09-00065-000	Henry, Snowden	5/26/2009	7/2/2009	Fully Denied	Red Lake Gas, CP02-420. Resource Report #6 concerning the geology of the salt formation to used for gas storage. # 20020905-0245
FY09-00064-000	Pavasaris, Peter (ROLLING REQUEST)	5/22/2009	7/7/2009	Partially Denied	Records identifying the dollar amount of any submission(s) or request(s) by United Illuminating ("UI") for reimbursement or rate increase.
FY09-00063-000	Manske, Phillip	5/21/2009	6/19/2009	Partially Denied	HR records regarding Announcement numbers: ISL-08-08, MP-08-097, MP-08-098.
FY09-00062-000	Lexa, Brenda	5/14/2009	6/10/2009	Partially Denied	List of the Stakeholder names and contact information for PF09-10 filed by Williams Northwest on May 6 or May 7, 09.
FY09-00061-000	Gould, Bradley	5/12/2009	6/10/2009	Partially Denied	Copy of Volume 5 submitted by FGT on October 31, 2008 in CP09-17 (landowners list).
FY09-00060-000	Tansey, Ben (MEDIA)	5/12/2009	5/22/2009	No Documents Found	REFERRAL FROM DOJ: Subpoena of John Forney, dated June 22, 2005 in Enron, EL03-180, et al. Public document
FY09-00059-000	Sackheim, Kelly	5/12/2009	6/23/2009	Fully Denied	Brighton Dam P-3633: - # 19940303-0115, 19910718-0256 , 19981001-0274, 20061005-0225 20070305-0029, 20090225-0086
FY09-00058-000	Bost-Speed, Regina	5/4/2009	6/24/2009	Fully Denied	ANR Pipeline, filed April 24, 2009, CP08-465-000.

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FY09-00057-000	Kong, Dennis	4/24/2009	6/8/2009	Withdrawal	Submissions made from 1980 to present time related to QF certification status of a cogeneration facility located in Martinez,
FY09-00056-000	Davis, Charles A. (ROLLING FOIA)	4/23/2009	10/9/2009	Partially Denied	Documentation concerning Gulf South action on our land during prior to and after construction of their natural gas lines.
FY09-00055-000	Langendorf, Gail M.	4/22/2009	6/4/2009	Fully Denied	Accession No. 19821221-0458 - Inland Gas & Columbia Gas Trans.requests for authority to transport gas for direct sale to Vistron.
FY09-00054-000	Ryder, Eric	4/21/2009	6/3/2009	Partially Denied	Landowner list, Florida Gas. (counties: DeSoto County, Highlands County, Okeechobee County, Martin County.
FY09-00053-000	Vonno, Fred van	4/17/2009	5/15/2009	Partially Denied	Landowners list for Highlands County in Florida Gas, CP09-17.
FY09-00052-000	Harmon, Lynn	4/17/2009	4/27/2009	Fully Denied	Non Compliance Memo P-12423 Accesion# 20090416-0018.
FY09-00051-000	Goldberg, Joe (ROLLING FOIA)	4/2/2009	9/17/2009	Fully Granted	List of employees designated as "exempt", along with Position Descriptions and the plans for the designated positions.
FY09-00050-000	Knie, Patrick	3/27/2009	5/1/2009	No Documents Found	Privileged documents in P-2332.
FY09-00049-000	Fox, Paul	3/27/2009	5/8/2009	Fully Denied	Documents relating to Public Utilities Commission of the State of CA v. Sellers of Long-Term Contracts to the CA, EL02-60 / EL02-62,
FY09-00048-000	Shirley, Jonathan	3/27/2009	5/1/2009	Fully Denied	Documents in P-8235-000. Accession Numbers: 20081128-0216, 20080609-0076, 20080213-0096, 20021022-0083,20020813-0065.
FY09-00047-000	Colwell, Steve	3/24/2009	4/20/2009	Discretionary Release in Full	Document on microfilm. Accession # 19821215-0267. re scope of FERC authority in regulating Augusta Dam Proj
FY09-00046-000	Nelson, John	3/23/2009	4/17/2009	Fully Granted	Contracts for computer-assisted legal research, and/or information services, with LexisNexis.
FY09-00045-000	Kirkland, Joel	3/23/2009	4/22/2009	Fully Denied	November 24, 2008, settlement between FERC enforcement litigation staff and Amaranth Advisors L.L.C. IN07-26
FY09-00044-000	Leonard, Randy (MEDIA)	3/17/2009	4/28/2009	Fully Denied	accession numbers 20090313-0093 and 20090310-4006, filed 3/10/2009.
FY09-00043-000	Christensen, Eric (ROLLING FOIA)	3/17/2009	4/23/2010	Fully Granted	Information obtained by FERC during investigation in PA02-02,, including indices of information sent to off-site storage facilities
FY09-00042-000	Christensen, Eric (ROLLING FOIA)	3/17/2009	4/28/2009	Fully Granted	Information provided to FERC by Morgan Stanley in investigation, IN03-10, into bidding practices in California markets.
FY09-00041-000	Seeley, Tina	3/13/2009	4/8/2009	No Documents Found	Memorandum of understanding clarifying the roles of FERC and Minerals Management Service on offshore renewable energy development
FY09-00040-000	King, Benjamin	3/13/2009	4/22/2009	No Documents Found	Documents in FERC possession pertaining to the June 12, 2005 drowning inciden. Silver Lake in Tilton, New Hampshire.

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FY09-00039-000	Maltagliati, Julie	3/12/2009	4/7/2009	Fully Granted	List of small purchase credit card holders (IMPAC or SmartPay) in FERC. Please inform how we might obtain this information.
FY09-00038-000	Scherman, William	3/9/2009	4/1/2009	Fully Denied	Documents regarding Settlement in IN07-26:
FY09-00037-000	Fallon, Robert	3/6/2009	4/8/2009	No Documents Found	Tres Palacios Gas Storage, Application for authorization to construct and operate high-deliverability natural gas storage facility, CP07-90
FY09-00036-000	Christensen, Eric	3/5/2009	4/16/2009	Fully Granted	Information provided by Morgan Stanley on or about 2/28/03, EL00-95, Exhibits titled MSC-1, MSC-2, MSC-3, MSC-4, and MSC-5.
FY09-00035-000	Husain, Zafreen	3/4/2009	4/13/2009	Partially Denied	Documents re: alleged or purported criminal, fraud and/or unethical activity at GTI or as to any GTI employees, including Goyal and Borys.
FY09-00034-000	Miller, Heather (MEDIA)	3/3/2009	3/12/2009	Withdrawal	Documents from J. Gordon Pennington on behalf of Henry Gas Storage. Draft resource reports 2-9, PF08-28. # 20081230-4013
FY09-00033-000	Schechter, Michael	2/24/2009	4/7/2009	Partially Denied	Agency records relating to Condit Dam in Washington State and Condit. P-2342.
FY09-00032-000	Taylor, Jack	2/20/2009	2/24/2009	Withdrawal	Documents re: G-275 - part of Bunola Gas Storage Field(began service 1938).
FY09-00031-000	Wilkins, Quincy	2/13/2009	2/27/2009	Withdrawal	Reference FERC07C70873 awarded to Louis E. Berger (copy of the basic contract, including the statement of work)
FY09-00030-000	Sodergreen, John	2/12/2009	3/30/2009	Fully Denied	Copy of rejected settlement in Amaranth case -- Docket No. IN07-26-000.
FY09-00029-000	Rosenfield, Charles	2/12/2009	2/25/2009	Fully Granted	The non-compliance memorandum dated 1/12/09 issued to the Toutant Hydroelectric, P-5679. # 20090210-0057.
FY09-00028-000	Coleman, Shannon	2/6/2009	3/5/2009	No Documents Found	Documents relating to an investigation which began sometime in 1981, of Belle Fourche.
FY09-00027-000	Myers, Brandon	1/30/2009	3/13/2009	Fully Granted	Biographical information you have on file for commissioners of the FERC from 1977 to 2005.
FY09-00026-000	corbeil, jean-francois	1/29/2009	3/6/2009	Fully Granted	Various documents in Brasfield hydro project (P-9840)
FY09-00025-000	Ross, Patricia H.	1/29/2009	3/23/2009	Partially Denied	Palomar Gas Trans., CP09-35. A copy of the mailing list of potentially affected landowners in Oregon, # 20090114-5093
FY09-00024-000	Connelly, Michael	1/28/2009	3/31/2009	Withdrawal	Midcontinent Express PL, CP08-6. memoranda, correspondence, e-mails, letter agreements, contracts, settlement agreements.
FY09-00023-000	Goldstein, Jay	1/22/2009	2/4/2009	Withdrawal	Acession nos. 20070409-0199, 20070409-0200, 20070409-0201 (Walton County Power)
FY09-00022-000	Dyslin, Nita	1/21/2009	2/4/2009	Withdrawal	Cedar Creek Hydro, LLC - P-13324. Application filed on November 5, 2008 - Applicant: Mr. Brent L. Smith, Symbiotics.
FY09-00021-000	Katzer, Jenni	1/15/2009	3/19/2009	Partially Denied	Information relating to the property and operations located at 60 High Meadow Road, Town of Brookfield, County of Fairfield, and State of Connecticut,

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FY09-00020-000	Vonno, Fred	1/8/2009	2/23/2009	Partially Denied	Seeking to obtain the landowners list in the areas of Martin County, St Lucie County and Okeechobee County.
FY09-00019-000	Flynn, John	1/7/2009	2/23/2009	Fully Denied	Correspondence relating to North Baja Pipeline between the dates of September 1, 2007 and December 31, 2008.
FY09-00018-000	Quell, Peter J. (James Kiel)	1/7/2009	2/5/2009	Refferal Letter	Operating data on selected Duke Power Electrical Generating Plants in S.W. Ohio.
FY09-00017-000	Jeske, Dana Michael	12/31/2008	2/12/2009	Fully Granted	FOIA requests submitted by Neil Olson, John Stewart, or anyone from the law firm of Stewart, Sokol & Gray (SSG).
FY09-00016-000	Christensen, Eric	12/24/2008	1/30/2009	Fully Granted	Documents provided to the Commission by Morgan Stanley Capital Group, Inc., in response to or arising from FERC Docket No. EL03-160.
FY09-00015-000	Prabel, Bruce	12/22/2008	1/15/2009	No Documents Found	PECO ANNUAL WORK PLAN SUBMISSION for years 2006 and 2007.
FY09-00014-000	Petersons, Ingrida	12/22/2008	1/13/2009	Fully Denied	Staff Report recommending that Northwest PL request for waiver be denied for lack of support, RP99-26. 11/16/1998 # 19981125-0552
FY09-00013-000	Reich, Bret W.	12/17/2008	1/13/2009	Fully Denied	FERC Memo in Docket #RP99-26-000. The date in the docket is 11/16/1998 and the Issuance identifier is 19981125-0552.
FY09-00012-000	Kumli, Karl	12/15/2008	1/27/2009	Fully Granted	Correspondence, exhibits, emails, notes, etc. between Richard Smart or Robert Werge of Community Hydro Consultants
FY09-00011-000	Larson, Lyle	12/11/2008	1/28/2009	Fully Granted	Information in PA02-2 previously withheld from public access per request of the U.S. Attorney for S.D. Texas.
FY09-00010-000	Almodovar, Melanie	12/8/2008	2/12/2009	Withdrawal	Information concerning the proposed Crown Landing project for a liquefied natural gas terminal.
FY09-00009-000	Larson, Lyle (ROLLING FOIA)	11/24/2008	10/1/2010	Fully Granted	Index, catalogue or other compilation concerning the contents of the Commission's files and/or archived materials. PA02-2 investigation.
FY09-00008-000	Wade, Linda	11/12/2008	12/9/2008	No Documents Found	Meeting minutes from FERC's sessions where dockets CP08-78 and CP08-431 have been discussed in any context.
FY09-00007-000	Payne, David	12/12/2008	1/8/2009	Fully Granted	Possum Kingdom Lake Texas. The Brazos River Authority map with demarcation lines labeled "FERC".
FY09-00006-000	Marquez, Rolando	11/17/2008	1/8/2009	Fully Denied	Documents generated in connection with the investigation of Mirant, in EL00-95 and EL00-98.
FY09-00005-000	Reiss, William	10/27/2008	12/10/2008	Fully Granted	Information concerning proceeding initiated by FERC against Energy Transfer, Houston PL, ETC Marketing, IN06-3-000.
FY09-00004-000	Roberti, Paul	10/16/2008	11/28/2008	Fully Denied	Weaver's Cove documents that were submitted in PF08-18.
FY09-00003-000	Johnny, Ron (ROLLING FOIA)	10/9/2008	4/9/2009	Partially Denied	Copy of the mailing label sheets. Ruby Pipeline Project,
FY09-00002-000	Kosterman, Paul	10/9/2008	11/21/2008	Fully Granted	Any notices, filings, or reports by Idaho Power in the last five years regarding the installation/indentificaion of safety devised/measures. P-503,

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FY09-00001-000	Hughes, Mark	10/8/2008	11/6/2008	No Documents Found	All records prepared, received, transmitted, collected and/or maintained by agency relating, mentioning or in regards to Mark Edwards Hughes.
FY08-00111-000	Wallis, Jessica	9/30/2008	10/29/2008	Fully Granted	Documents containing the Names and addresses of companies that have been paid by FERC using Visa or MasterCard purchase cards.
FY08-00110-000	Briganti, Vincent	9/29/2008	11/4/2008	No Documents Found	Information, records and/or testimony concerning the alleged manipulation of March 2007 prices of New York Mercantile Exchange (NYMEX) I
FY08-00109-000	Phillips, Diane	9/29/2008	11/7/2008	Fully Denied	PF08-18 - Accession # 20080724-0200, 20080724-0201, 20080724-0202, 20080724-0203, 20080724-0204, 20080724-0205, 2008731-4005
FY08-00108-000	Smith, Jerry	9/24/2008	10/20/2008	No Documents Found	September 24, 2008 (See note below)FILED: September 24, 2008. accession number: 20080924-5008 / CP07-208-000 REX Pipeline East
FY08-00107-000	Arons, David	9/23/2008	11/4/2008	Discretionary Release in Full	A list of all persons and entities to whom FERC gave notice concerning the Aglonquin Gas proposed East to West Hubline Expansion Project;
FY08-00106-000	Roberts, Joanne	9/23/2008	11/4/2008	No Documents Found	Documents regarding Hydro Electric and info Structure of the Pawtucket Dam
FY08-00105-000	Riley, Patricia	9/23/2008	11/4/2008	No Documents Found	Reports on flash boards and the back water study.
FY08-00104-000	Nappi, John	9/23/2008	10/15/2008	Withdrawal	Information regarding the management of the Merrimack River at the Pawtucket Falls Dam. (flash boards)
FY08-00103-000	Brennan, Kelly	9/18/2008	10/28/2008	No Documents Found	Records regarding Potential Manipulation of Electric and Natural Gas Prices, Docket No. PA02-2-000.
FY08-00102-000	Manske, Phillip	9/17/2008	9/18/2008	Withdrawal	Seeking HR related records. Knowledge, Skill and Ability Statement (KSA) for the selected Job Announcement Numbers:
FY08-00101-000	Corbeil, J.-Francois	9/16/2008	10/23/2008	Fully Granted	New owner of Lyon Falls, (P-2548), Kruger Energy, Seeking to obtain missing documentation.
FY08-00100-000	McDaniel, Sandra	9/10/2008	10/8/2008	Fully Denied	Accession # 20040624-0078 cp04-365-000, date of document June 21, 2004.
FY08-00099-000	Purdy, Lisa	9/9/2008	10/3/2008	Fully Granted	Chairman's response to Rep. Waxman's climate change letter.
FY08-00098-000	Dreyfuss, Barbara	9/5/2008	10/20/2008	Fully Denied	Documents from Docket No. IN07-26-000 Amaranth, Depositions
FY08-00097-000	Leonard, Randy	9/8/2008	10/31/2008	Discretionary Release in Full	Accession No 20080903-4005 filled by AES Sparrows Point 9/3/2008. (landowners list).
FY08-00096-000	Meredith, Cate (MEDIA REQUEST)	9/8/2008	11/18/2008	Partial Discretionary Release	Testimony of Tim Belden, John Arnold, Christian Yoder and Richard Sanders.
FY08-00095-000	Van Houen, Lisa	9/15/2008	10/28/2008	Partially Denied	Accession Number: 20080904-0 AES Sparrows Point LNG, LLC et al., data request issued by FERC on 8/12/08 , CP07-62
FY08-00094-000	Leonard, Randy	9/5/2008	9/15/2008	Withdrawal	AES Sparrows Point data request, accession number 20080904-0577 filed on 9/2/08.

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FY08-00093-000	Walker, Mike D.	9/4/2008	10/17/2008	Fully Granted	Filed July 30, 2008 under Accession Number 20080730-5139 by Van R. Wade in Docket No. CP08-78 000.
FY08-00092-000	Frost, Jacob	9/3/2008	10/16/2008	Fully Granted	Term Sheet (Confidential Exhibit I) filed by Crescent Ridge LLC, # EC06-94,
FY08-00091-000	Dick, Anna	9/3/2008	9/26/2008	Fully Granted	Name, title, mailing address, fax number and email address for various employees at FERC.
FY08-00090-000	Joshi, Jayant	9/3/2008	10/16/2008	Fully Granted	Seeking to obtain all Non Public and CEII materials in P-2232. (CEII REQUEST NUMBER: CE08-271).
FY08-00089-000	Starling, Emma Starling, Emma	8/27/2008	10/9/2008	Partial Discretionary Release	Landowners List for PF08-14
FY08-00088-000	Larson,Lyle	8/22/2008	10/3/2008	Fully Granted	The full, unredacted version of the filing under accession: 20050505-0306.
FY08-00087-000	Santacruz, J. Steve	8/22/2008	10/3/2008	No Documents Found	Documents related to the 100 foot easement along Castle Rock in Juneau and Adams County, Wisconsin, including.
FY08-00086-000	Massing,Gregory	8/20/2008	10/10/2008	Closed - CEII material	Volume III of Weaver's Cove Energy, LLC's draft Resource Report 13, filed in FERC Docket No. PF08-18-000 on July 31, 2008.
FY08-00085-000	Stanton, David	8/13/2008	8/21/2008	Withdrawal	Documents relating to hydroelectric projects proposed for the Winecup Gamble Ranch in Elko County, Nevada.
FY08-00084-000	Larson, Lyle	8/13/2008	8/28/2008	Fully Granted	Documents concerning market clearing prices for energy published or provided by the California ISO Market Serveillance Unit.
FY08-00083-000	Larson, Lyle	8/13/2008	8/26/2008	Fully Granted	Documents submitted by Sempra Energy Trading in connection with IN03-10, Anomalous Bidding Investation
FY08-00082-000	Peltzer, Alex	8/11/2008	8/22/2008	No Documents Found	Tule River Project, P-1333. New License, w/attached map or exhibit showing "FERC Boundary" or "project boundary".
FY08-00081-000	Hansen, Susan	8/11/2008	8/15/2008	Partial Discretionary Release	PF07-13. List of names and addresses of affected landowners, and any and all amendments to the list. # 20071002-0143
FY08-00080-000	Stup, Paul	8/8/2008	9/22/2008	Fully Granted	Information filed on our behalf from Congressman Shuster. CP08-15 # 20080806-0186 and 20080731-0187.
FY08-00079-000	Smith, Angela	8/7/2008	9/19/2008	Discretionary Release in Full	Docket number cp08-15 - steckman ridge comments to sentor shuster. number 20080731-0187
FY08-00078-000	Dugan, Kate	8/4/2008	9/16/2008	Fully Denied	PA02-2. Documents related to FERC's investigation of Dynegy that resulted in, or is in any way associated with, FERC's March 2003 Final Report.
FY08-00077-000	Sodergreen, John	8/1/2008	8/15/2008	Fully Granted	Copy of a past (2004) report originally contracted by FERC's OMOI and written by Dr. Cornelius M. (Neil) Kerwin of American University.
FY08-00076-000	Wade, Van	7/22/2008	9/11/2008	Partially Denied	Privledged info. CP08-78 #20080604-5096, 20080523-5121, 20080325-5061, 20080226-0146, 20080226-0147

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FY08-00075-000	Studer, Terra	7/21/2008	10/10/2008	Partially Denied	Privileged documents in CP08-78.
FY08-00074-000	Stacy, Tom	7/16/2008	8/1/2008	No Documents Found	Documents and supporting evidence to back the statement made by Commissioner Ms. Kelly in that article re: "The 20 percent wind scenario"
FY08-00073-000	Hendricks, Nathaniel	6/29/2008	8/12/2008	Fully Denied	6/29/08-Alignment Sheets, . CP98-150, et al□
FY08-00072-000	Beach, Frank	7/15/2008	9/3/2008	Partially Denied	All NiSource/Columbia maps and accompanying data related to their interest in the Weaver Storage Field and protective boundaries;
FY08-00071-000	John McCaffrey	7/2/2008	7/15/2008	Withdrawal	Documents that were submitted by MoGas Pipeline LLP on May 29, 2008, in docket number CP07-450.
FY08-00070-000	Kovacs, William	7/7/2008	7/11/2008	No Documents Found	Documents regarding the "Advanced Transmission Techniques" program under §1223 of the Energy Policy Act of 2005.
FY08-00069-000	Kalpin, Mark	6/25/2008	8/7/2008	Fully Denied	Precedent Agreements included in Exhibit I. CP08-420-000, filed by Algonquin Gas Transmission, LLC -June 9, 2008. T
FY08-00068-000	Bell, Brenna	6/23/2008	7/3/2008	Partially Denied	Complete updated landowners list filed by Palamor on April 18, 2008 for Docket No. PF07-13.
FY08-00067-000	Brooks, Tommy	6/23/2008	8/4/2008	No Documents Found	Documents filed in G-9977, G-9979, G-10008. These dockets were acted upon by the FPC in 1956 and 1961.
FY08-00066-000	Prabel, Bruce	6/18/2008	7/16/2008	Fully Granted	PECO & EXELON Vegetative Management Plans.
FY08-00065-000	Dubchak, Jason	6/16/2008	9/10/2008	Partial Discretionary Release	Semi Annual Storage Reports, # 20080530-0175, 20080507-0376, 20080507-0370, 20080129-0062, 20080201-0104.
FY08-00064-000	Abel, Matthew	6/13/2008	7/24/2008	Fully Denied	Complaints and/or documentation of investigations against NorAm Energy, Houston Industries, Reliant Energy, or CenterPoint Energy,
FY08-00063-000	Prabel, Bruce	6/13/2008	6/17/2008	Withdrawal	NP08-_-000 (NP08-1) Vegetation Outage Questionnaire filed by Baltimore Gas & Electric related to August 15, 2007, outage,
FY08-00062-000	Hughey, Joseph	6/11/2008	7/24/2008	Partial Discretionary Release	Accession Number 20080410-5065 & 20080410-5064 PF08-14.
FY08-00061-000	Hughey, Joseph	6/11/2008	6/25/2008	Fully Granted	FOIA requests seeking documents relating to PF08-14.
FY08-00060-000	Thomas, Stephen	5/21/2008	7/9/2008	Discretionary Release in Full	Land owner mailing list related to CP08-100
FY08-00059-000	Williams, Eric	5/14/2008	5/22/2008	No Documents Found	Purchase orders and/or contracts which exist between FERC and any lodging facility in Los Angeles County, CA between 1/1/03 and 4/30/08.
FY08-00058-000	Byerly, Victoria	5/14/2008	5/14/2008	Withdrawal	Data or consideration of dams or similar water retention structures in Lewis County, Washington on the Chehalis, Skookumchuck or Newaukum rivers

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FY08-00057-000	Gray, Christopher J./Briganti, Vincent	5/13/2008	5/23/2008	Fully Denied	Unredacted copy of the Commission Enforcement Staff's Brief, FERC Case No. IN07-26 (filed March 18, 2008); Exhibits A through JJ.
FY08-00056-000	Prudhomme, Keith M.	5/8/2008	6/20/2008	Partially Denied	Correspondence, photographs, test samples, tangible evidence, statements, e-mails, investigative reports, and incident reports.
FY08-00055-000	Daniels, Damon	5/7/2008	6/4/2008	Fully Granted	Executed precedent agreements that Alliance PL filed at FERC on January 28 and June 23, 1997, in CP97-168.
FY08-00054-000	Keane, Kate	5/6/2008	6/4/2008	No Documents Found	Records related to former Governor Mark Warner. Includes correspondence, electronic records, audiotapes, videotapes and photographs.
FY08-00053-000	Andrus, Samuel	5/6/2008	6/13/2008	Fully Granted	CP07-398, Gulf Crossing PL Co. Abbreviated application, particularly Exhibits F,G,G-1, & G-2.
FY08-00052-000	Nicely, Janice	5/5/2008	6/2/2008	Fully Granted	Updated FERC Administrative Directives, Employee Handbooks and Bulletins, etc, between June 2007 through April 2008.
FY08-00051-000	Burton, John	5/2/2008	6/13/2008	Fully Granted	Records of correspondence with the office of Sen. John McCain and the FERC. .
FY08-00050-000	William, Nick	4/29/2008	12/24/2008	By Letter	Documents regarding any FERC investigations between 1999-2004 of El Paso's business practices re; supplying natural gas to CA
FY08-00049-000	Schreiner, Stephen	4/29/2008	6/11/2008	Fully Denied	Issuance 20080331-0163 - Non-compliance memo dated 2/4/08 re Article 1 violations at the Gilpin Falls Project, P-3705.
FY08-00048-000	Proctor, Shemin	4/28/2008	5/6/2008	Withdrawal	Accession # 20070703-0366. 4/29/08.
FY08-00047-000	Luzietti,Gino	4/18/2008	5/15/2008	Fully Granted	Maps depicting the new pipeline to be constructed in the state of Florida which were provided to FERC as part of an application by Florida Gas.
FY08-00046-000	Jones, Lisa	4/14/2008	5/14/2008	Partial Discretionary Release	CP08-6 -Accession No. 20071115-0300.
FY08-00045-000	Pinderski Jr., Jerome	4/14/2008	4/25/2008	Partial Discretionary Release	Documents containing information regarding Inman Mills power generation license, p-4362-000.
FY08-00044-000	Silber, Samantha	4/11/2008	6/11/2008	Fully Granted	Florida Gas Transmission Co., Supplemental Filing, for the Proposed Phase VIII Expansion Project, PF08-14. 20080410-5065
FY08-00043-000	Thompson, Alvin	4/10/2008	5/22/2008	Fully Granted	Information in Hardy Storage, Docket Nos. CP05-150, CP05-151 &CP05-152. (includes inspections reports, written information and pictures)
FY08-00042-000	Zindel, Edward	4/8/2008	4/29/2008	Fully Granted	Accession 20030314-0145.
FY08-00041-000	Lincoln, Taylor	4/7/2008	5/20/2008	Partially Denied	Records dating to 2004 mentioning the following individuals: Wayne Berman, Kirk Blalock, Eric Burgeson, Kirsten Chadwick,Bryan Cunningham
FY08-00040-000	Sims, Thomas	4/10/2008	7/23/2008	Partial Discretionary Release	Documents that detail ETP's manipulation of the HSC IFERC index in docket number IN06-3.

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FY08-00039-000	Clark, Robert	4/3/2008	4/29/2008	No Documents Found	REX-East PL, CP07-208. Documents relating to FERC's reports, studies, and meetings for Biological Assessment (BA).
FY08-00038-000	Cole, Daniel	4/3/2008	5/29/2008	Fully Granted	Records your agency maintains which include the Federal Employer Identification Number, (FEIN, EIN, TIN, or Tax ID),
FY08-00037-000	Gantenbein, Julie	3/26/2008	4/25/2008	Fully Granted	Work papers and supporting documents in P-2165 that were used to form the basis of Environmental Assessment.
FY08-00036-000	Simpson, Terry	3/28/2008	4/22/2008	No Documents Found	Information/questions regarding Hydroelectric project at SmithMountain.
FY08-00035-000	Reesor, Laura	3/10/2008	4/7/2008	No Documents Found	Vector pipeline litigation -
FY08-00034-000	Cafer, Glenda	3/17/2008	1/12/2009	No response from requester	Documents related to the Commission's investigation in Docket No. PA02-2.
FY08-00033-000	Forman, John	3/14/2008	4/9/2008	Fully Denied	Records pertaining to Warren County Ohio Rockies Express Pipeline-East Project FERC Docket No. CP07-208-000.
FY08-00032-000	Darce, Noel	3/6/2008	3/14/2008	No Documents Found	Opinions, advisories or directives issued by the Office of the Chief Accountant re: meaning of "direct" in the General Instruction No. 10 of the USOA.
FY08-00031-000	York, Kyle	3/4/2008	4/11/2008	Fully Granted/forwarded to EPA	P-2482 - New York Hudson Project: Niagara Mohawk Power Corp. (letter (addressing a Polychlorinated biphenyl (PCB) and other documents)
FY08-00030-000	Frandsen, Michael	3/3/2008	3/28/2008	Fully Granted	Schedule A employees at FERC.
FY08-00029-000	Evans, Charles	3/3/2008	4/25/2008	Fully Granted	All (non public/priviledged) documents that have been submitted in Lake Dorothy Project, P 12370.
FY08-00028-000	Kobza, Lawrie	2/29/2008	3/21/2008	Fully Granted	Requester is seeking to obtain Accession number 20071031-0024.
FY08-00027-000	Crawford, Cori	2/29/2008	3/21/2008	Fully Granted	Requester is seeking data relating to Northern Border PL Company's application in Docket No. CP08-72-000.
FY08-00026-000	Bell, Brenna	2/12/2008	3/12/2008	No Documents Found	maps and other documents in PF07-13.
FY08-00025-000	Burris, Lindy	2/5/2008	2/25/2008	Fully Denied	Accession No.: 20080118-0034.
FY08-00024-000	Tripp Fulenwider, Linda	1/29/2008	2/15/2008	Fully Granted	Accession # 20080128-0036 regarding Boardwalk/Gulf Crossing proposed CP07-398.
FY08-00023-000	Carter, Christopher H.M.	1/28/2008	2/11/2008	Fully Denied	P-8235 – 10/10/02 memo re review of supplemental breach analysis and change of hazard classification of Algonquin Power #20021022-0083)-
FY08-00022-000	Shih, Steve	1/24/2008	2/6/2008	Fully Granted	*Transferred from DOE (FOIA-2007-000809). Performance Institute's contract for professional and management services.
FY08-00021-000	Moore, Kim	1/18/2008	2/19/2008	Fully Denied	FERC Issuance # 20001023-0425 under Docket # P-3602-000

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FY08-00020-000	Irvin, K	1/17/2008	2/27/2008	Fully Granted	Documents that relate to the investigation conducted in connection w/ IN06-3-002. Documents relied upon and/or cited in the order to Show Cause.
FY08-00019-000	Christensen, Nick	1/14/2008	2/25/2008	Fully Denied	1/14/08- Accession no. 20080109-0357 -waiver of fees and expedited processing requested.
FY08-00018-000	Fox, Dolores	12/31/2007	1/11/2008	Withdrawal	Veridian contract FERC03RFP30189 around May 2003. I wanted to find out if Veridian is in fact the current/existing vendor?
FY08-00017-000	Chabot, Philip	12/14/2007	1/17/2008	Fully Granted	Documents concerning receipt of amounts in docket Nos EL03-137/ amounts in connection to the western energy crisis 2000-2001.
FY08-00016-000	Hughes, Robert (Student)	12/10/2007	1/25/2008	Fully Denied	Data that was obtained in CE06-140 -000 be released without restrictions of nondisclosure.
FY08-00015-000	Coly, Yolanda	12/6/2007	1/7/2008	Partial Discretionary Release	Records relating to FERC's utilization of outside legal counsel and the resulting costs.
FY08-00014-000	Stanish, David	12/3/2007	12/14/2007	Fully Granted	Various documents (contracts, reports, correspondence...) in connection to the water right claims made in the Snake River Basin Adjudication.
FY08-00013-000	Ravnitzky, Michael	12/4/2007	12/28/2007	Fully Granted	FOIA logs 2005, 2006, 2007 w/ and any comments in database.
FY08-00012-000	Mitchell, Elizabeth	12/4/2007	12/14/2007	Fully Granted	Records related to FERC's "Policy Statement on Conditioned Licenses for Hydrokinetic Projects" issued Nov. 30, 2007.
FY08-00011-000	Nolan, Paul	11/20/2007	12/20/2007	Fully Granted	Accession numbers 20070821-0017 and 20071015-0084.
FY08-00010-000	Steponkus, Liz	11/15/2007	1/16/2008	Fully Granted	Service level agreements relating to Contract No. FERC03OED30189 - Veridian.
FY08-00009-000	Dupay, Brent	10/30/2007	11/28/2007	Fully Granted	Requesting biographical data (employment history/education/date of birth) for Nora Brownell, Joseph Kelliher, Sudeen Kelly
FY08-00008-000	Von Jouanne, Annette	10/30/2007	11/6/2007	Fully Granted	September 18,2007, Transmittal memo re: Project Safety of the Makah Bay Offshore Wave Energy Pilot Project. # 20070924.
FY08-00007-000	Stoll, Ian	10/30/2007	12/12/2007	Fully Granted	Non public records in the FERC docket EL07-47 & information redacted in Excelon complaint.
FY08-00006-000	Olson, Susan	10/24/2007	12/5/2007	Fully Granted	Accession no. 20071011-0235
FY08-00005-000	Davidson, Jan	10/22/2007	12/5/2007	Partial Discretionary Release	Filed September 21, 2007 by MoGas Pipeline,LLC in the Docket CP07-450. (Volume IV)
FY08-00004-000	Desserault, Audrey	10/19/2007	11/19/2007	Fully Granted	eLibrary accession no. 20071015-0228). Energy Northwest, P-2244 - the Packwood Lake Hydroelectric Project.
FY08-00003-000	Phelps, Baley E.	10/16/2007	11/8/2007	Fully Granted	Copies of FOIA requests submitted to FERC the month of August 2007.
FY08-00002-000	Ward, Nicole	10/5/2007	10/22/2007	Withdrawal	Submittal No. 20060801-0245 and 20060919-0196.
FY08-00001-000	Maciolek, John	10/1/2007	11/7/2007	Fully Granted	Stakeholder mailing list filed on September 24, 2007, PF07-15-000, the East to West Hubline expansion.

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FY07-00099-000	Russo, Alan	9/24/2007	10/4/2007	Withdrawal	Task order #TP970006 awarded 5/20/97 to Signal Corporation /Contract FERC03-OED-30189 awarded May 8, 2003 to Veridian
FY07-00098-000	Young, Kimberly	9/21/2007	10/1/2008	Withdrawal	Records/agreements re: Energy Markets and Reliability (long distance access charge, carrier line charge, federal access charge etc...
FY07-00097-000	Blakeway, Darrell	9/14/2007	10/9/2007	Partially Denied	Contract(s) between FERC and CCH pursuant to which CCH publishes FER orders, opinions, notices, etc.
FY07-00096-000	Snowden, Henry	9/11/2007	10/19/2007	Fully Granted	Accession # 2007-0529-0279 ... missing resource reports
FY07-00095-000	Briganti, Vincent	8/29/2007	10/16/2007	Partially Denied	Ameranth Natural Gas Commodities Litigation,
FY07-00094-000	Lyons, Christopher	8/29/2007	10/1/2007	Withdrawal	Deposition transcripts that were referenced in and relied upon by the Commission in the Amaranth.
FY07-00093-000	Stan, Peter	8/24/2007	9/24/2007	Fully Granted	Oct. 2004 Gas Storage Appl. Caledonia Energy Partners - 20041028-0122, 20041028-0123
FY07-00092-000	Wilson, Zachary	8/15/2007	10/11/2007	Discretionary Release in Full	All non-public documents in QF95-30.□
FY07-00091-000	Slocum, Tyson	8/9/2007	9/20/2007	Fully Granted	pre-filing meeting(s) between executives, lobbyists, etc, other agents of Iberdrola and/or Energy East & FERC Commissioners,
FY07-00090-000	Binion, Stanley, B.	8/8/2007	9/28/2007	Fully Granted	IN06-3-002: depositions and digital tap recordings of various people employed by one of more of the Energy Transfer
FY07-00089-000	Santarella, Joseph M.	8/6/2007	9/10/2007	Fully Granted	CP07-44, et al: Documents submitted on behalf of Southeast Supply Header, relating to the proposed SESH project.
FY07-00088-000	Carlson, Cherokee W.	7/31/2007	9/28/2007	Fully Granted	Copies of the audio recordings and/or tapes that are referenced in the July 26, 2007 Order to Show cause in docket No. IN06-3.
FY07-00087-000	Connelly, Faith	7/30/2007	8/14/2007	No Documents Found	Race related data for employees of the Commission
FY07-00086-000	Olsen, Neil N.	7/25/2007	9/7/2007	Fully Granted	Wanapum Dam and its Fish Bypass Project in Grant County, Washington: All non-public records relating to the Project.
FY07-00085-000	Otto, Angela M.	7/11/2007	8/9/2007	Fully Granted	PF06-26 Connector Gas pipeline Project: Records relating to A Stand Alone Report (Alignment Sheets/ Vol. III Resource Reports 1-11).
FY07-00084-000	Richards, Ronald Jr.	7/9/2007	7/25/2007	No Documents Found	Documents relating to establishment, alteration, or modification of the water leel of Mullet Lake (Cheboygan County, Michigan).
FY07-00083-000	Narayanswamy, Anupama	7/3/2007	8/1/2007	Fully Granted	Congressional Case log for the period April 1, 2007 through June 30, 2007, in electronic format.
FY07-00082-000	Kahler, Ray	7/3/2007	8/1/2007	Fully Granted	Specific documents relating to the Lake Chelan Hydroelectric project in the State of Washington
FY07-00081-000	Nolan, Paul V.	7/2/2007	7/10/2007	No Documents Found	Letters, memos, etc., from the Secretary or staff responding to correspondence re:Rule 2201. (associated w/ # 20070330-0145)

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FY07-00080-000	Kerrigan, james F.	6/27/2007	7/12/2007	Fully Granted	A copy of the Commission's FY 2008 Information Technology budget submission in response to OMB Circular A-11.
FY07-00079-000	Butler, James F.	6/27/2007	7/26/2007	Fully Granted	P4659: Specific documents regarding White river Hydroelectric Projet, Lock and Dam No. 3
FY07-00078-000	Gilzow, H. Floyd	6/22/2007	7/12/2007	Fully Denied	p-2277: A copy of Accession No. 20070327-0080 and 20070327-0081 - Taum Sauk.
FY07-00077-000	Nolan, Paul V	6/19/2007	8/21/2007	Fully Denied	P-400: Documents identified by accession number relating to Ames Hydroelectric Project.
FY07-00076-000	Endelman, Alyssa	6/19/2007	11/15/2007	Partially Denied	Documents pertaining to the Commission's investigation of the August 14, 2003 Blackout.
FY07-00075-000	Benjamin, Keith	6/15/2007	7/16/2007	Fully Denied	Document filed by Oregon LNG which specifies the route of a proposed 117 mile pipeline and the 867 property owners..
FY07-00074-000	Kline, Paul S.	6/14/2007	7/11/2007	No Documents Found	Permit application and/or final permit granted to Shaffer Mountain Wind, LLC.
FY07-00073-000	Kahoe, Michael	6/13/2007	7/11/2007	No Documents Found	Information regarding violations, accidents, spills, complaints, etc. of Excelerate Energy,
FY07-00072-000	Robinson, Perry D.	6/12/2007	7/25/2007	Fully Denied	"40-self-reports" document that reported violations of various provisions of The Energy Policy Act of 2005.
FY07-00071-000	Schnitzer, David	6/11/2007	7/26/2007	Partially Denied	Communications between the Commission and former Senator Fred D. Thompson or his offices.
FY07-00070-000	Connelly, Kaitlynn	6/6/2007	7/9/2007	Withdrawal	Documents regarding contract # FERC03OED30189 awarded to General Dynamics Corp,
FY07-00069-000	Bryan Atkins	6/6/2007	6/25/2007	No Documents Found	Dun & BradStreet, Inc. -Task Orders/Statement of work for 2005, 2006 and 2007
FY07-00068-000	Elizabeth Steponkus	6/6/2007	7/9/2007	Withdrawal	Contract #FERC03OED30189 Veridian IT Services
FY07-00067-000	Andersen, Thomas J.	5/31/2007	6/25/2007	Withdrawal	Copies of the pages of the Houser Dam authorizing document that describe Houser lake wate lever
FY07-00066-000	Wilkerson, Ronald E.	6/1/2007	6/20/2007	No Documents Found	PF07-1: The five options Boardwalk/Gulf Crossing PL. has submitted to FERC for the Sherman Compressor Station.
FY07-00065-000	Kane, Nathaniel	5/31/2007	7/12/2007	Fully Denied	Submittal 20030723-0171 filed 07/16/2003 iEL03-137-000 and EL03-180-000.
FY07-00064-000	Jontry, Matthew	5/30/2007	3/17/2008	Partial Discretionary Release	PF06-30: The most up-to-date list of landowners Rockies Express Pipeline, LLC
FY07-00063-000	Wilkerson, Ronald E.	5/23/2007	8/1/2007	Partially Denied	PF07-1: a list of the names and contact information for the individuals that may be affected by Boardwalk/Gulf State PL
FY07-00062-000	Mammel, Christopher	5/23/2007	6/19/2007	No Documents Found	Communications between GTI/GRI and FERC, w/attachments. Findings of FERC as a result of this investigation.
FY07-00061-000	Alexander, Robert L.	5/22/2007	8/1/2007	Partially Denied	PF07-1-000- names and addresses of landowners affected by the Gulf Crossing Project, # 20070309-0248.
FY07-00060-000	Cabrera-Lopez, Maya	5/17/2007	6/13/2007	Fully Granted	Documents between September 4, 2006 and May 14, 2007 regarding updates to administrative directives, employee handbooks, etc.

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FY07-00059-000	Sheaffer, Michael	5/17/2007	7/25/2007	Partially Denied	CE07-52 thru 55: Data filed by Downeast in its response to Data Request No. 4 regarding Resource Report 11.□ □
FY07-00058-000	Narayanswamy, Anupama	4/25/2007	6/5/2007	Fully Granted	Correspondence log between members of Congress and the Commission between March 1, 2007 and March 31, 2007
FY07-00057-000	Sanders, Christine R.	4/25/2007	5/17/2007	Withdrawal	Appendix C-1 Volume 111 filed by Columbia Gas in support of It's environmental report.
FY07-00056-000	Odom, Rex	4/23/2007	7/17/2007	Partially Denied	CP07-44: pipeline maps, proposed start and completion dates of constructions, and landowner list.
FY07-00055-000	Levine, Jerry L.	4/19/2007	5/17/2007	Partially Denied	Name, Title or Position, Pay grade or step, work location address. Etc.of employee in GA.
FY07-00054-000	Ayer, Jacqueline	4/16/2007	5/24/2007	Fully Denied	P-11858: underlying cost data developed by the Commission re: any Commission licensed granted.;
FY07-00053-000	Thomas, Scott G.	4/12/2007	5/9/2007	Partially Denied	Documents relating to P-2150-000. Accession numbers provided.□ □
FY07-00052-000	Farace, Patrick R.	4/5/2007	5/17/2007	Fully Granted	Relating to his application for vacancy announcements beginning in 2003 and including 2004, 2005, 2006, a □
FY07-00051-000	Hodes, Scott A.	3/29/2007	4/19/2007	No Documents Found	P-12734 - Williams Dam Project: Records including any memorandum, e-mail, etc., generated by or received by the commission.□ □
FY07-00050-000	Roberts, Dianne	3/21/2007	4/5/2007	Fully Granted	Accession Numbers 20070316-0124 and 20070316-0125 in FERC Docket P-2035-.
FY07-00049-000	Seeley, Tina	3/20/2007	3/29/2007	No Documents Found	Documents from Joseph Kelliher, Susan Court, Dan Larcamp or John Moot in 2005-6 regarding settlement in EL05-102.
FY07-00048-000	Seeley, Tina	3/20/2007	4/16/2007	Fully Granted	Correspondence this year from Joseph Kelliher to senator Jeff Bingaman re: questions about adequately overseeing natural gas markets.
FY07-00047-000	Narayanswamy, Anupama	3/16/2007	4/17/2007	Fully Granted	Logs of correspondence between members of Congress and FERC between Jan. 1, 2007 to Feb. 28, 2007.
FY07-00046-000	Theimer, Sharon	3/16/2007	5/4/2007	Partially Denied	Correspondence between members of Congress and the Commission (citing reference numbers listed on FY07-35 response).
FY07-00045-000	Terrell, Michael	3/15/2007	4/12/2007	Fully Granted	Documents relating to the Tallulah Gorge Hydroelectric Facility.
FY07-00044-000	Jouras, Peter A.	2/26/2007	3/14/2007	No Documents Found	Power line contacts for the lines of Kansas City Power and/ Great Plains regarding electrical contacts and/or electrocutions.
FY07-00043-000	Zickel, Brian T.	2/23/2007	3/22/2007	Fully Granted	RFP FERC06-RFP-60445 titled "Security guard Services for the FERC Headquarters Building.□ □

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FY07-00042-000	Kirkland, Joel	2/21/2007	3/12/2007	Fully Denied	Correspondence between the FERC's market monitoring / Enforcement staff and Chairman Joseph Kelliher regarding anomalous energy market behavior.
FY07-00041-000	Holland, William	2/8/2007	3/9/2007	Glomar Response	Requests made by the Commission for trading information (traders positions reports, etc., New York
FY07-00040-000	Kline, Cindy A.	2/8/2007	2/12/2007	Withdrawal	ER98-264-005, et al.: Xcel Energy Services, Inc's et al., CD containing Dr. Hieronymus Workpapers.
FY07-00039-000	Martin, Chal A.	2/7/2007	3/21/2007	Fully Denied	P-2150: Non-public documents identified by accession numbers□
FY07-00038-000	Ayer, Jacqueline	2/5/2007	2/20/2007	Withdrawal	P-11959: Any sections contained in the pre-licence evaluation document.
FY07-00037-000	Withrow, Kimberly	1/29/2007	5/7/2007	Partially Denied	Document identified by accession numbers.□ □
FY07-00036-000	Trust, William Doris Dragich Trust	1/26/2007	3/12/2007	Fully Granted	CP06-365, 366, 376, and 377: PL route map from Bradwood, Oregon to Ostrander, Washington State; # 20061122-0131, CP82-433.□
FY07-00035-000	Theimer, Sharon	1/25/2007	2/21/2007	Fully Granted	A list, or index, of correspondence from specificied member of Congress to the FERC between January 2002 and the present.
FY07-00034-000	Brooke, Chloe A	1/16/2007	2/27/2007	Fully Granted	CP95-119-000:Exhibit K, as filed with Steuben Gas Storage's application for its Thomas Corners, NY Project, 01/18/1995 (# 19950421-0320).
FY07-00033-000	Aloia,Dennis	1/9/2007	2/23/2007	Fully Denied	Copy of the inspection report completed for the Boardman Dam in grand Traverse County and owned by grand Traverse County; copies of minutes, memos or
FY07-00032-000	Klein, Mitchell	1/9/2007	2/23/2007	Fully Denied	CP066-459-000; The Administrataive Draft environmental Impact Statement for phoenix expansion Project.
FY07-00031-000	Denn, Edward	1/9/2007	2/8/2007	No Documents Found	All records, since 1995 concerning "A.B. Chance" potted porelain power line cutout.
FY07-00030-000	Clark, Duane	1/5/2007	1/25/2007	No Documents Found	License Agreement allowing Xcel Energy and Northern Lakes Power to operate the Chippewa Reservoir P-8286.□
FY07-00029-000	Sam (Greg) Turner	1/4/2007	1/29/2007	Fully Denied	P-11264 accession numbers: 19921021-0059, 19940308-0252, 19940401-0036, 19940722-0202, 19950505-0466, 19950117-0229
FY07-00028-000	Chabot, Philip , Jr.	12/29/2006	1/24/2007	Fully Granted	all documents concerning receipt of amounts in docket Nos EL03-137 et al., and any amounts in connection to the western energy crisis 2000-2001
FY07-00027-000	Maria, John C.	12/29/2006	1/24/2007	No Documents Found	Acadia Parish Louisiana documents pertaining to 4063 Grand Prairie Highway, Rayne (The Rayne Gas Plant and Rayne Gas Field). I
FY07-00026-000	McMorrow, Michael J.	12/19/2006	1/18/2007	Fully Denied	FA96-22-00 and FA91-32-000: Work papers prepared by the Commission in connection with audits of ComEd in 1987.

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FY07-00025-000	Haltiwanger, Daniel s.	12/14/2006	1/24/2007	No Documents Found	Contact incidents/electrocution accidents involving SCANA and/or SCE&G transmission and distribution lines.
FY07-00024-000	Nolan, Paul V.	12/12/2006	1/29/2007	No Documents Found	P-2547: A letter dated November 9, 1992, from the Vermont Agency of Natural Resources that was attached to an August 12, 1993.
FY07-00023-000	Slocum, Tyson	11/29/2006	12/8/2006	Fully Granted	Records describing and/or documenting the monetary value of the consulting contract or amount of money paid to Richard J. Pierce, Jr.
FY07-00022-000	Bedwell, Matt	11/27/2006	5/30/2007	Partially Denied	CP06-459: Any and all filings made or documents of any kind that are part of Transwestern Pipeline Company's application..□
FY07-00021-000	Lurensky, Marcia	11/17/2006	12/13/2006	Fully Denied	statements of policy and interpretations which have been adopted by FERC and are not published in the Fed. Reg. by which the Agency contracts for representation.
FY07-00020-000	Clark, Kim M.	11/14/2006	12/29/2006	Fully Denied	Access to spreadsheets that were provided to FERC by Acadian and Cypress on September 13, 2006, in Docket Nos. PR06-18-000 and PR06-19-000,
FY07-00019-000	Shems Ronald A.	11/14/2006	1/11/2007	Fully Denied	Copies of all material filed with the Commission containing location and or names of sites, their character, etc., Downeast LNG Proposal, PF06-13; #20061107-5031□ □ □ On 11/28/06 Mailed letter to requester addressing expedited processing and the fee waiver was denied.
FY07-00018-000	Lurensky, Marcia A.	11/13/2006	3/9/2007	Partially Denied	Statements of policy which have been adopted by FERC and are not published in the Federal Register re: release transcripts to parties including in EEO matters.
FY07-00017-000	Biggs, Natalie S.	11/7/2006	12/7/2007	Withdrawal	2004-2005 non-public FERC 580 form for Duke Energy - Accession no. 20061018-0210.□
FY07-00016-000	Maciolek, John R.	10/30/2006	3/1/2007	Partially Denied	Accession number 20060616-0272.□ □
FY07-00015-000	Gatschenberger, Marlyn S.	10/26/2006	11/29/2006	Fully Granted	Documents that define the mapped area of a location known as the St. Jacob's storage field owned and/or operated by Counterpoint Energy -MRT.
FY07-00014-000	Biggs, Natalie	10/24/2006	10/26/2006	Withdrawal	2004-2005 non-public FERC Form 580 for arizona Public Service Company eLibrary #20061013-4015.
FY07-00013-000	Jacobs, Seneca, Esq., P.E	10/23/2006	8/21/2007	Partially Denied	copy of the Environmental Mailing List for: PF06-31, PF06-30, CP06-428, PF06-023, PF06-7, PF06-21, PF06-3, PF06-12, PF06-28
FY07-00012-000	Gagne, Marielle	10/23/2006	11/21/2006	Withdrawal	Capacity Sale and Tolling Agreement filed May 1998 in ER98-2184-004, ER98-2185-004 and ER98-2186-004.
FY07-00011-000	Velte, Kyle	10/17/2006	11/30/2006	Fully Granted	Agency records concerning (1) reports of gross or net gas reserves, dedication of reserves, certificated capacity, etc.

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FY07-00010-000	Graf, Davis	10/17/2006	10/31/2006	Fully Granted	A copy of licensed hydro sites along the Black River from the twon of Carthage, NY to Lake Ontario.
FY07-00009-000	Mastranadi, John	10/13/2006	11/29/2006	Fully Granted	January 1, 2001, to the present, all correspondence between the Office of Senator Hillary Rodham Clinton (D-NY) and the Commission.
FY07-00008-000	Walker, Robert S.	10/13/2006	11/9/2006	No Documents Found	list of all public utilities who have obtained a waiver of Order No. 889 based on their qualifying as a asmall public utility.
FY07-00007-000	Rosenfeld, Ronald S.	10/12/2006	11/2/2006	Fully Denied	eLibrary accession no. 20060928-0057
FY07-00006-000	Smith, John	10/12/2006	11/9/2006	Fully Granted	Commission reports that were filed regarding two boats collided on Lake Murray, SC on July 30, 2006.
FY07-00005-000	Hedman, Susan	10/12/2006	11/9/2007	Fully Denied	Information relating to any meetings, telephone calls, etc., with Commission from 1/1/05, until the present by employees, or representatives of AmerenCILCO,
FY07-00004-000	Hedman, Susan	10/12/2006	11/9/2006	Fully Denied	Information relating to any meetings, etc., with members of the Commission from 11/15/05 until the present date by employees, agents Exelon Corp.
FY07-00003-000	Slaughter, Hopi	10/10/2006	11/1/2006	Fully Denied	Document No. 20061004-0061; a map filed under non-public status in CP06-459-000.
FY07-00002-000	Upton, Jeanene	10/5/2006	10/19/2006	Withdrawal	copy of the July 11, 1989, Nugget Hydroelectric's plan to limit the stream flow rate as required by article 404 of the license.
FY07-00001-000	Kliakhandler, Igor	10/5/2006	10/30/2006	No Documents Found	Specific information about outages/failures of power plants in the US.
FY06-00103-000	Hodes, Scott	9/29/2006	11/9/2006	Fully Denied	P-12454: Entire file for this project, including any memorandum, email or any other communications generated by or received the Commission's personnel.
FY06-00102-000	Spinner-Ludden, Donna	9/26/2006	11/8/2006	Fully Denied	P-2606-000: Memo dated 9/7/06 - Dam Safety for license surrender of the Dillsboro Project, P-2602 - # 20060912-0334.
FY06-00101-000	Nolan, Paul	9/26/2006	11/8/2006	Fully Granted	EL95-19114 and P3218: Final Environmental Impact Statement, Upper Ohio River Basin, September 1988.
FY06-00100-000	Blankenship, Ron	9/26/2006	2/13/2007	Partially Denied	PF06-30- Names & addresses of all parties impacted in Morgan, Johnson, and Shelby Counties of Indiana by Rockies Express PL.□ □
FY06-00099-000	Slocum, Tyson	9/22/2006	10/13/2006	No Documents Found	Meeting(s) between executive, lobbyists, letc., of Macquarie or Duquesne Light and any FERC Commissioners between 7/5/06 9/5/06.
FY06-00098-000	Slocum Tyson	9/18/2006	10/16/2006	No Documents Found	Meeting(s) between executives, etc., of Entergy or Consumers energy and any Commissioners, 7/12/05 and 8/25/06 Palisades nuclear power plant;
FY06-00097-000	WU, Kenneth C.	8/24/2006	9/21/2006	Partially Denied	Documentation relating to the Notice of Proposed Fourteen-day Suspension of Jenny Hermansen.
FY06-00096-000	Cabrera-Lopez, Maya	9/15/2006	10/13/2006	Fully Granted	Administrative Directives, Procedural Manuals, Handbooks & Employee Bulletins, etc.
FY06-00095-000	Norlander, Gerald	8/30/2006	4/20/2007	Partially Denied	Correspondence related to the effect of NY transmission line outages on reliability that was mentioned by Chairman Kelliher in his testimony on 7/12/06..□

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FY06-00094-000	Olsen, Neil N.	9/18/2006	10/31/2006	Partially Denied	P-2213: recording relating to Cowlitz County Public Utility District / Swift No. 2 Hydroelectric Project
FY06-00093-000	Bruno, Paul	8/30/2006	10/13/2006	Partially Denied	EC06-154: Northeast generaton Co., Holyoke Water Power Co. et al. Application for Authorization of transaction.
FY06-00092-000	Steponkus, Elizabeth D.	8/22/2006	10/5/2006	Withdrawal	Documents related to Contract #FERC03OED30111189 - Verdian. - FEE ISSUE WAS NEVER RESOLVED.
FY06-00091-000	Allen, John C.	8/11/2006	9/25/2006	Partially Denied	P-2146; Alabama Power Co's CD. - HEC-5 Data Sets and Output Files. Accession # 20060721-4121, 20060721-4110 through 20060721-4121
FY06-00090-000	Hodgson, Marcia	7/19/2006	8/30/2006	Fully Denied	PF06-27: Attachments A & B referenced in the 7/3/06 letter from El Paso's (accession#f 20060706-0292).
FY06-00089-000	Skelley, Lynne	7/18/2006	8/23/2006	Partially Denied	Sections A through J of the contract awarded from solicitation #FERC06RRG60057 to Preferred Systems Solutions.
FY06-00088-000	Lee, Tanya	7/17/2006	8/28/2006	Fully Denied	Copy of all maps submitted by Duke Power, to obtain its original license for the Bryson 980KW hydroelectric plant.
FY06-00087-000	Trust, William & Doris Dragich	7/17/2006	9/8/2006	Partially Denied	CP06-365, et al: Supplemental or updated list of affected landowners. I.
FY06-00086-000	Wildermugh, Gordon	7/13/2006	8/21/2006	Partially Denied	P-487: Documents given by accession numbers.
FY06-00085-000	Schallenberg, Robert	7/13/2006	8/3/2006	Withdrawal	CP06-407, CP06-408, CP06-409; Volume 4 containing exhibit P, Part 2.
FY06-00084-000	Lahiri, Robin	7/10/2006	8/10/2006	No Documents Found	Available data on companies that own vehicles, and have had any accidents, any consumer accident information, VIN #.
FY06-00083-000	Seeley, Tina	7/10/2006	8/21/2006	Fully Denied	Letters sent by Chairman Kelliher in May or June 2006 to Senators Feinstein and Cantwell regarding the reassignment of William Froehlich,
FY06-00082-000	Hosea, Robin Denise	7/6/2006	11/15/2006	Closed - Fee issue	Documents during the period 5/10/01 through 6/19/06 relating to or referencing Mrs. Hosea in connection with the Enron Corp.
FY06-00081-000	deWitt, Piet, PhD	7/3/2006	8/15/2006	Fully Granted	Copies of the Commission's NOI for specified Hydroelectric Projects.
FY06-00080-000	Ravnitzky, Michael	7/3/2006	8/15/2006	No Documents Found	FERC memoranda re: anticipated staffing needs as a result of projected increases in regulatory filings relating to LNG Terminal planning
FY06-00079-000	Ravnitzky, Michael	7/3/2006	8/15/2006	Discretionary Release in Full	The agenca and advance handouts for the planned FOIA Team meeting on July 20, 2005.
FY06-00078-000	Peter Andrews	6/29/2006	7/19/2006	No Documents Found	Documents regarding the transmission of electricity without wires.
FY06-00077-000	Verdon, Rachel	6/29/2006	7/20/2006	No Documents Found	Kenneth Lays responsibilities, project, assignments and oversights as Assistant Commission for FPC 1971 - 1972.
FY06-00076-000	Trust, William Doris Dragich	6/19/2006	7/10/2006	Transfer to Public Reference	CP06-365: # 20060605-4006 - Bradwood Landing LLC's CD - Application for authority to site, construct and operate LNG Import Terminal

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FY06-00075-000	Trust, William Doris Dragich Trust	6/19/2006	7/10/2006	Transfer to Public Reference	CP06-365: Accession No. 20060605-4008 - Bradwood Landing LLC's CD - Application for authority to site, construct LNG Import Terminal..
FY06-00074-000	Wesley, Alison	6/16/2006	6/30/2006	No Documents Found	Copy of all of its agencies' and bureau's Limited Payability Cancellation Reports for refunds and credits for the undeliverable checks..
FY06-00073-000	Carrk, Anthony	6/16/2006	7/17/2006	No Documents Found	Copy of any and all records regarding any investigations or inquireis taken by the Commission against Koch industries.
FY06-00072-000	Slocum, Tyson	6/15/2006	7/28/2006	Fully Granted	meeting(s) between executives, etc. or agents of National Grid /KeySpan and FERC Commissioners, between 2/24/06 and 5/24/06
FY06-00071-000	Turner Sam	6/13/2006	12/29/2006	Fully Granted	P-11264; Non-public and privileged material that is not posed in the eLibrary 7/1/01 to present. □
FY06-00070-000	Turner, Sam	6/9/2006	12/29/2006	Partially Denied	P-11264 - South Yadkin Power; Documents relating to this project
FY06-00069-000	Baldwin, Rebecca and Huang, William	6/8/2006	7/20/2006	Partially Denied	P-253-021- Records relating to the identity of the individual/department responsible for the 3/24/06 "Notice Rejecting pleading"
FY06-00068-000	Schwartz, Emma	6/5/2006	7/18/2006	Fully Granted	FOIA logs including the requester's name, affiliation, material requested and date requested 2005 & 2006.
FY06-00067-000	Ronald S. Rosenfeld	5/30/2006	6/12/2006	Fully Granted	Quoddy Bay presented information to the FERC on April 3, 2006, (submittal 20060412-0382)
FY06-00066-000	Mayer, Randolph A	5/22/2006	6/27/2006	Fully Granted	Communications between Mr. J. Morgan and/or his office, and Balch & Bingham and/or Alabama Pwr. re: letters 9/26 and 11/11/05 P-349.
FY06-00065-000	Cross, S. Lorraine	5/18/2006	6/28/2006	Fully Denied	ER99-2506-003: Submittal No. 20051219-0485, 12/01/05, Deseret Generation & Transmission- updated triennial market power analysis.
FY06-00064-000	Sheffield, Kathryn	5/19/2006	6/26/2006	Fully Granted	Project No. 349-070, Ticket No. 254745 - Copies of the Water Quality Certification that Alabama Power Company is required to submit regarding the Martin Dam Project.
FY06-00063-000	Francis, Vera	5/16/2006	6/15/2006	Fully Granted	Copies of any documents, letters, attachments, or transmittals from any member of congress relating to Quoddy Bay LLC and its LNG Terminal Project proosal.
FY06-00062-000	Cabrera-Lopez, Maya	5/9/2006	6/5/2006	Fully Granted	For the period December 1, 2004 to April 28, 2006, a copy of updated FERC Administrative directives, procedural manuals, handbooks and employee bulletins; Also any addition employee manuals, guides and memorandum.
FY06-00061-000	Allen, Jeffrey, PE	5/9/2006	6/6/2006	Fully Denied	Project No. 2458 - The shoreline map along the southern edge of Millinocket Lake in T1 Ra WELS, Maine - included in revised Exhibit g filed on 9/26.2001.
FY06-00060-000	Roberson, Leann	5/5/2006	7/6/2006	Partially Denied	CP06-85 - Submittal 20060315-0266 dated 3/10/06: pertaining to the attachment to resource report 1, Names and address of affected landowners under CP05-85, Volume V.
FY06-00059-000	Deborah & Joe Bennett	5/4/2006	6/16/2006	Partially Denied	Names/addresses/email addresses of every landowner in PF06-14

FEDERAL ENERGY REGULATORY COMMISSION
ITEM 1= FOIA LOGS January 25, 2006 - January 25, 2011

Number	Requester Name	Date Received	Date Closed	HowClosed	Description Subject
FY06-00058-000	Cantwell, Maria and Feinstein Diane	5/2/2006	6/13/2006	Partially Denied	EL03-180-000, et al: Specified exhibits filed by the Commission Trial Staff in this docket.
FY06-00057-000	Gilzow, H. Floyd	5/1/2006	6/13/2006	Fully Denied	P-2277 - Nonpublic documents relating to the Tau Sauk Pumped Storage Project.
FY06-00056-000	Bennett, Joe	4/26/2006	6/18/2006	Fully Granted	Letter on behalf of an individual by Senator Saxby Chambliss and the response- PF06-14 (# 2006046-0100).
FY06-00055-000	Kinder, Robert O.	4/26/2006	5/24/2006	Fully Granted	Application and the initial filings of the Jewell Ridge Project, CP05-413
FY06-00054-000	Allen Tyler	4/24/2006	5/18/2006	Fully Granted	Reply to U.S. Senator Saxby Chambliss on behalf of an individual re: concerns of a gas PL PF06-14 (# 20060406-0100).
FY06-00053-000	Ronald S. Rosenfeld	4/21/2006	6/1/2006	Withdrawal	PF06-11- submittal 20060412-0382;" Quoddy Bay hosted a state and federal inter-agency meeting on April 4, 2006.
FY06-00052-000	Hansen, Aren	4/13/2006	5/11/2006	Fully Granted	P-2082 - City of Klamath Falls, Brown and Caldwell request daily flow from the Westside Hydropower canal..
FY06-00051-000	Gibney, Alex	4/12/2006	5/9/2006	Transfer	EL03-180: Copy of all Enron trader tapes filed by trial staff in said docket on March 1, 2005, and on April 14, 2005,
FY06-00050-000	Chabot, Philip Jr.	4/12/2006	5/23/2006	Partially Denied	Communications between any member of OAL and the Commissioners' advisory staff and discussing any of specified (named) electric proceedings.
FY06-00049-000	Chabot, Philip Jr.	4/10/2006	5/3/2006	No Documents Found	communications between Daniel Larcamp and any member of OAL occurring after July 9, 2005, and discussing specific named Elecric proccedings.
FY06-00048-000	Hughes Jackson	4/11/2006	5/24/2006	Fully Denied	Requesting 715 information.
FY06-00047-000	Geil, Lee	4/9/2006	5/8/2006	Partially Denied	CE05-32: US Senator Maria Cantwell - comments on behalf of a constituents re: Williams Gas PL # 20060406-0113.
FY06-00046-000	Biblow, Charlotte	3/22/2006	5/9/2006	Partially Denied	Broadwater CP06-54, 55, 56: # 20060130-4030 thru 20060130-4106 - Application for authority to site, construc LNG Import Terminal Facilities.
FY06-00045-000	Biblow, Charlotte	3/20/2006	5/17/2006	Fully Granted	Broadwater CP06-54, 44 and 56: #20060303-0002 - Appendix E of the Advisory Report of the NY State.
FY06-00044-000	Falkson, Michael	3/22/2006	4/13/2006	Withdrawal	P-10482 - # 20060322-0142: EAP Testing Report: Mirant NY-Gen LLC submits the recommendation in response to FERC's letter.
FY06-00043-000	Slocum, Tyson	3/21/2006	4/25/2006	Withdrawal	National Gas Supply Association Commissioned Report analyzing the financial rate of return for 32 PL companies..
FY06-00042-000	Roche, Walter F.,Jr.	3/21/2006	4/14/2006	No Documents Found	Records from members of the Commission or its staff to or from Jamal Daniel, Neil M. Bush, Dee Osborne, etc, Freeport LNG,
FY06-00041-000	James, David	3/17/2006	4/28/2006	Withdrawal	Elba Island LNG Terminal shut down-Information regarding the 3/14/06 incident involving the LNG Golar Freeze.

FEDERAL ENERGY REGULATORY COMMISSION
ITEM 1= FOIA LOGS January 25, 2006 - January 25, 2011

Number	Requester Name	Date Received	Date Closed	HowClosed	Description Subject
FY06-00040-000	Kruger, Kyle	3/13/2006	3/23/2006	Withdrawal	P-2978, 2979, 2980 & 2990: Memo dated 3/8/06 summarizing the review of the Surrender of License of Exemptions for the Brown Bridge, .
FY06-00039-000	Cortea-Holmes, Alma	3/10/2006	4/5/2006	Withdrawal	transmission line map of the area within the M.A.P.P. region.
FY06-00038-000	Kimball, Steven	3/8/2006	4/28/2006	Discretionary Release in Full	Document relating to Big Creek Fire which ignited in 8/1994 in the vicinity of two powerhouses. P-2175 and P-67.
FY06-00037-000	Biblow, Charlotte	3/8/2006	5/2/2006	Partially Denied	Broadwater CP06-54, 55, and 56 - Accession number 20060130-4106; Resource Report 13.
FY06-00036-000	Biblow, Charlotte	3/8/2006	5/2/2006	Partially Denied	Broadwater CP06-54, 55 and 56: Application for authority to cite, construct, and operate LNG Import Facilities,. CP06-54, et al. #20060130-4049.
FY06-00035-000	Kerrigan, James F.	2/23/2006	3/14/2006	Fully Granted	FY2007 Information Technology (IT) budget / most recently published long-ranged IT plan (Exhibit 300's).
FY06-00034-000	Hedberg, Andi	2/21/2006	4/4/2006	No Documents Found	FY 2002 and 2003, Communicaton between the Commission and the Chief Financial Officer of the State of FL re: AES
FY06-00033-000	Mears, David	2/9/2006	2/22/2006	Withdrawal	All CEII information relating to: Quoddy Bay Proposed Facilities, CP07-35, -CP07-38
FY06-00032-000	Slocum,Tysons	2/9/2006	3/7/2006	No Documents Found	meeting(s) between executives, etc, of Constellation Energy and.or FPL and any or all of the Commissioners, 12/18/05 to present.
FY06-00031-000	Johnson, Robert	1/23/2006	2/14/2006	Fully Granted	Chicago firm who conducted the 2003 dam inspection of the Taum Sauk Reservoir.

ITEM 2
FOIA REQUESTS SUBMITTED 45 DAYS PRIOR TO CONGRESSIONAL LETTER (4)

Number	Requester Name	Date Received	Date Closed	How Closed	Description Subject
FY10-00083-000	Clemmer, Teresa/ Parenteau,	7/23/2010		Open-Rolling	Documents regarding the impact on the endangered Atlantic Salmon of FERC-licensed dams on the Little Androscoggin & Sebasticook Rivers.
FY11-00006-000	Hay, Ellen	10/27/2010		Open -Rolling	Documents relating to PF10-23-000 including U.S. National Park Service; and SHPO; documents, correspondence, photos, & emails.
FY11-00020-000	Batchelder, Stephen	12/2/2010		Open-Negotiated	Accession Number 20100629-0007 & 20100629-0008, (filed 6/29/2010) Gilman Stream, P-7473.
FY11-00022-000	Grier, Maren	12/7/2010		Open -Rolling	Documents associated w/ proceedings against Great Lakes Gas Trans. RP10-149-000. .

Item 3 Materials

FOIA-CEII

From: FOIA-CEII
Sent: Thursday, October 28, 2010 3:55 PM
To: 'ehay@wmlp.com'
Cc: FOIA-CEII; Angela Washington
Subject: ACKNOWLEDGEMENT: Freedom of Information Act Request - Ellen Hay - FOIA-11-6

Ms. Hay

The Federal Energy Regulatory has received your Freedom of Information Act (FOIA) request. It has been assigned reference number

FOIA-11-6. Every effort will be made to respond to your FOIA request within twenty business days or by **November 26, 2010.**

Per our telephone discussion I advised you of the availability of public documents in the FERC e-library. You also requested that FERC contact you if this request involves more than 100 pages or 2 hours of search time.

For your convenience we are providing the following links regarding the FERC e-library, FOIA fees and FOIA exemptions:

- **Information regarding the FERC e-library:** <http://www.ferc.gov/docs-filing/elibrary/what-is.asp>
- **E-library search: docket No. PF10-23:**
<http://elibrary.ferc.gov/idmws/search/eSaveAdv.asp?fdt=on&fd=1/1/2000&dk1=PF10%2D23&>
- **FOIA fee information:** <http://www.ferc.gov/legal/ceii-foia/foia/guide/fees.asp>
- **FOIA exemptions:** <http://www.ferc.gov/legal/ceii-foia/foia/basics.asp>

If you are interested in requesting material that is classified as Critical Energy Infrastructure Information (CEII), you will need to submit a CEII request form and a Non Disclosure Agreement. You can click on this link for these forms: <http://www.ferc.gov/legal/ceii-foia/ceii/eceii.asp>

If you have any questions or need assistance with the e-library, please do not hesitate to contact our FOIA-CEII Service Center by email at foia-ceii@ferc.gov or by phone at 202 502-6088.

Sincerely,

Toyia Johnson

Toyia Johnson
Federal Energy Regulatory Commission
Office of External Affairs
FOIA Public Liaison
(202) 502-8389

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-----Original Message-----

From: ehay@wmllp.com [mailto:ehay@wmllp.com]
Sent: Wednesday, October 27, 2010 1:16 PM
To: FOIA-CEII
Subject: Electronic FOIA Request Form

Title:

First Name: Ellen

Last Name: Hay

Organization: Wachtel & Masyr LLP

Street Address: 885 Second Avenue 47th Floor

Street Address2:

City: New York

State: New York

Zip Code: 10017

Phone: (917) 579-2975

Fax:

Email: ehay@wmllp.com

Your Request: Receive the material in electronic form (if possible)

Records Seeking: any and all documents relating to PF10-23-000 including but not limited to U.S. National Park Service; and SHPO; documents, correspondence, photos, and emails.

Expedited Threat:

Expedited Urgency:

Expedited Justification:

Expedited Processing Certify:

Payment of Fees: Notify me if the amount exceeds the entered amount

Specified Amount: \$ 0.00

Fee Waiver Justification:

FOIA-CEII

From: FOIA-CEII
Sent: Friday, October 29, 2010 4:45 PM
To: 'Jacquelyne.Rocan@elpaso.com'
Cc: FOIA-CEII; 'ehay@wmllp.com'
Subject: NOTICE OF FREEDOM OF INFORMATION ACT REQUEST - OPPORTUNITY TO COMMENT - Ellen Hay - FOIA-11-6
Attachments: NOTICE OF FREEDOM OF INFORMATION ACT REQUEST - OPPORTUNITY TO COMMENT - FY11-6.pdf; FOIA-11-6 - Request.doc; FERC E-library - PF10-23 - Privileged documents (4).pdf

Ms. Rocan

The Federal Energy Regulatory Commission (FERC) has received a Freedom of Information Act (FOIA) request to obtain information that you or your client have submitted at FERC. Please find attached a letter and a copy of the FOIA request. A copy of this information has also been mailed to you via the U.S. Postal Service.

If you have any questions or need further assistance, please do not hesitate to contact our FOIA-CEII Service Center by email at foia-ceii@ferc.gov or by phone at 202 502-6088.

Sincerely,

Toyla Johnson

Toyla Johnson
Federal Energy Regulatory Commission
Office of External Affairs
FOIA Public Liaison
(202) 502-8389

CC: Ellen Hay
ehay@wmllp.com

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Federal Energy Regulatory Commission
Washington, DC 20426

OCT 29 2010

Re: Submitter's Rights Letter,
FOIA No. FY11-6

VIA ELECTRONIC MAIL and REGULAR MAIL

Jacquelyne M. Rocan
Senior Counsel
Tennessee Gas Pipeline Company
1001 Louisiana Street
Houston, TX 77002
Jacquelyn.rocan@elpaso.com

Dear Ms. Rocan:

Pursuant to the Freedom of Information Act (FOIA),¹ and the Federal Energy Regulatory Commission's (Commission) regulations, 18 C.F.R. § 388.112(d) (2010), you are hereby notified that Ms. Ellen Hay is seeking to obtain any and all documents relating to PF10-23-000 including but not limited to U.S. National Park Service, SHPO documents, correspondence, photos, and emails. A copy of the FOIA request is enclosed.

Because you have asserted a "privileged and confidential" interest in the information requested, we are soliciting your comments on whether its release is required under the FOIA. Your written comments are due within five (5) business days from the date of this letter, and should clearly explain whether you oppose the release of these documents, or portions thereof, and the rationale for your position.

The Commission will not be persuaded by conclusory statements as to why the information deserves protection. The Commission may construe a non-response as evidence that the submitter does not object to releasing the document. The Commission encourages filers to consider negotiating with the requester to provide the information directly to the requester, where appropriate. Please notify the Commission if you elect to provide the information directly to Ms. Hay.

¹ 5 U.S.C. § 552 (2006), amended by OPEN Government Act of 2007, Pub. L. No. 110-175, 121 Stat. 2524.

Your comments, if any, may be mailed to the undersigned at the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, or sent by facsimile to (202) 208-2106. If you have any questions regarding this matter, please contact Ms. Toyia Johnson of my staff at (202) 502-8004 or e-mail to FOIA-CEII@ferc.gov.

Sincerely,



for Leonard M. Tao
Director
Office of External Affairs

Enclosure

cc: Ellen Hay
Wachtel & Masyr LLP
885 Second Avenue 47th Floor
New York, NY 10017
ehay@wmlp.com

FOIA-11-6

Received via web: Wednesday, October 27, 2010 1:16 PM

Track 2

Due Date: November 26, 2010

-----Original Message-----

From: ehay@wmllp.com (mailto:ehay@wmllp.com)

Sent: Wednesday, October 27, 2010 1:16 PM

To: FOIA-CELL

Subject: Electronic FOIA Request Form

Title:

First Name: Ellen

Last Name: Hay

Organization: Wachtel & Masyr LLP

Street Address: 885 Second Avenue 47th Floor

Street Address2:

City: New York

State: New York

Zip Code: 10017

Phone: (917) 579-2975

Fax:

Email: ehay@wmllp.com

Your Request: Receive the material in electronic form (if possible)

Records Seeking: any and all documents relating to PF10-23-000 including but not limited to U.S. National Park Service; and SHPO; documents, correspondence, photos, and emails.

Expedited Threat:

Expedited Urgency:

Expedited Justification:

Expedited Processing Certify:

Payment of Fees: Notify me if the amount exceeds the entered amount

Specified Amount: \$

Fee Waiver Justification:

FOIA-CEII

From: FOIA-CEII
Sent: Friday, November 26, 2010 4:50 PM
To: 'ehay@wmllp.com'
Cc: FOIA-CEII; Angela Washington
Subject: Ellen Hay - FOIA-11-6 - Extension Letter -11-26-10
Attachments: FOIA-11-6 - Extension Letter - 11-26-10.pdf

Ms. Hay

Please find attached a letter from the Federal Energy Regulatory Commission (FERC) regarding Freedom of Information Act (FOIA) request (**FOIA-11-6**) A copy of this letter has also been mailed to you via the U.S. Postal Service.

If you have any questions please do not hesitate to contact our FOIA Service Center by email at foia-ceii@ferc.gov or by phone at 202 502-6088.

Sincerely,

Toyia Johnson

Toyia Johnson
Federal Energy Regulatory Commission
Office of External Affairs
FOIA Public Liaison
(202) 502-8389

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FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D. C. 20426

November 26, 2010

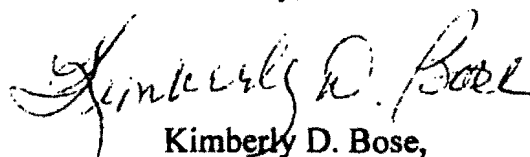
Re: FOIA No. FY11-6

Ms. Ellen Hay
Wachtel & Masyr LLP
885 Second Avenue 47th Floor
New York, NY 10017
ehay@wmlp.com

Dear Ms. Hay:

This letter is in reference to your Freedom of Information Act, 5 U.S.C. § 552 (2006), *amended by* OPEN Government Act of 2007, Pub. L. No. 110-175, 121 Stat. 2524, request filed with the Federal Energy Regulatory Commission (Commission) on October 27, 2010. We have determined that to reply to your request, we need to consult with other components of the agency having substantial subject-matter interest therein. Therefore, in accordance with the provisions in Section 388.110(b) of the Commission's Rules of Practice and Procedure, we are notifying you that we have extended the time limit to make an initial determination on your request for records. We expect to be able to send you an initial determination on your request by December 10, 2010.

Cordially,



Kimberly D. Bose,
Secretary.

cc: Leonard Tao
Director
Office of External Affairs
Federal Energy Regulatory Commission
Washington, DC 20426

FOIA-CEII

From: FOIA-CEII
Sent: Thursday, December 09, 2010 5:14 PM
To: 'ehay@wmllp.com'
Cc: FOIA-CEII
Subject: Ellen Hay - FOIA-11-6 - Initial response letter - 12-9-10
Attachments: Initial Response Letter - FOIA-11-6 - Ellen Hay - 12-9-10.pdf; Enclosures (3) - 12-9-10.pdf; FOIA-11-6 - Request.doc

Ms. Hay

Please find attached a letter from the Federal Energy Regulatory Commission (FERC) regarding Freedom of Information Act (FOIA) request **(FOIA-11-6)**. A copy of this letter and 3 enclosures have also been mailed to you via the U.S. Postal Service.

If you have any questions please do not hesitate to contact our FOIA Service Center by email at foia-ceii@ferc.gov or by phone at 202 502-6088.

Sincerely,

Toya Johnson

Toya Johnson

Federal Energy Regulatory Commission
Office of External Affairs
FOIA Public Liaison
(202) 502-8389

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Federal Energy Regulatory Commission
Washington, D.C. 20426

Re: FOIA No. FY11-6
Initial Response

DEC 9 2010

Ms. Ellen Hay
Wachtel & Masyr LLP
885 Second Avenue, 47th Floor
New York, NY 10017
ehay@wmllp.com

Dear Ms. Hay:

This is a partial response to your correspondence received October 27, 2010, in which you requested documents pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552 (2006), *amended by* OPEN Government Act of 2007, Pub. L. No. 110-175, 121 Stat. 2524, and the Federal Energy Regulatory Commission's (Commission or FERC) FOIA regulations, 18 C.F.R. § 388.108 (2010). You requested "any and all documents relating to PF10-23-000, including but not limited to U.S. National Park Service and SHPO documents correspondence, photos, and emails."

A search of the Commission's files has identified a large number of documents that may be responsive to your request. Given the volume of information requested and the amount of Commission staff time required to collect the information, we are making an initial release of documents with additional determinations addressing the remaining documents to follow on a rolling basis. At this time, Commission staff has determined that the following three documents may be released:

Item 1: September 10, 2010 Commission letter regarding FERC share of applicant-provided transportation;

Item 2: Northeast Upgrade Project open house handout; and

Item 3: Northeast Upgrade Project comment.

The following three documents are withheld pursuant to FOIA Exemption 6¹:

Item 4: Northeast Upgrade Project Landowner and Abutter List filed under Accession No. 20100706-5210;

¹ 5 U.S.C. § 552(b)(6).

Item 5: Stakeholder Mailing List, Landowners and Abutters filed under Accession No. 20100823-5042; and

Item 6: Northeast Upgrade Project Landowner and Abutter List Corrections filed under Accession No. 20100930-5090.

A seventh responsive document filed under Accession No. 20100823-5043 is classified as Critical Energy Infrastructure Information (CEII) and may only be released through the CEII request process. CEII is defined in 18 C.F.R. § 388.113(c) as "specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that: (i) Relates details about the production, generation, transportation, transmission, or distribution of energy; (ii) Could be useful to a person in planning an attack on critical infrastructure; (iii) Is exempt from mandatory disclosure under the Freedom of Information Act [FOIA], 5 U.S.C. 552; and (iv) Does not simply give the general location of the critical infrastructure."

FOIA Exemption 7(F) exempts "records or information compiled for law enforcement purposes" to the extent that release of such information "could reasonably be expected to endanger the life or physical safety of any individual." See 5 U.S.C. § 552(b)(7)(F). The information in the seventh responsive document could be used to plan an attack on energy infrastructure, endangering lives and safety of citizens in the vicinity of this facility, and is therefore being withheld under FOIA Exemption 7(F). Please note, access to CEII is subject to completion of an application process under 18 C.F.R. § 388.113. You may submit a request for CEII material by completing a CEII request form online at: <http://www.ferc.gov/legal/ceii-foia/ceii/eceii.asp>.

On October 29, 2010, pursuant to 18 C.F.R. § 388.112(d), the Commission, afforded Tennessee Gas Pipeline Company (TGPC), the submitter of Items 4, 5, and 6, an opportunity to comment on the possible release of its non-public information that you requested. TGPC provided a response opposing release pursuant to FOIA Exemption 6.

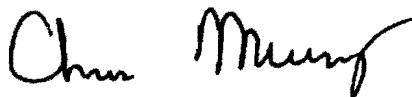
FOIA Exemption 6 provides that an agency should not disclose "files the disclosure of which would constitute a clearly unwarranted invasion of privacy." Commission staff have determined that Items 4, 5, and 6, which consist of names, personal addresses and other identifying data of private citizens, may be withheld because that information implicates a privacy interest that is protected from disclosure under FOIA Exemption 6. See, e.g., *Bibles v. Oregon Natural Desert Ass'n*, 519 U.S. 355 (1997); *National Ass'n of Retired Fed. Employees v. Horner*, 879 F.2d 873 (D.C. Cir. 1989). There is no reasonably segregable non-exempt material in Items 4, 5, and 6.

The Commission will continue to review the additional responsive documents and will endeavor to provide you with another determination within twenty business days of

the date of the this letter If you have any questions regarding this matter, please contact the undersigned by facsimile at (202) 208-2106 or contact Toyia Johnson of my staff at (202) 502-8004.

As provided by the Freedom of Information Act and 18 C.F.R. § 388.110(a) (1) of the Commission's regulations, any appeal from this determination must be filed within 45 days of the date of this letter. This appeal must be in writing, addressed to Michael Bardee, Acting General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, and clearly marked "Freedom of Information Act Appeal." Please also send a copy to Charles A. Beamon, Associate General Counsel, General and Administrative Law, at the same address.

Sincerely,



for
Leonard M. Tao
Director
Office of External Affairs

Enclosures (3)

1

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

OFFICE OF ENERGY PROJECTS

In Reply Refer To:
OEP/DG2E/Gas 1
Tennessee Gas Pipeline Company
Northeast Upgrade Project
Docket No. PF10-23-000

September 10, 2010
Stephen Weems
El Paso Corporation
PO Box 2563
Birmingham, AL 35202
205-521-6084

Re: FERC Share of Applicant-Provided Transportation

Dear Mr. Weems,

David Hanobic of the Federal Energy Regulatory Commission (FERC) will be participating in a chartered overflight of the Northeast Upgrade Project (PF10-23-000) on or about September 15, 2010. The flight will be conducted by Air Metro Helicopters. FERC is responsible for its portion of the total overflight expense. Currently, FERC's portion of the bill is estimated to be about \$1,200.

Once you determine the actual cost, please prepare a bill for our expenses which clearly identifies FERC's portion of the total charges, includes a description of the services rendered, and references travel authorization number 0QVVCE. Please submit the bill by mail to:

Federal Energy Regulatory Commission
Attn: Mr. William D. Brown
Division of Financial Services, Room 42-73
888 First Street NE, Washington, DC 20426

If you have any questions, please call Mr. Brown at 202-502-8956 or myself at 202-502-6177.

Sincerely,

J. Rich McGuire
Chief, Gas Branch 1
Division of Gas-Environment
and Engineering

cc: William Brown



**PRE-FILING REVIEW for the
NORTHEAST UPGRADE PROJECT
Docket No. PF10-23-000**

The Project: Northeast Upgrade Project

Tennessee Gas Pipeline Company (TGP) has announced its intention to build approximately 37 miles of 30-inch-diameter natural gas pipeline in five loop segments in Bradford, Wayne, and Pike Counties, Pennsylvania and Sussex, Passaic, and Bergen Counties, New Jersey. The new pipeline loops would primarily be installed adjacent to TGP's existing rights-of-way. The proposed project is referred to as the Northeast Upgrade Project or Project.

The Project would also include modifications at TGP's existing Compressor Stations 319, 321, 323, and 325 in Bradford, Susquehanna, and Pike Counties, Pennsylvania, and Sussex County, New Jersey, and at an existing meter station in Bergen

County, New Jersey. The Project would increase natural gas capacity by about 636,000 dekatherms per day from TGP's Compressor Station 219 in Mercer County, Pennsylvania to its delivery point at Mahwah, New Jersey. TGP plans to begin construction in late 2012.

The Federal Energy Regulatory Commission (FERC, or Commission) is the federal agency charged by Congress with determining whether natural gas pipeline projects, such as the Northeast Upgrade Project, are in the public convenience and necessity. The information below explains the FERC's pre-filing environmental review process for the proposed Project and how you can get involved early in that process.

The Process: A "Pre-Filing" Environmental Review Has Begun

The FERC is the lead federal agency responsible for conducting the environmental review of interstate pipeline projects in compliance with the National Environmental Policy Act (NEPA). As part of this process, the FERC will prepare a detailed environmental analysis for the Project. The FERC will use the analysis to consider the environmental impact that could result if it issues TGP a Certificate of Public Convenience and Necessity under section 7 of the Natural Gas Act.

The Northeast Upgrade Project is in the preliminary planning phase – the precise details have not yet been finalized, and a formal application has not been filed with the FERC. However, the FERC has initiated a pre-filing, or pre-application, environmental review process for the Project to allow early involvement by citizens, governmental entities, and other interested parties.

The purpose of the pre-filing process is to encourage involvement by interested stakeholders in a manner that allows for the early identification and resolution of environmental issues. During the pre-filing process, the FERC staff will notify affected landowners, citizen groups, governmental entities, and other interested parties of the Project and will request comments from them. You can make a difference by providing the FERC with your specific comments or concerns about the Project during the pre-filing process.

The FERC staff will work with all interested stakeholders to identify and attempt to address issues prior to the time when TGP files its application with the FERC.

Between September 13 and¹ 16, 2010, the FERC staff will participate in public open houses sponsored by TGP in Montague and Ringwood, New Jersey, and Wyalusing and Hawley, Pennsylvania, to explain the environmental review process to interested stakeholders. Shortly after the open houses, FERC staff intends to issue a Notice of Intent (NOI) to prepare an Environmental Assessment (EA) for the Northeast Upgrade Project. The notice will be sent to affected landowners, jurisdictional agencies, governmental entities, Native American tribes, citizen groups, local libraries and newspapers, and other interested parties. The NOI will also be published in the Federal Register. The notice will provide a description of the proposed Project, discuss the environmental issues identified to date, and request written comments or concerns about the Project. If the FERC staff determines that public scoping meetings are necessary, the dates, times, and locations of the meetings will also be included in the notice. Additionally, any FERC sponsored scoping meetings or site visits for the Project will be posted on the Commission's calendar located at www.ferc.gov/EventCalendar/EventsList.aspx along with other related information.

Your Input Is Valued

Early involvement by you and others will help the FERC staff evaluate the Project's potential impact on the environment. Please help this process work by providing the FERC with written comments and concerns about the potential environmental impact of the Northeast Upgrade Project. You can also contact TGP directly at (877-366-2650) with your specific comments or concerns about the Project.

Your comments to the FERC will be most useful if they focus on the potential environmental effects

of the proposal, alternatives to the proposal (including alternative locations and routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Comments that you submit to the FERC during the pre-filing process will be part of the public record and will not have to be resubmitted after TGP files its application with the FERC.

How to Share Your Comments and Concerns with the FERC

For your convenience, there are three methods which you can use to submit your comments to the Commission. In all instances please reference the Project docket number (PF10-23-000) with your submission. The Commission encourages electronic filing of comments and has expert eFiling staff available to assist you at (202) 502-8258 or efiling@ferc.gov.

(1) You may file your comments electronically by using the Quick Comment feature, which is located at www.ferc.gov under the link called "Documents and Filings". A Quick Comment is an easy method for interested persons to submit text-only comments on a project;

(2) You may file your comments electronically by using the "eFiling" feature that is listed under the "Documents and Filings" link. eFiling involves

preparing your submission in the same manner as you would if filing on paper, and then saving the file on your computer's hard drive. You will attach that file to your submission. New eFiling users must first create an account by clicking on the links called "Sign up" or "eRegister". You will be asked to select the type of filing you are making. A comment on a particular project is considered a "Comment on a Filing"; or

(3) You may file a paper copy of your comments at the following address:

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE, Room 1A
Washington, DC 20426

How to See What Else is Filed with the FERC

To see what information has been filed with the FERC regarding the Project, go to the FERC website at www.ferc.gov and use the "eLibrary" link. Select "General Search" from the eLibrary menu and enter the docket number (i.e., PF10-23) in the Docket Number field. Be sure you have selected an appropriate date range and follow the

instructions. Searches may also be done using the phrase "Northeast Upgrade Project" in the "Text Search" field. For assistance with access to eLibrary, use FERCOnlineSupport@ferc.gov, or the FERC telephone helpline at 1-866-208-3678 (TTY contact 202-502-8659).

How to Contact TGP

To request additional information on the Project or to provide comments directly to the Project sponsor, you can contact TGP by phone at 877-366-2650. Also, TGP has established an Internet website at <http://www.elpaso.com/northeastupgrade>.

The website includes a description of the Project, an overview map of the pipeline facilities, and links to related documents. TGP will update the website as the environmental review of its Project proceeds.

3

FEDERAL ENERGY REGULATORY COMMISSION
TENNESSEE GAS PIPELINE COMPANY'S
NORTHEAST UPGRADE PROJECT (DOCKET NO. PF10-23-000)

Comments can be: (1) left with a FERC representative; (2) mailed to the addresses below; or (3) electronically filed.¹

Please send one copy referenced to Docket No.
PF10-23-000 to the address below.

For Official Filing:

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE, Room 1A
Washington, DC 20426

Privileged
and
Confidential

COMMENTS: (PLEASE PRINT) [continue on back of page if necessary]

I AM INTERESTED IN THE PROPOSED PIPELINE GOING
UNDER THE SUSQUEHANNA.
NEED MORE INFORMATION -

SHOULD BE DRILLED
ARE THERE NATIVE AMERICAN SITES WHERE
STAGING WORK IS BEING DONE ON WEST SIDE
OF RIVER

Commentor's Name and Mailing Address (Please Print)

DAVID BUCK NORTH BRANCH WATER TRAIL MANAGER
ENDLESS MOUNTAIN HERITAGE REGION
1 WASHINGTON ST
TAMMISA, PA 18848
570-265-1528

¹ The Commission strongly encourages electronic filing of any comments or interventions or protests to this proceeding. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at <http://www.ferc.gov> under the "e-Filing" link and the link to the User's Guide. Before you can file comments you will need to create a free account by clicking on "Login to File" and then "New User Account".

FOIA-11-6

Received via web: Wednesday, October 27, 2010 1:16 PM

Track 2

Due Date: November 26, 2010

-----Original Message-----

From: ehay@wmllp.com (mailto:ehay@wmllp.com)

Sent: Wednesday, October 27, 2010 1:16 PM

To: FOIA-CELL

Subject: Electronic FOIA Request Form

Title:

First Name: Ellen

Last Name: Hay

Organization: Wachtel & Masyr LLP

Street Address: 885 Second Avenue 47th Floor

Street Address2:

City: New York

State: New York

Zip Code: 10017

Phone: (917) 579-2975

Fax:

Email: ehay@wmllp.com

Your Request: Receive the material in electronic form (if possible)

Records Seeking: any and all documents relating to PF10-23-000 including but not limited to U.S. National Park Service; and SHPO; documents, correspondence, photos, and emails.

Expedited Threat:

Expedited Urgency:

Expedited Justification:

Expedited Processing Certify:

Payment of Fees: Notify me if the amount exceeds the entered amount

Specified Amount: \$

Fee Waiver Justification:

FY11-20

FOIA-CEII

From: FOIA-CEII
Sent: Thursday, December 02, 2010 6:04 PM
To: [REDACTED]
Cc: FOIA-CEII
Subject: ACKNOWLEDGEMENT: Stephen Batchelder - FOIA-11-20

Mr. Batchelder

The Federal Energy Regulatory has received your Freedom of Information Act (FOIA) request. Your request has been assigned reference number **FOIA-11-20**.

Every effort will be made to respond to your FOIA request within twenty business days or by **January 3, 2011**.

If you have any questions, please do not hesitate to contact our FOIA-CEII Service Center by email at foia-ceii@ferc.gov or by phone at 202 502-6088.

Sincerely,

Toya Johnson

Toya Johnson
Federal Energy Regulatory Commission
Office of External Affairs
FOIA Public Liaison
(202) 502-8389

NOTICE: This email message and any attachments are for the sole use of the intended recipients and may contain information that is classified as privileged, CEII or otherwise protected from disclosure. Any unauthorized review, use, disclosure or distribution is strictly prohibited. If you are not the intended recipient, please contact the sender by reply email and delete the original message from your computer system and destroy any copies of the message as well as any attachments.

-----Original Message-----

From: [REDACTED] [mailto:[REDACTED]]

Sent: Thursday, December 02, 2010 12:52 PM
To: FOIA-CEII
Subject: Electronic FOIA Request Form

Title: President
First Name: Stephen
Last Name: Batchelder
Organization: Gilman Pond Lake Association
Street Address: [REDACTED]
Street Address2:
City: [REDACTED]
State: [REDACTED]
Zip Code: [REDACTED]
Phone: [REDACTED]
Fax:
Email: [REDACTED]

Your Request: A copy of the following documents

Records Seeking: I am requesting a copy of Accession Number 20100629-0007 & 20100629-0008, dated 6/22/2010 (filed 6/29/2010) entitled "Virginia Ann La Noce submits comments re the Gilman Stream Hydro Project under P-7473.

Expedited Threat:

Expedited Urgency:

Expedited Justification:

Expedited Processing Certify:

Payment of Fees: Notify me if the amount exceeds the entered amount

SpecifiedAmount: \$ 000.00


Fee Waiver Justification: I am President of Gilman Pond Lake Association. Since 2009 I have lodged several complaints against John Bertl & Virginia Ann La Noce, who are the owners and operators of Gilman Stream Hydro, P-7473. Gilman Stream Hydro has been in violation of an agreement contained in its Exemption from Licensing. The "Agreement" dated May 29, 1987, is a component part of the Exemption, and is a matter of public record. As President of GPLA, I have been directed to make complaint, as appropriate, and to advise the membership of all relative FERC documents. We, the members of GPLA, are owners of vacation homes which abut the waters of Gilman Pond and Gilman Stream. The violations cited in my complaints are based on flooding of our properties during high water events. Neither I nor the members of GPLA have any commercial interest in the FERC document requested.

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D. C 20426

January 3, 2011

Re: FOIA No. FY11-20

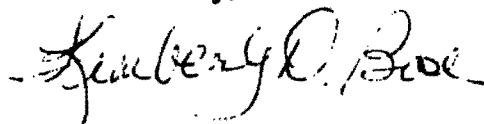
Mr. Stephen Batchelder
President
Gilman Pond Lake Association



Dear Mr. Batchelder:

This letter is in reference to your Freedom of Information Act, 5 U.S.C. § 552 (2006), *amended by* OPEN Government Act of 2007, Pub. L. No. 110-175, 121 Stat. 2524, request filed with the Federal Energy Regulatory Commission (Commission) on December 2, 2010. We have determined that to reply to your request, we need to consult with other components of the agency having substantial subject-matter interest therein. Therefore, in accordance with the provisions in Section 388.110(b) of the Commission's Rules of Practice and Procedure, we are notifying you that we have extended the time limit to make an initial determination on your request for records. We expect to be able to send you an initial determination on your request by January 18, 2011.

Cordially,



Kimberly D. Bose
Secretary

cc: Leonard M. Tao
Director
Office of External Affairs
Federal Energy Regulatory Commission
Washington, DC 20426

FOIA-CEII

From: FOIA-CEII
Sent: Tuesday, January 18, 2011 11:10 AM
To: [REDACTED]
Cc: FOIA-CEII; [REDACTED]; Angela Washington
Subject: Stephen Batchelder - FOIA-11-20 - Request for confirmation of receipt - Withdrawal of request
Attachments: Re: FOIA-11-20

Mr. Batchelder

On December 22, 2010 Ms. LaNoce contacted the Federal Energy Regulatory and stated she would provide you with a 'redacted' version of the document that you requested in FOIA request number FY-11-20. Can you please confirm if you received this document? If so, we kindly ask that you withdraw your FOIA request.

If you have any questions, please do not hesitate to contact our FOIA-CEII Service Center by email at foia-ceii@ferc.gov or by phone at 202 502-6088.

Sincerely,

Toya Johnson

Toya Johnson
Federal Energy Regulatory Commission
Office of External Affairs
FOIA Public Liaison
(202) 502-8389

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Exemption 6

FOIA-CEII

From: Angela Washington
Sent: Thursday, December 23, 2010 2:16 PM
To: [REDACTED]
Cc: [REDACTED]; Ann Gorton; Jean Womack; FOIA-CEII
Subject: Re: FOIA-11-20

Per your telephone discussion with Toyia Johnson on December 22, 2010, you confirmed that you received notification regarding FOIA number FOIA-11-20. You stated that you will provide a redacted version of this document, without you personal information, to their requester, Mr. Batchelder on December 30, 2010.

[REDACTED]

CC: [REDACTED]

Angela M. Washington

Management Analyst for the Office of External Affairs

Federal Energy Regulatory Commission

202-502-8870

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Exemption 6

FOIA-CEII

From: Ann Gorton
Sent: Tuesday, February 15, 2011 5:42 PM
To: Toyia Johnson
Subject: FW: FOIA request FY11-020

From: Ann Gorton
Sent: Tuesday, January 18, 2011 7:33 PM
To: [REDACTED]
Cc: FOIA-CEII; Jeffrey Kaplan; Jean Womack
Subject: FOIA request FY11-020

Mr. Batchelder –

This is to confirm our conversation by telephone earlier today, in which we agreed that the Commission will send you a response to your FOIA request within a week, or by Tuesday, January 25, 2011. As I said, we are actively working on your request and will make every effort to get the response to you earlier if possible. I greatly appreciate your cooperation and your patience in this matter. If you would like to contact me directly, you may e-mail or call me at (202) 502-8591. Thank you.

Ann Gorton

FOIA-CEII

From: FOIA-CEII
Sent: Tuesday, January 25, 2011 4:16 PM
To: [REDACTED]
Cc: FOIA-CEII; [REDACTED]
Subject: FOIA-11-20 - Stephen Batchelder - Notice of Intent to release - 1-25-11
Attachments: Notice of intent to release - FOIA-11-20 Stephen Batchelder - 1-25-11.pdf; FOIA-11-20 - Request.doc

Mr. Batchelder

Please find attached a letter from the Federal Energy Regulatory Commission (FERC) regarding Freedom of Information Act (FOIA) request (**FOIA-11-20**). A copy of this letter has also been mailed to you via the U.S. Postal Service.

If you have any questions please do not hesitate to contact our FOIA Service Center by email at foia-ceii@ferc.gov or by phone at 202 502-6088.

Sincerely,

Toyia Johnson

Toyia Johnson
Federal Energy Regulatory Commission
Office of External Affairs
FOIA Public Liaison
(202) 502-8389

CC: Virginia LaNoce (Copy mailed certified via U.S. Postal service w/enclosure)
[REDACTED]

NOTICE: This email message and any attachments are for the sole use of the intended recipients and may contain information that is classified as privileged, CEII or otherwise protected from disclosure. Any unauthorized review, use, disclosure or distribution is strictly prohibited. If you are not the intended recipient, please contact the sender by reply email and delete the original message from your computer system and destroy any copies of the message as well as any attachments.

Exemption 6

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

January 25, 2011

Notice of Intent to Release
Re: FOIA No. FY11-020

[REDACTED]

Dear [REDACTED]

Pursuant to the Freedom of Information Act (FOIA),¹ and the Federal Energy Regulatory Commission's (Commission) regulations, specifically 18 C.F.R. § 388.112(e) (2010), you are hereby notified that the Commission is partially denying your claim of privileged treatment regarding information requested by Mr. Stephen Batchelder of the Gilman Pond Lake Association. Specifically, Mr. Batchelder requested a copy of the privileged version of the letter submitted by you on June 29, 2010 in Docket No. P-7473-001, filed under Accession No. 20100629-0008 (June 29 Letter). You indicated that the letter contained personal information (personal telephone numbers) the release of which could cause an unwarranted invasion of the personal privacy of various individuals named in the letter.

It is my understanding that, by telephone conversation of December 22, 2010 with Ms. Toyia Johnson of my staff, you confirmed that you had received notice of Mr. Batchelder's request pursuant to 18 C.F.R. § 388.112(d) and that you were provided an opportunity to comment. I also understand that you told Ms. Johnson you would redact the privileged personal information from the June 29 Letter and give the redacted version to the requester, Mr. Stephen Batchelder, on December 30, 2010. Mr. Batchelder has informed Commission staff that as of January 18, 2011, he had yet to receive the document from you. Accordingly, I intend to release a redacted version of the document to him.

The June 29 Letter is being released in redacted form pursuant to FOIA Exemption 6, which protects "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." 5 U.S.C. § 552(b)(6).² The redacted portions of this document are being withheld pursuant to

¹ 5 U.S.C. § 552 (2006), *amended by* OPEN Government Act of 2007, Pub. L. No. 110-175, 121 Stat. 2524.

² That exemption provides that an agency should not release "files the disclosure of which would constitute a clearly unwarranted invasion of privacy." *See, e.g., Bibles v.*

FOIA No. FY11-020

- 2 -

FOIA Exemption 6 because they contain personal information, telephone numbers of individuals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. *See, e.g., Kidd v. Department of Justice*, 362 F.Supp. 2d 291 (D.D.C. 2005) (finding that "personal identifying information commonly found in constituent letters does not advance the purposes of FOIA and, as such, may be withheld from FOIA requests"). In this instance, the public interest in disclosure does not outweigh the substantial privacy interest of the individuals' home and/or cell telephone numbers. The release of the phone numbers of businesses and commercial entities would not implicate a privacy interest that is protected under FOIA Exemption 6, 5 U.S.C. § 552(b)(6), and for that reason those phone numbers will be released. All reasonably segregable portions of nonexempt material are being provided.

Your request for privileged treatment of the June 29 Letter is denied in part. The version of the document with the personal telephone numbers redacted that is intended to be released is enclosed for your information. This document will be made publicly available no sooner than five (5) calendar days from the date of this letter. *See* 18 C.F.R. § 388.112(e). If you have any questions regarding this matter, please contact Toyia Johnson of my staff at (202) 502-8004 or e-mail to FOIA-CEII@ferc.gov.

Sincerely,



Leonard M. Tao

Director

Office of External Affairs

Enclosure

cc: Stephen Batchelder (without enclosure)
Gilman Pond Lake Association



Oregon Natural Desert Ass'n, 519 U.S. 355 (1997); *National Ass'n of Retired Fed. Employees v. Horner*, 879 F.2d 873 (D.C. Cir. 1989).

Exemption 6

FOIA-11-20

Received via e-mail: Thursday, December 02, 2010 12:52 PM

Track 1

Due Date: January 3, 2011

-----Original Message-----

From: [REDACTED]
(mailto:[REDACTED])
Sent: Thursday, December 02, 2010 12:52 PM
To: FOIA-CELL
Subject: Electronic FOIA Request Form

Title: President
First Name: Stephen
Last Name: Batchelder
Organization: Gilman Pond Lake Association
Street Address: [REDACTED]
Street Address2:
City: [REDACTED]
State: [REDACTED]
Zip Code: [REDACTED]
Phone: [REDACTED]
Fax:
Email: [REDACTED]

Your Request: A copy of the following documents
Records Seeking: I am requesting a copy of Accession Number
20100629-0007 & 20100629-0008, dated 6/22/2010 (filed 6/29/2010)
entitled "Virginia Ann La Noce submits comments re the Gilman Stream
Hydro Project
under P-7473.
Expedited Threat:
Expedited Urgency:
Expedited Justification:
Expedited Processing Certify:

Payment of Fees: Notify me if the amount exceeds the entered amount

SpecifiedAmount: \$ 000.00

Fee Waiver Justification: I am President of Gilman Pond Lake Association. Since 2009 I have lodged several complaints against John Bertl & Virginia Ann La Noce, who are the owners and operators of Gilman Stream Hydro, P-7473 . Gilman Stream Hydro has been in violation of an agreement contained in its Exemption from Licensing. The "Agreement" dated May 29, 1987, is a component part of the Exemption, and is a matter of public record. As President of GPLA, I have been directed to make complaint, as appropriate, and to advise the membership of all relative FERC documents. We, the members of GPLA, are owners of vacation homes which abut the waters of Gilman Pond and Gilman Stream. The violations cited in my complaints are based on flooding of our properties during high water events. Neither I nor the members of GPLA have any commercial interest in the FERC document requested.

FY11-22

Exemption 6

FOIA-CEII

From: FOIA-CEII
Sent: Wednesday, December 08, 2010 6:22 PM
To: [REDACTED]
Cc: FOIA-CEII
Subject: ACKNOWLEDGEMENT: Maren Grier - FOIA-11-22
Attachments: FOIA-11-22 - Request.pdf

Ms. Grier

Per our telephone discussion today, I advised you that the Federal Energy Regulatory Commission (FERC) e-library contains an index of all documents that are issued by or submitted to FERC. I assisted you with conducting an e-library search which did not identify non public documents regarding docket number RP10-149. You requested that FERC continue to process your Freedom of Information Act (FOIA) request for non public material that may not be in the e-library, such as e-mails and discovery material.

Your request has been assigned reference number **FOIA-11-22**. Every effort will be made to respond to your FOIA request within twenty business days or by **January 6, 2011**.

If you have any questions, please do not hesitate to contact our FOIA-CEII Service Center by email at foia-ceii@ferc.gov or by phone at 202 502-6088.

Sincerely,

Toyia Johnson

Toyia Johnson
Federal Energy Regulatory Commission
Office of External Affairs
FOIA Public Liaison
(202) 502-8389

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may contain information that is classified as privileged, CEII or otherwise protected from disclosure. Any unauthorized review, use, disclosure or distribution is strictly prohibited. If you are not the intended recipient, please contact the sender by reply email and delete the original message from your computer system and destroy any copies of the message as well as any attachments.

FOIA-11-22

Received via Overnight Mail: December 7, 2010

Track 3

Due Date: January 6, 2011

BRIGGS
BRIGGS AND MORGAN

2200 IDS Center
80 South 8th Street
Minneapolis MN 55402-2157
tel 612.977.8400
fax 612.977.8650

December 6, 2010

Maren F. Grier
(612) 977-8829
mgrier@briggs.com

VIA FEDERAL EXPRESS

Leonard Tao
Director
Federal Energy Regulatory Commission
Office of External Affairs
888 First Street, NE
Washington, DC 20426

Re: Freedom of Information Act Request

Dear Mr. Tao:

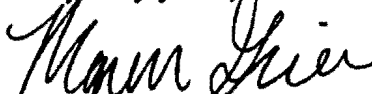
On behalf of Essar Steel Minnesota, LLC (ESML), and pursuant to 5 U.S.C. § 552, we hereby request the following information from the Federal Energy Regulatory Commission (FERC):

1. All documents and other information, not available online through FERC's document management system, associated with proceedings instituted against Great Lakes Gas Transmission Limited Partnership pursuant to FERC's November 19, 2009 Order (Docket No. RP10-149-000). Responsive documents may include, but are not limited to, all pleadings, correspondence, discovery, transcripts, hearing minutes, exhibits and settlement agreements, whether in electronic or hardcopy form.

ESML has a commercial interest in these documents, and is willing to pay a reasonable fee associated with this records request. However, if this fee is expected to exceed \$1,500.00, please contact me first. We ask that you produce responsive documents in their entirety, including all attachments, enclosures, and exhibits. If you determine that a document contains material or information which falls within a statutory exemption, we ask that such material or information be reviewed for discretionary disclosure.

Thank you for your prompt attention to this matter.

Very truly yours,


Maren F. Grier

OFFICE OF
EXTERNAL AFFAIRS
2010 DEC -7 P 12:10
FEDERAL ENERGY
REGULATORY COMMISSION

Envelope

Exemption 6

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D. C. 20426

January 5, 2011

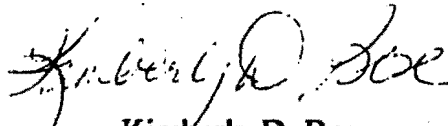
Re: FOIA No. FY11-22

[REDACTED]

Dear [REDACTED]

This letter is in reference to your Freedom of Information Act, 5 U.S.C. § 552 (2006), *amended by* OPEN Government Act of 2007, Pub. L. No. 110-175, 121 Stat. 2524, request filed with the Federal Energy Regulatory Commission (Commission) on December 7, 2010. We have determined that to reply to your request, we need to consult with other components of the agency having substantial subject-matter interest therein. Therefore, in accordance with the provisions in Section 388.110(b) of the Commission's Rules of Practice and Procedure, we are notifying you that we have extended the time limit to make an initial determination on your request for records. We expect to be able to send you an initial determination on your request by January 21, 2011.

Cordially,



Kimberly D. Bose,
Secretary.

cc: Leonard Tao
Director
Office of External Affairs
Federal Energy Regulatory Commission
Washington, DC 20426

Exemption 6

FOIA-CEII

From: FOIA-CEII
Sent: Tuesday, January 11, 2011 6:42 PM
To: 'catharine_davis@transcanada.com'; 'Dave_hammel@transcanada.com'
Cc: FOIA-CEII; 'msundback@andrewskurth.com'; [REDACTED]
Subject: NOTICE OF FREEDOM OF INFORMATION ACT REQUEST - OPPORTUNITY TO COMMENT - Maren Grier - FOIA-11-22
Attachments: NOTICE OF FREEDOM OF INFORMATION ACT REQUEST - OPPORTUNITY TO COMMENT - FOIA-11-22 - January 11, 2011.pdf; FOIA-11-22 - Request.pdf

Ms. Davis

Hammel

The Federal Energy Regulatory Commission (FERC) has received a Freedom of Information Act (FOIA) request to obtain information that you or your client have submitted at FERC. Please find attached a letter and a copy of the FOIA request. A copy of this information has also been mailed to you via the U.S. Postal Service.

If you have any questions or need further assistance, please do not hesitate to contact our FOIA-CEII Service Center by email at foia-ceii@ferc.gov or by phone at 202 502-6088.

Sincerely,

Toyia Johnson

Toyia Johnson
Federal Energy Regulatory Commission
Office of External Affairs
FOIA Public Liaison
(202) 502-8389

CC: [REDACTED]
[REDACTED]

Mark Sundback
msundback@andrewskurth.com

NOTICE: This email message and any attachments are for the sole use of the intended recipients and may contain information that is classified as privileged, CEII or otherwise protected from disclosure. Any unauthorized review, use, disclosure or distribution is strictly prohibited. If you are not the intended recipient, please contact the sender by reply email and delete the original message from your computer system and destroy any copies of the message as well as any attachments.

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D. C. 20426

JAN 11 2011

Re: Submitter's Rights Letter,
FOIA No. FY11-22

VIA ELECTRONIC AND REGULAR MAILINGS

Ms. Catharine Davis
Associate General Counsel
Great Lakes Gas Transmission
717 Texas Avenue
Houston, TX 77002
Catharine_davis@transcanada.com

Mr. David Hammel
Counsel
Great Lakes Gas Transmission
717 Texas Avenue
Houston, TX 77002
Dave_hammel@transcanada.com

Dear Ms. Davis and Mr. Hammel:

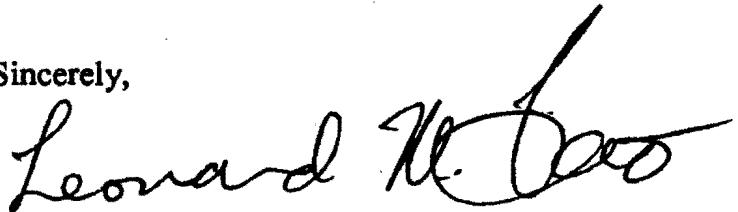
Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552 (2006), *amended by* OPEN Government Act of 2007, Pub. L. No. 110-175, 121 Stat. 2524, and the Federal Energy Regulatory Commission's (Commission) regulations, specifically 18 C.F.R. § 388.112(d) (2010), you are hereby notified that Maren F. Grier of Briggs and Morgan has filed the enclosed request for information submitted in the matter of Great Lakes Gas Transmission Limited Partnership (Great Lakes) in Docket No. RP10-149. A search of the Commission's non-public files identified Great Lakes' responses to the Commission's discovery request(s), which may have been submitted with a claim of "privileged and confidential" treatment.

Because a "privileged and confidential" interest may have been asserted in the information requested, the Commission is soliciting your comments on whether its release is required under the FOIA. Your written comments are due within five (5) business days from the date of this letter and should clearly explain whether you oppose the release of these documents, or portions thereof, and the rationale for your position.

The Commission will not be persuaded by conclusory statements as to why the information deserves protection. The agency may construe a non-response as evidence that the submitter does not object to releasing the document. The Commission encourages filers to consider negotiating with the requester to provide the information directly, where appropriate. Please notify the Commission if you elect to provide the information directly to Ms. Grier.

Your comments, if any, may be mailed to the undersigned at the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, or sent by facsimile to (202) 208-2106. If you have any questions regarding this matter, please contact Ms. Toyia Johnson of my staff at (202) 502-6088 or e-mail to FOIA-CEII@ferc.gov.

Sincerely,



Leonard M. Tao
Director
Office of External Affairs

Enclosure

cc: Maren F. Grier, Esq.
Associate
Briggs and Morgan
2200 IDS Center
80 South 8th Street
Minneapolis, MN 55402-2157
mgrier@briggs.com

FOIA-11-22

Received via Overnight Mail: December 7, 2010

Track 3

Due Date: January 6, 2011

BRIGGS

BRIGGS AND MORGAN

2200 IDS Center
80 South 8th Street
Minneapolis MN 55402-2157
tel 612.977.8400
fax 612.977.8650

December 6, 2010

Maren F. Grier
(612) 977-8829
mgrier@briggs.com

VIA FEDERAL EXPRESS

Leonard Tao
Director
Federal Energy Regulatory Commission
Office of External Affairs
888 First Street, NE
Washington, DC 20426

Re: Freedom of Information Act Request

Dear Mr. Tao:

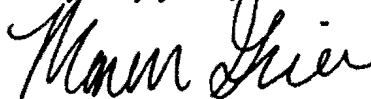
On behalf of Essar Steel Minnesota, LLC (ESML), and pursuant to 5 U.S.C. § 552, we hereby request the following information from the Federal Energy Regulatory Commission (FERC):

1. All documents and other information, not available online through FERC's document management system, associated with proceedings instituted against Great Lakes Gas Transmission Limited Partnership pursuant to FERC's November 19, 2009 Order (Docket No. RP10-149-000). Responsive documents may include, but are not limited to, all pleadings, correspondence, discovery, transcripts, hearing minutes, exhibits and settlement agreements, whether in electronic or hardcopy form.

ESML has a commercial interest in these documents, and is willing to pay a reasonable fee associated with this records request. However, if this fee is expected to exceed \$1,500.00, please contact me first. We ask that you produce responsive documents in their entirety, including all attachments, enclosures, and exhibits. If you determine that a document contains material or information which falls within a statutory exemption, we ask that such material or information be reviewed for discretionary disclosure.

Thank you for your prompt attention to this matter.

Very truly yours,



Maren F. Grier

OFFICE OF
EXTERNAL AFFAIRS
2010 DEC -7 P 12:10
FEDERAL ENERGY
REGULATORY COMMISSION

9715
12.07

FOIA-CEII

From: FOIA-CEII
Sent: Thursday, January 20, 2011 7:02 PM
To: 'mgrier@briggs.com'
Cc: FOIA-CEII
Subject: Maren Grier - FOIA-11-22 - Initial response letter - 1-20-11
Attachments: Maren Grier FOIA-11-22 - Initial response letter - 1-20-11 .pdf; Enclosure - FOIA-11-22.pdf; FOIA-11-22 - Request.pdf

Ms. Grier

Please find attached a letter from the Federal Energy Regulatory Commission (FERC) regarding Freedom of Information Act (FOIA) request **(FOIA-11-22)**. A copy of this letter and one enclosure have also been mailed to you via the U.S. Postal Service.

If you have any questions please do not hesitate to contact our FOIA Service Center by email at foia-ceii@ferc.gov or by phone at 202 502-6088.

Sincerely,

Toyia Johnson

Toyia Johnson

Federal Energy Regulatory Commission
Office of External Affairs
FOIA Public Liaison
(202) 502-8389

NOTICE: This email message and any attachments are for the sole use of the intended recipients and may contain information that is classified as privileged, CEII or otherwise protected from disclosure. Any unauthorized review, use, disclosure or distribution is strictly prohibited. If you are not the intended recipient, please contact the sender by reply email and delete the original message from your computer system and destroy any copies of the message as well as any attachments.

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D. C. 20426

January 20, 2011

Re: FOIA No. FY11-22

Maren F. Grier, Esq.
Briggs and Morgan
2200 IDS Center
80 South 8th Street
Minneapolis, MN 55402-2157
mgrier@briggs.com

Dear Ms. Grier:

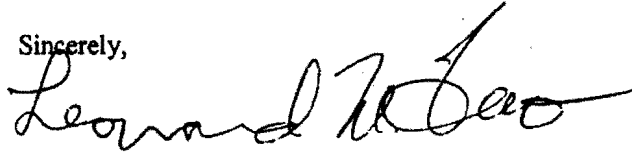
This letter responds, in part, to your correspondence received December 7, 2011, in which you requested documents pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552 (2006), *amended by* OPEN Government Act of 2007, Pub. L. No. 110-175, 121 Stat. 2524, and the Federal Energy Regulatory Commission's (Commission or FERC) FOIA regulations, 18 C.F.R. § 388.108 (2010). You requested:

All documents and other information, not available online through FERC's document management system, associated with proceedings instituted against Great Lakes Gas Transmission Limited Partnership [GLGT] pursuant to FERC's November 19, 2009 Order (Docket No. RP10-149-000). Responsive documents may include, but are not limited to, all pleadings, correspondence, discovery, transcripts, hearing minutes, exhibits, and settlement agreements, whether in electronic or hardcopy form.

An initial search of the Commission's non-public files identified one (1) document, Rule for the Conduct of the Hearing (Docket No. RP10-149-000), that may be responsive to your request and is being released in full. In addition, the Commission located some of GLGT's responses to Commission's Discovery Request(s), and e-mails sent by and among Commission staff. These documents are still being reviewed to see if they are appropriate for release. Commission staff will also continue to review the Commission's non-public files for other documents that may be responsive to your request.

The Commission will provide you with any additional responsive documents that are suitable for release under FOIA regulations and will cite any exemptions relied upon to withhold documents. You will also be informed when Commission staff has concluded their search. If you have any questions regarding this matter, please contact Ms. Toyia Johnson of my staff at (202) 502-8004.

Sincerely,

A handwritten signature in black ink, appearing to read "Leonard M. Tao", written in a cursive style.

Leonard M. Tao
Director
Office of External Affairs

Enclosure

RULES FOR THE CONDUCT OF THE HEARING

Great Lakes Transmission Limited Partnership, Docket No. RP10-149-000

David H. Coffman, Presiding Administrative Law Judge

I. Discovery

A. The participants shall not provide discovery requests, discovery responses or any objections to discovery requests to the Presiding Administrative Law Judge (Judge). The participants shall make intensive, good faith efforts to resolve discovery disputes prior to filing a motion to compel, and shall fully describe those efforts in any motion to compel and answer thereto.

B. The participants shall attach the pertinent parts of the discovery request and objections to a motion to compel. If a dispute is still unresolved by further negotiations after a motion to compel is filed, an answer to such a motion shall be filed no later than two business days before oral argument (unless a different time is established).

C. Oral argument will be scheduled upon receipt of a motion to compel, usually with at least seven days' notice.

II. Exhibits and Testimony

A. In the absence of a stipulation, the providing of proper authentication and the laying of a proper foundation are prerequisites to an exhibit's admission into evidence.

B. All exhibits shall be numbered and marked as follows:

1. Each participant shall use alpha-numeric designations, and shall adopt a prefix of no more than three letters. For example, Staff will use the prefix "S", and will number exhibits *seriatim*, i.e., S-1, S-2, etc.

2. No exhibit may be marked with more than one identifying number; i.e., do not use temporary designations such as those referencing witnesses' initials.

3. The pages of each exhibit shall be numbered sequentially.

C. The pre-filed testimony of each witness shall be marked as an exhibit and prefaced with a summary of the main points that are contained in the testimony and in the supporting exhibits. The summary will not become part of the evidentiary record unless the offering participant states this to be its intent at the time the testimony and summary are pre-filed.

D. All participants sponsoring exhibits must provide the Judge with two hard copies of each exhibit when filed. The Judge's copies shall be individually tabbed on the right side and triple-hole punched. The number of each exhibit shall be marked on its tab. More than one exhibit may be combined in a loose-leaf binder. Exhibits provided to the Judge and the additional two copies required for the court reporter when proffered for the official record at the hearing may not be bound in a permanent binder from which individual exhibits cannot easily be removed.

E. Prior to the commencement of the hearing, all parties sponsoring exhibits must submit to the Judge two copies of an index of all of the exhibits each expects to offer through its own witnesses, and shall provide copies to the other parties. The index should include four columns. In the first two columns, the party should include the number of the exhibit and a brief description of the exhibit. The last two columns should be labeled "Identified" and "Received", and need only include sufficient space for a date.

III. Joint Narrative Statement of Issues, Briefs and Joint Witness List

A. The issues to be tried are to be limited to those included in the Joint Narrative Stipulation of Issues (JNSI), any amendments thereto permitted by the Judge, and any additional issues that the Judge deems necessary to properly adjudicate the matters set for hearing in this proceeding. The JNSI shall contain a concise, neutral statement of each issue numbered *seriatim*, the position of each party on each issue, the names of the witnesses, citations to the testimony and exhibits in support of each party's position on each issue, and dollar amounts in issue where applicable. Good examples of a format for the JNSI can be found at *Southern Natural Gas Co.*, 58 FERC ¶ 63,027 (1992) and 62 FERC ¶ 63,006 (1993).

B. Pre-trial and post-trial briefs shall identify each issue by its number and caption. All the briefs will thus address all of the same issues, allowing for easy comparison of the arguments. If a participant does not wish to address a specific issue, a statement to that effect should be included. Post-trial briefs shall begin a new issue on a new page.

C. The parties shall file a joint order of witness list, which shall list the witnesses in the order in which they will testify. For each witness, the parties shall (i) identify the offering party, (ii) concisely identify the issue(s) that the testimony shall address, and (iii) provide the order and estimated time of cross-examination for each party.

IV. Conduct at the Hearing

A. Persons attending the hearing are free to come and go as they wish providing the hearing is not disturbed.

B. No reading of extraneous material shall be permitted.

C. Cell phones and wireless message devices must be turned off or set on silent notification. Cell phone calls shall not be answered in the hearing room while the hearing is in session.

D. There is wireless internet service available in the FERC second floor hearing rooms if a user has a broadband card and service plan from a cellular company.

E. Food and beverages, other than water, are not permitted in the hearing room. This prohibition applies regardless of whether the hearing is in session.

F. No cross conversation between opposing counsel shall be permitted. If counsel has anything to say to opposing counsel, such statement must be made through the Judge. Quiet consultation between counsel and assistants or witnesses is allowed.

G. Any document which counsel wishes to show to a witness must first be shown to opposing counsel.

H. If counsel wishes official notice to be taken of a document, two copies must be provided to the Judge.

I. When a witness is sworn, everyone in the hearing room must be seated and quiet.

J. Counsel must make all arguments and objections prior to a ruling. After the ruling, no further discussion of the matter is permissible.

V. Waiver

The hearing will be conducted in conformance with these Rules. However, in the extraordinary circumstance where inflexible adherence to these Rules will result in an injustice, the Judge will entertain requests from counsel for relief.

VI. Enforcement

It is counsel's responsibility to make the Judge aware of infractions by making a timely objection. Failure to make a timely objection will result in the conclusion that counsel consents to a waiver of the Rule.

VII. Documents to be Filed with the Judge

All documents required to be filed in this proceeding must be filed with the Secretary of the Commission and, unless otherwise specified in this proceeding, in compliance with 18 C.F.R. Subpart T – Formal Requirements for Filings in Proceedings Before the Commission. 18 C.F.R. §§ 385.2001 - 385.2013 (2009). On the day of filing, each party shall provide me with two copies of every document filed with the Secretary, and shall send electronic copies of such documents to me at david.coffman@ferc.gov and to my law clerk, Peter Ripley, at peter.ripley@ferc.gov. The documents should be provided in Microsoft Word format. Exhibits and attachments that exist only in another format, such as PDF or Microsoft Excel, may be provided in their existing formats. Copies of documents served upon opposing parties but not filed with the Secretary, such as data requests, shall not be provided to me or to Mr. Ripley.

FOIA-11-22

Received via Overnight Mail: December 7, 2010

Track 3

Due Date: January 6, 2011



2200 IDS Center
80 South 8th Street
Minneapolis MN 55402-2157
tel 612.977.8400
fax 612.977.8650

December 6, 2010

Maren F. Grier
(612) 977-8829
mgrier@briggs.com

VIA FEDERAL EXPRESS

Leonard Tao
Director
Federal Energy Regulatory Commission
Office of External Affairs
888 First Street, NE
Washington, DC 20426

Re: Freedom of Information Act Request

Dear Mr. Tao:

On behalf of Essar Steel Minnesota, LLC (ESML), and pursuant to 5 U.S.C. § 552, we hereby request the following information from the Federal Energy Regulatory Commission (FERC):

1. All documents and other information, not available online through FERC's document management system, associated with proceedings instituted against Great Lakes Gas Transmission Limited Partnership pursuant to FERC's November 19, 2009 Order (Docket No. RP10-149-000). Responsive documents may include, but are not limited to, all pleadings, correspondence, discovery, transcripts, hearing minutes, exhibits and settlement agreements, whether in electronic or hardcopy form.

ESML has a commercial interest in these documents, and is willing to pay a reasonable fee associated with this records request. However, if this fee is expected to exceed \$1,500.00, please contact me first. We ask that you produce responsive documents in their entirety, including all attachments, enclosures, and exhibits. If you determine that a document contains material or information which falls within a statutory exemption, we ask that such material or information be reviewed for discretionary disclosure.

Thank you for your prompt attention to this matter.

Very truly yours,
A handwritten signature in black ink, appearing to read "Maren Grier".
Maren F. Grier

OFFICE OF
EXTERNAL AFFAIRS
2010 DEC -7 P 12:10
FEDERAL ENERGY
REGULATORY COMMISSION

Express

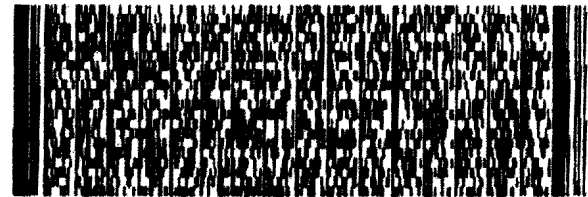
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SHIP DATE: DEC 10
ACTWGT: 8
CAD: 0045 17/CAFE2470

**TO LEONARD TAO
FEDERAL ENERGY REGULATORY COMM
OFFICE OF EXTERNAL AFFAIRS
888 FIRST STREET NE
WASHINGTON DC 20426**

REF: 37219.00011.02495 MFG



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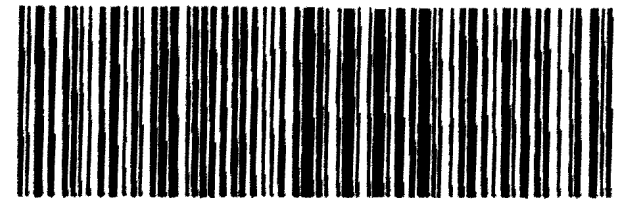
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TUE - 07 DEC A2
STANDARD OVERNIGHT

XC YKNA

20426
DC-US
DCA

The World



Envelope

FOIA-CEII

From: Teresa Clemmer [TCLEMMER@vermontlaw.edu]
Sent: Friday, July 23, 2010 3:46 PM
To: FOIA-CEII; Julia Bovey
Cc: Mollie Matteson; Jordan Gonda; Laura Colangelo; Patrick Parenteau
Subject: Supplemental FOIA Request
Attachments: 2010-07-23 -- FERC Supplemental FOIA (FINAL).pdf

Dear Ms. Bovey and Ms. Johnson,

We are submitting the attached FOIA request concerning Atlantic salmon in Maine. This is meant to supplement our earlier request dated April 15, 2010. Please feel free to contact us if you have any questions or concerns.

Sincerely,

Teresa Clemmer

Teresa B. Clemmer
Acting Director of ENRLC & Associate Professor of Law
Vermont Law School
164 Chelsea Street, PO Box 96
South Royalton, VT 05068
(802) 831-1136 (phone)
(802) 831-1631 (fax)
tclemmer@vermontlaw.edu

Environmental and Natural Resources Law Clinic
Vermont Law School, PO Box 96, Chelsea Street, South Royalton, VT 05068
802.831.1630 (phone), 802.831.1631 (fax)

July 23, 2010

Via Email and U.S. Mail to:

Julia Bovey, Director
Office of External Affairs
Federal Energy Regulation Commission
888 First Street, NE
Washington, D.C. 20426
julia.bovey@ferc.gov

Toyia Johnson, FOIA Public Liaison
Office of External Affairs
Federal Energy Regulation Commission
888 First Street, NE
Washington, D.C. 20426
foia-ceii@ferc.gov

Re: Supplemental Freedom of Information Act Request Concerning Dams and Atlantic Salmon in Maine

Dear Ms. Bovey and Ms. Johnson:

On behalf of our client Center for Biological Diversity (CBD), we filed a FOIA request on April 15, 2010 regarding the impact of FERC-licensed dams on the endangered Atlantic salmon (*Salmo salar*) in the Androscoggin and Kennebec Rivers in Maine. We are writing to renew that request, as well as to request additional records beyond those included in our original request.

A. Request for Records

For purposes of the following requests, the term "records" means information of any kind, including, but not limited to, writings (handwritten, typed, electronic or otherwise produced or stored), letters, e-mails, facsimiles, inspection reports, memoranda, correspondence, notes, field notes, telephone conversations, documents, data bases, drawings, graphs, charts, maps, photographs, minutes of meetings, electronic and magnetic recordings of meetings, and any other compilation of data from which information can be obtained. All of the foregoing is included in these requests if they are in the possession of, or otherwise under the control of, FERC. If such records are no longer under the control of the FERC, but were at any time, the term "records" shall include all information of any kind regarding the current location of such records, including, but not limited to, those types of information listed above. Moreover, for purposes of the following requests, "Maine" means all land, air, and water within the State's boundaries.

1. Renewal of Earlier Requests

FERC initially responded to our FOIA request with an email on April 15, 2010 directing us to the e-library, where the agency maintained we could find much of the information we sought through our own efforts. With its formal determination letter dated May 26, 2010, FERC

reiterated the availability of information on the website, and also provided fifteen documents and withheld twenty-nine others as exempt. We have filed an appeal regarding the withheld documents. In our appeal, we also discussed the unavailability of many key documents on the website, the difficulty of navigation without assistance from agency staff, and the inadequacy of the website search as a means to comply with the FOIA. (Please see pages 4-7 of our appeal dated July 12, 2010, which is attached hereto.)

In the hope of obviating the need to pursue the appeal process any further, we respectfully renew our earlier request for records concerning the Androscoggin and Kennebec Rivers in light of the sincere but unsuccessful efforts we have made in attempting to navigate your website. These requests should be construed as excluding the fifteen documents you have already provided to us. We remain hopeful that you will reconsider your decision to withhold twenty-nine documents and disclose those notwithstanding the availability of an exemption. If not, please provide us with detailed information concerning the basis for withholding of each document, as described in the attached appeal.

2. Additional Requests for Records

The requests below represent an expansion of our earlier requests to encompass not only the Androscoggin and Kennebec Rivers, but also the Little Androscoggin and the Sebasticook, which are tributaries of the Androscoggin and Kennebec respectively. In addition, we are seeking dam licenses and water quality certifications for several dams because their license dates pre-dated the scope of our original request, and because they do not appear to be available on your website. Finally, since Environmental Impact Statements (EISs) for the dams in question were unavailable on your website and the FERC website assistance customer service representative with whom we consulted was unable to locate them, we are requesting final National Environmental Policy Act (NEPA) documents for several specified dams.

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and its implementing regulations, 18 C.F.R. § 388.108 *et seq.*, we respectfully request all records including:

1. All records discussing Atlantic salmon in the Androscoggin, Kennebec, Sebasticook and/or Little Androscoggin Rivers in Maine dated on or after January 1, 2005, including but not limited to correspondence and communications between or among FERC, U.S. Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS), the State of Maine, and/or dam licensees.
2. All records discussing FERC-licensed dams and/or dam licensees on the Androscoggin, Kennebec, Sebasticook and/or Little Androscoggin Rivers in Maine dated on or after January 1, 2005, including but not limited to correspondence and communications between or among FERC, U.S. Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS), the State of Maine, and/or dam licensees.
3. All records discussing effects on Atlantic salmon from the existence and/or operation of FERC-licensed dams on the Androscoggin, Kennebec, Sebasticook and/or Little Androscoggin Rivers in Maine dated on or after January 1, 2005.

4. All records discussing effects on Atlantic salmon from the existence and/or operation of the following non-FERC-licensed dams dated on or after January 1, 2005: Pioneer and Waverly Dams (both in Pittsfield, ME), Mechanic Falls Dam (Mechanic Falls, ME), Welchville Dam (Oxford, ME), and South Paris and Blacoe Falls Dams (both in South Paris, ME).
5. All records discussing the potential need for incidental take permits under section 9 of the Endangered Species Act for Atlantic salmon on the Kennebec, Androscoggin, Sebasticook and/or Little Androscoggin Rivers in Maine dated on or after January 1, 2005.
6. Dam licenses and corresponding water quality certifications for the projects listed below. An asterisk by the docket number indicates that the license is available in the e-library, but only in a form that we cannot access or save (such as Microfilm). Projects without an asterisk did not appear to be available on your website at all. Please send all licenses and water quality certifications requested via email, CD, or flash drive in PDF or Word document format.

Requests for Dam Licenses and Water Quality Certifications					
P-2322	SHAWMUT	FPL ENERGY MAINE HYDRO, LLC.	01/05/81	01/31/21	Kennebec
P-2325*	WESTON	FPL ENERGY MAINE HYDRO, LLC.	11/25/97	10/31/36	
P-2611*	HYDRO-KENNEBEC	HYDRO KEENEBC L.P.	10/15/86	09/30/36	
P-2284	BRUNSWICK	FPL ENERGY MAINE HYDRO, LLC.	02/09/79	02/28/29	Androscoggin
P-2302*	LEWISTON FALLS	FPL ENERGY MAINE HYDRO, LLC.	09/29/86	08/31/26	
P-2333*	RUMFORD FALLS	RUMFORD FALLS HYDRO, LLC.	10/18/94	09/30/24	
P-3428*	WORUMBO	MILLER HYDRO GROUP INC (ME)	12/24/85	11/30/25	
P-4784	PEJEPSCOT	TETON POWER FUNDING, LLC	09/16/82	08/31/22	
P-11006	UPPER ANDROSCOGGIN	LEWISTON CITY OF (ME)	02/26/91	08/31/26	
p-5073*	BENTON FALLS	BENTON FALLS ASSOCIATES (NY)	03/08/84	02/28/34	Sebasticook

P-2808	BARKER'S MILL	KEI (MAINE) POWER MGMT (III) LLC	02/23/79	01/31/19	Little Androscoggin
P-3562*	BARKER MILL UPPER	KEI (MAINE) POWER MGMT (III) LLC	08/22/83	07/31/23	
P-6398*	HACKETT MILLS	HACKETT MILLS HYDRO ASSOCIATES (MD)	09/12/84	08/31/24	

7. All final NEPA documents prepared with respect to each of the FERC-licensed dams listed below, including but not limited to determinations concerning the applicability of categorical exclusions, environmental assessments, findings of no significant impact, environmental impact statements, and records of decision.

Requests for Final NEPA Documents					
P-2322	SHAWMUT	FPL ENERGY MAINE HYDRO, LLC.	01/05/81	01/31/21	Kennebec
P-2325	WESTON	FPL ENERGY MAINE HYDRO, LLC.	11/25/97	10/31/36	
P-2574	LOCKWOOD	MERIMIL LTD PARTNERSHIP (ME)	03/04/05	10/31/36	
P-2611	HYDRO- KENNEBEC	HYDRO KEENEBC L.P.	10/15/86	09/30/36	
P-2283	GULF ISLAND - DEER RIPS	FPL ENERGY MAINE HYDRO, LLC.	08/23/06	07/31/36	Androscoggin
P-2284	BRUNSWICK	FPL ENERGY MAINE HYDRO, LLC.	02/09/79	02/28/29	
P-2302	LEWISTON FALLS	FPL ENERGY MAINE HYDRO, LLC.	09/29/86	08/31/26	
P-2333	RUMFORD FALLS	RUMFORD FALLS HYDRO, LLC.	10/18/94	09/30/24	
P-2375	RILEY-JAY- LIVERMORE	VERSO ANDROSCOGGIN, LLC.	09/16/98	09/15/48	
P-3428	WORUMBO	MILLER HYDRO GROUP INC (ME)	12/24/85	11/30/25	
P-4784	PEJEPSCOT	TETON POWER FUNDING, LLC	09/16/82	08/31/22	
P-8277	OTIS	VERSO ANDROSCOGGIN, LLC.	09/16/98	09/15/48	

P-11006	UPPER ANDROSCOGGIN	LEWISTON CITY OF (ME)	02/26/91	08/31/26	
p-5073	BENTON FALLS	BENTON FALLS ASSOCIATES (NY)	03/08/84	02/28/34	Sebasticook
p-11472	BURNHAM	KEI (MAINE) POWER MGMT (II) LLC	04/07/04	10/31/36	
P-2808	BARKER'S MILL	KEI (MAINE) POWER MGMT (III) LLC	02/23/79	01/31/19	Little Androscoggin
P-3562	BARKER MILL UPPER	KEI (MAINE) POWER MGMT (III) LLC	08/22/83	07/31/23	
P-6398	HACKETT MILLS	HACKETT MILLS HYDRO ASSOCIATES (MD)	09/12/84	08/31/24	
P-11482	MARCAL	KEI (MAINE) POWER MGMT (IV) LLC	07/17/97	06/30/37	

8. All records discussing exemptions and/or other special permits granted for Pioneer and Waverly Dams (both in Pittsfield, ME), Mechanic Falls Dam (Mechanic Falls, ME), Welchville Dam (Oxford, ME), and/or South Paris and Blacoe Falls Dams (both in South Paris, ME).

B. Claims of Exemption from Disclosure

If you regard any of the requested records to be exempt from required disclosure under FOIA, we request that you nevertheless disclose them in the public interest since disclosure will serve to educate the public about the operations and activities of the federal government. The Obama administration reversed the previous policy on FOIA requests, urging federal agencies to be more transparent. *See Memorandum for the Heads of Executive Departments and Agencies*, 74 Fed. Reg. 4683 (Jan. 26, 2009). Under the new policy, "[a]ll agencies should adopt a presumption in favor of disclosure..." and should act "in a spirit of cooperation, recognizing that such agencies are servants of the public." Additionally, guidelines from the Attorney General under this policy state that agencies "should not withhold information simply because it may do so legally." Attorney General, *Memorandum on the Freedom of Information Act* (Mar. 19, 2009).

Should you decide to invoke a FOIA exemption, please include in your full or partial denial letter sufficient information for us to appeal the denial. To comport with legal requirements this information must include reasons for denying any part of each requested document and notice that the requester has the right to "appeal any adverse determination" to the General Counsel in writing. 18 C.F.R. 388.108(c)(1). If information is withheld the Director should "indicate the approximate volume of information withheld, and...for partially-released materials, where redactions have been made, unless to do so would harm an interest protected by a FOIA exemption." 18 C.F.R. 388.108(c)(3).

If you determine that portions of the records requested are exempt from disclosure, please segregate the exempt portions and mail the remaining records to the above location within the statutory time limits after the exempted material has been redacted.

C. Fee Waiver

In your response to our initial request dated May 26, 2010, you noted that determination of our fee waiver request was unnecessary as CBD qualified for a reduced processing fees under 18 C.F.R. § 388.109(b)(2)(iii), and thus no fees were assessed once this was applied to our request. Please confirm that this reduced processing fee will apply in a similar manner to this supplemental request. If not, please refer to the explanation in our April 15, 2010 FOIA request as to why our current request should be entitled to a fee waiver as well.

As provided in FOIA, we anticipate a reply within twenty working days, i.e., by August 20, 2010. See 5 U.S.C. § 552 (a)(6)(A)(i); 18 C.F.R. § 388.108(c)(1). If you find this request is unclear in any way, please do not hesitate to contact me at (802) 831-1136 or tclemmer@vermontlaw.edu. We would be happy to discuss ways to clarify this request or otherwise expedite and simplify your efforts to comply with our request.

Thank you for your assistance. Please send the requested records to my attention at the above address.

Very truly yours,



Teresa B. Clemmer
Associate Director ENRLC

Cc: Mollie Matteson, CBD
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July 12, 2010

Via Facsimile, Email, and Certified Mail

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**Re: FREEDOM OF INFORMATION ACT APPEAL
FOIA No. FY10-56 (Maine Atlantic Salmon)**

On behalf of our client the Center for Biological Diversity ("CBD"), we are writing to appeal the Federal Energy Regulatory Commission's ("FERC's") response to our request for records discussing endangered Atlantic Salmon on the Androscoggin and Kennebec rivers in Maine. First, FERC has not conducted a reasonable and diligent search. Second, FERC has directed us to its e-library as a publicly available source of information, but many of the records we seek are unavailable on the website. Furthermore, the complexity of the site's various search mechanisms makes it excessively burdensome and unreliable for citizens without assistance from agency personnel. Third, FERC has failed to demonstrate the applicability of the deliberative process privilege. Finally, FERC's response runs counter to the FOIA statute's strong presumption in favor of discretionary disclosure as well as President Obama's recent call for increased agency transparency.

I. BACKGROUND

In our Request dated April 15, 2010 (hereinafter "Request") (Exhibit 1), we sought:

1. All records including correspondences and communications between FERC and dam licensees regarding Atlantic salmon on the Androscoggin and Kennebec Rivers in Maine since January 1, 2005.
2. All records including correspondences and communications between FERC and the U.S. Fish and Wildlife Service (USFWS) regarding dam licensees and Atlantic salmon on the Androscoggin and Kennebec Rivers in Maine since January 1, 2005.
3. All records including correspondences and communications between FERC and the National Marine Fisheries Service (NMFS) regarding dam licensees and Atlantic salmon on the Androscoggin and Kennebec Rivers in Maine since January 1, 2005.
4. All records concerning or related to effects on Atlantic salmon from the operation of FERC- licensed dams on the Androscoggin and Kennebec Rivers in Maine since January 1, 2005.
5. All records concerning or related to the potential need for incidental take permits under section 9 of the Endangered Species Act for Atlantic salmon on the Androscoggin and Kennebec Rivers in Maine since June 19, 2009.

FERC initially responded to our FOIA request with an email on April 15, 2010 (hereinafter "Initial Email") (Exhibit 2) directing us to the FERC website's e-library, where the agency maintained we could find much of the information we sought through our own efforts. With its formal determination letter dated May 26, 2010 (hereinafter "Response") (Exhibit 3), FERC provided fifteen documents and withheld twenty-nine others as exempt under the deliberative process privilege. These withheld documents included "drafts of Commission letters, orders, or settlement agreements." The Response also reiterated that more information was available on the FERC website's e-library.

As per the instructions in FERC's formal determination letter (Exhibit 3) and applicable regulations, we are making a timely appeal.¹

II. FERC DID NOT CONDUCT A REASONABLE AND DILIGENT SEARCH.

It is well established that an agency responding to a FOIA request must conduct a search "reasonably calculated to uncover all relevant documents."² The reasonableness of the search

¹ See 18 C.F.R. § 388.110(a)(1) (authorizing a requester to appeal within 45 days of the determination). As Saturday, July 10, 2010 falls on a weekend, we are submitting this appeal on the next business day, Monday, July 12, consistent with the Department of Energy's Office of Hearing and Appeals Procedural Regulations regarding the computation of time, which state, "...in computing any period of time prescribed or allowed by these regulations or by an order of the OHA, the day of the act, event, or default from which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included unless it is a Saturday, Sunday, or federal legal holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or a federal legal holiday." 10 C.F.R. § 1003.5(a)(1).

can depend on “whether the agency properly determined where responsive records were likely to be found, and searched those locations.”³

The paucity of the responsive materials disclosed by FERC strongly suggests that its search was inadequate. We requested all records over the past five years concerning over twenty FERC-licensed dams and their effects of endangered Atlantic Salmon in the Kennebec and Androscoggin Rivers, including “writings (handwritten, typed, electronic or otherwise produced or stored), letters, e-mails, facsimiles, inspection reports, memoranda, correspondence, notes, field notes, telephone conversations, documents, data bases, drawings, graphs, charts, maps, photographs, minutes of meetings, electronic and magnetic recordings of meetings, and any other compilation of data from which information can be obtained.” Yet FERC’s search turned up merely twelve emails, three letters, one file with handwritten notes, twenty-four drafts concerning the Lockwood dam license, and three documents that FERC declined to describe. It is particularly curious that twenty-four responsive documents exist for the Lockwood dam, but none exist for the remaining nineteen dams on the two rivers. We also note the complete absence of image-based records such as photographs, maps, drawings, graphs, and charts. Accordingly, we are doubtful that FERC has disclosed all records responsive to our request.

While the quality and quantity of search results do not necessarily determine the “reasonableness” of a search, “they are not irrelevant.”⁴ For example, the federal district court in Maine was bothered by the fact that the U.S. Bureau of Indian Affairs initially responded to a FOIA request by telling the plaintiff “that, but for a smattering of exempt documents, it had all the relevant documents and there were no more,” when in fact the agency subsequently produced many more responsive documents in fits and starts over a period of years.⁵

² *Weisberg v. U.S. Dept. Justice*, 705 F.2d 1344, 1351 (D.C. Cir. 1983). See also *Truitt v. U.S. Dept. State*, 897 F.2d 540, 542 (D.C. Cir. 1990), *Williams v. U.S. Dept. Justice*, 177 F. Appx. 231, 233 (3d Cir. 2006), *Oglesby v. U.S. Dept. Army*, 920 F.2d 57, 68 (D.C. Cir. 1990), and 5 U.S.C. § 552(a)(3).

³ U.S. Dept. Justice, *Guide to the Freedom of Information Act*, available at www.justice.gov/oip/foia_guide09/procedural-requirements.pdf at 72 (last visited June 23, 2010). See *Friends of Blackwater v. U.S. Dept. Interior*, 391 F. Supp. 2d 115, 121 (D.D.C. 2005) (finding agency's search inadequate where agency did not describe specific search terms used and did not forward request to leadership office where documents likely existed); *Davidson v. U.S. Envtl. Prot. Agency*, 121 F. Supp. 2d 38, 39 (D.D.C. 2000) (requiring defendant to explain procedure for conducting search and for issuing and retaining records); *Schoenman v. Fed. Bur. Invest.*, No. 04-2202, 2009 WL 763065, at *15-16 (D.D.C. Mar. 19, 2009) (finding that agency failed to demonstrate adequate search because it did not describe methodology used by individuals conducting searches, even though agency did describe general procedure for processing requests, specify search terms used, and reveal number of responsive documents located).

⁴ *Hiken v. U.S. Dept. Defense*, 521 F. Supp. 2d 1047, 1054 (N.D. Cal. 2007).

⁵ *Nulankeyutmonen Nkihtaqmikon v. U.S. Bureau Indian Affairs*, 672 F. Supp. 2d 154, 169 (D. Me. 2009).

A fairly broad request like ours should have produced a broad array of results. The fact that it did not calls into question the reasonableness and diligence of FERC's search. Moreover, FERC made no effort to describe how it stores its records nor what methods it used to locate records responsive to our request. FERC did not explain which databases it searched or which personnel it consulted. Without such explanations, we remain doubtful that FERC's search was reasonably calculated to uncover all documents responsive to our FOIA request.

III. FERC MAINTAINS THAT ITS PUBLIC WEBSITE CONTAINS RESPONSIVE DOCUMENTS, BUT MANY DOCUMENTS WERE UNAVAILABLE OR TOO DIFFICULT TO FIND.

FERC initially directed us to its e-library so that we could find responsive records through our own efforts. We acknowledge that, in general, agencies are entitled to direct citizens to responsive materials that are posted on public websites in a reasonably accessible manner.⁶ Based on our efforts in attempting to search for responsive records, however, the FERC e-library does not represent a reasonable mechanism for disclosure of responsive documents. For instance, some of the most basic and important documents, such as dam licenses and environmental impact statements are not available on the site at all. Moreover, the search mechanism is a prohibitively time-intensive and excessively burdensome way for citizens to obtain public records to which they are entitled by law.

A. Numerous Key Documents Are Not Available on the FERC Website.

Hydroelectric dams alter stream flow, interfere with natural processes of geomorphology, and change the temperature and quality of the water that passes from impoundments back into rivers. Such changes can have significant impacts on wildlife, downstream riparian property owners (individuals, municipalities, and industries), as well as on citizens who enjoy using rivers for recreation. Thus, out of all dam-related records that FERC could publish, dam licenses and the accompanying environmental impact statements ("EISs") are among the most important. It is in the public interest that stakeholders have the opportunity to understand the terms of licenses, licensees' ongoing responsibilities, and the environmental impact of hydropower projects. Hence, it is particularly troubling that the FERC website does not provide public access to many EISs and dam licenses.

Environmental impact statements on hydropower dam projects are almost absent from the FERC website entirely. Under "Industries >> Hydropower >> Environment >> Environmental Impact Statements," one can find a list of twenty Final EISs and two Draft EISs. Considering that FERC regulates over 1,700 dams, the lack of Environmental Impact Statements on the portion of the website entitled "Environmental Impact Statements" is inexplicable. A call to FERC's website navigation help-line revealed that even FERC employees could not locate them.⁷

⁶ See 5 U.S.C. § 552(a)(3).

⁷ Laura Colangelo, CBD intern; June 22, 2010 phone call to e-library assistance hotline at 1-866-208-3676

Similarly, searching for dam licenses is a convoluted and often fruitless process. FERC's initial email directed us to a list of dam licenses viewable on the FERC website, but the list includes only dam licenses dated from 2007 to the present. All of the dams we are researching were licensed before 2007 and were thus unavailable through this link. The initial email also provided a link to an Excel spreadsheet entitled "Complete List of Issued Licenses," available on the FERC website under "Industries >> Hydropower >> Licensing." This spreadsheet includes licenses dating back to the early part of the twentieth century, but there appears to be no way to access the text of the licenses themselves; it is merely a list. There are other Excel spreadsheets for "Issued Preliminary Permits," "Pending Preliminary Permits," "Issued Exemptions," and "Pending Licenses, Relicenses, and Exemptions." However, none of these spreadsheets contain links to the licenses we are attempting to research.

Further searching under "For Citizens >> Projects Near You" allows the user to click on the region of the Northeast, which pulls up a list of over 400 projects. Inexplicably, this list includes just three of the ten projects listed on the "Complete List of Issued Licenses" spreadsheet for the Kennebec, only one of the two projects listed for the Sebasticook, *none* of the nine dams listed for the Androscoggin, and *none* of the four dams listed for the Little Androscoggin. It is unclear why a list entitled "Projects Near You" would not include all projects in the area specified, or why users cannot access a list of projects by state rather than by region.

Using the e-library in conjunction with the "Complete List of issued Licenses" Excel spreadsheet, we were able to find some of the licenses using a date range of a few days before through a few days after the issuance, or by using the project number to look them up. However, most of the licenses were in an inaccessible form, such as Microfilm, and some did not come up at all.

We also conducted an experimental search for the license of the Lockwood, a dam located on the Kennebec River. (The Lockwood Dam license was issued in March of 2005, and is therefore not accessible under the "Industries >> Hydropower >> Issued Licenses since 2007" link.) A search in the e-library using "Kennebec and Lockwood and license" for the time period 03/01/2005 through the present returns a table of 111 documents, the vast majority of which are wholly unrelated to the search terms. The documents concern other projects, such as the Benton Falls Dam, the Upper Mechanicville project, the Goodwin Dam, the St. Lawrence / FDR power project 2000, and the Greenup power project, to name a few. Results include a document for a project located approximately 980 miles away. Seeking to improve the search, we re-ran for the same date period using quotation marks: "'Kennebec' and 'Lockwood' and 'license.'" This turned up 109 documents; it is unclear which two were absent or why, or whether this search with quotations marks may have included additional records not present in the first search. The discrepancy resulting from such a minor modification calls into question the reliability of the search engine itself.

To discover why this simple and specific request would force the website user to wade through such a baffling array of results, we explored the document entitled, "The City of Ann Arbor Michigan requests approval for Dana Dougherty as the independent consultant to perform inspections and prepare safety inspection report for the Barton and Superior dams under P-3142 et al." This document did, in fact, contain all three search terms; they were in the context of

Dougherty's lengthy resume. It would appear that the e-library search mechanism returns every document that mentions the terms in the search even tangentially. Though this is certainly typical of any search engine, it is still noteworthy that simply organizing records by dam would immediately alleviate this problem. The convoluted set of steps necessary to locate the licenses is thus outdated and inefficient.

With an ever-growing library of records, term searches will continue to become unwieldy. Simply organizing the documents by dam and including the all-important EISs would allow users quick, straightforward access to some of the most fundamental information they seek. At present, however, the absence of the EISs and the difficulty of finding dam licenses leads us to question whether there may be other responsive documents that have not been disclosed by FERC, but are likewise inaccessible via the FERC website.

B. FERC's Website Is Inadequate as a Means to Comply with FOIA.

President Obama has directed all federal agencies to "use modern technology to inform citizens what is known and done by their Government" and to make disclosures "in forms that the public can readily find and use."⁸ Moreover, the Attorney General has noted that "[u]nnecessary bureaucratic hurdles have no place in the 'new era of open Government' that the President has proclaimed."⁹ Even before these statements, agencies were required to list records under separate links or headings on their websites and to organize records "from a citizen-centered perspective" to allow the public to locate specific documents easily and efficiently.¹⁰ As "a party who asserts that material is publicly available," FERC "carries the burden of production on that issue."¹¹ The U.S. Supreme Court has noted that, "[e]ven if there were some agreement over what constitutes publicly available materials, Congress surely did not envision agencies satisfying their disclosure obligations under the FOIA simply by handing requesters a map and sending them on scavenger expeditions throughout the Nation."¹²

⁸ President Obama, *Memorandum for the Heads of Executive Departments and Agencies*, 74 Fed. Reg. 4683 (Jan. 26, 2009).

⁹ Attorney General, *Memorandum on the Freedom of Information Act* (Mar. 19, 2009).

¹⁰ FOIA Post: *Memorandum for Chief FOIA Officers, Guidance on Submitting Certification of Agency Compliance with FOIA's Reading Room Requirements* (posted June 27, 2008), available at www.justice.gov/oip/readingrooms/map062508.pdf. See also U.S. Office Management and Budget, *Improving Public Access to and Dissemination of Government Information and Using the Federal Enterprise Architecture Data Reference Model*, OMB Memorandum M-06-02 (Dec. 16, 2005) (requiring agencies to organize and categorize information intended for public access, thus promoting "a more citizen-centered government"); U.S. Office Management and Budget, *Management of Federal Information Resources*, OMB Circular A-130 (Nov. 28, 2000) (directing agencies to "help the public locate" information they disseminate).

¹¹ *Davis v. U.S. Dept. Justice*, 968 F.2d 1276, 1279 (D.C. Cir. 1992).

¹² *U.S. Dept. Justice v. Tax Analysts*, 492 U.S. 136, 153 (U.S. 1989).

Our frustrating efforts to find responsive documents on the FERC website, as described above, demonstrate that FERC has sent us on just such a scavenger hunt or wild goose chase. The FERC website is missing numerous critical documents, and the search engine does not function in a clear, straightforward manner. Thus, the website is an inadequate mechanism for compliance with FOIA.

IV. FERC HAS IMPROPERLY INVOKED THE DELIBERATIVE PROCESS PRIVILEGE.

FERC has a duty to promptly disclose all responsive records in accordance with FOIA. Any invocation of an exemption must be narrowly construed.¹³ The agency invoking the exemption carries the burden of establishing its applicability.¹⁴ Indeed, agencies must satisfy a high burden of proof in order to claim an exemption under section 552(b) of the FOIA.¹⁵ The government's burden has been interpreted to require "a relatively detailed justification, specifically identifying the reasons why a particular exemption is relevant and correlating those claims with the particular part of a withheld document to which they apply."¹⁶ As explained in *Vaughn*, "courts will simply no longer accept conclusory and generalized allegations of exemptions...but will require a relatively detailed analysis in manageable segments."¹⁷ This "relatively detailed analysis" must "(1) identify each document withheld; (2) state the statutory exemption claimed; and (3) explain how disclosure would damage the interests protected by the claimed exemption."¹⁸ This is usually accomplished through a Vaughn index. In order to serve its purpose, the index must give "the FOIA requester a meaningful opportunity to contest, and the district court an adequate foundation to review, the soundness of the withholding."¹⁹ Where

¹³ See *Fed. Trade Comm'n v. Grolier, Inc.*, 462 U.S. 19, 23 (1983) (citing S. Rep. No. 813 at 9; H.R. Rep. No. 1497 at 10) ("Congress intended Exemption 5 to be as [narrow] as [is] consistent with efficient Government operations.").

¹⁴ See *Coastal States Gas Corp. v. U.S. Dept. Energy*, 617 F.2d 854, 861 (D.C. Cir. 1980).

¹⁵ *Vaughn v. Rosen*, 484 F.2d 820, 823 (1973).

¹⁶ *Davin v. U.S. Dept. Justice*, 60 F.3d 1043, 1050 (3d Cir. 1995).

¹⁷ *Vaughn*, 484 F.2d at 823.

¹⁸ *Citizens Comm'n on Human Rights v. U.S. Food and Drug Admin.*, 45 F.3d 1325, 1326 n.1 (9th Cir. 1995).

¹⁹ *Wiener v. Fed. Bur. Invest.*, 943 F.2d 972, 977-8 (9th Cir. 1991). See *Rein v. U.S. Patent and Trademark Office*, 553 F.3d 353, 366 (4th Cir. 2009) (finding that "Vaughn index documents that fail to include information about their author and recipient, or which fail to provide an explanation that adequately substitutes for this information, do not contain adequate information for the district court to have determined whether they were properly withheld"); *Morley v. CIA*, 508 F.3d 1108, 1127 (D.C. Cir. 2007) (criticizing "minimal information" provided in agency submissions as being inadequate for court to determine if privilege was claimed properly); *Church of Scientology v. U.S. Dept. Justice*, 30 F.3d 224, 231 (1st Cir. 1994) (finding Vaughn index inadequate where agency provided "only general and conclusory assertions concerning the documents.")

entire documents are being withheld, agencies must advise requesters of the volume of the documents by providing exact page counts (or estimates, in large volume cases).²⁰

FERC maintains that each of the withheld documents are exempt under the deliberative process privilege set forth 5 U.S.C. § 552(b)(5), known as "Exemption 5." Exemption 5 allows an agency to withhold from disclosure "inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency."²¹ The deliberative process privilege serves to prevent "injury to the quality of agency decisions."²² It does so by ensuring circulation of "uninhibited opinions and recommendations."²³ An agency asserting the privilege must show that the withheld document is both "predecisional" and "deliberative."²⁴ Though agencies do not necessarily have to point to a specific final decision influenced by each record withheld, agencies must establish "what deliberative process is involved, and the role played by the documents in issue in the course of that process."²⁵ H

FERC has made conclusory statements that releasing the withheld records would risk "chilling future staff discussion" and "could cause public confusion by disclosing analysis that ultimately did not form part of the final document that was released to the public." FERC has not provided authors, recipients, dates or any other reasonably descriptive information. Vague statements -- such as "one of the documents is an email string between Commission staff discussing the substance of a formal correspondence" and "[a]nother document consists entirely of hand written notes from a Commission staff member" -- are insufficient. Indeed, FERC has provided no Vaughn index or otherwise explained how the withheld documents are predecisional or deliberative, or why their disclosure would have a chilling effect on agency deliberations. In addition, FERC has failed to identify the nature or volume of information contained in the withheld records. Accordingly, FERC has not adequately demonstrated the applicability of Exemption 5. We have created a chart setting forth the only information that FERC has provided about the 29 withheld records, which demonstrates the inadequacy of FERC's statements (see Exhibit 4).

²⁰ See *FOIA Update*, XVIII, No. 2 at 2 (Spring 1997) (citing 5 U.S.C. § 552(a)(6)(F)) available at www.justice.gov/oip/foia_updates/Vol_XVIII_2/page2.htm; *FOIA Update*, XVII, No. 4 at 10-11 (Fall 1996, available at www.justice.gov/oip/foia_updates/Vol_XVII_4/page2.htm; *Maine v. U.S. Dept. Interior*, 124 F. Supp. 2d 728, 736-37 (D. Me. 2001) ("An agency's burden of establishing a FOIA exemption is significant, and conclusory assertions of privilege by a defendant agency regarding an exemption claim will not fulfill its burden of proof [under the FOIA].").

²¹ 5 U.S.C. § 552(b)(5).

²² *NLRB v. Sears, Roebuck and Co.*, 421 U.S. 132, 151-53 (1975).

²³ *Coastal States*, 617 F.2d at 866.

²⁴ See *Wolfe v. U.S. Dept. of Health and Human Servs.*, 839 F.2d 768, 774 (D.C. Cir 1988); *Coastal States*, 617 F.2d at 866.

²⁵ *Coastal States*, 617 F.2d at 868.

V. FERC HAS FAILED TO DEMONSTRATE THAT FACTUAL INFORMATION IN THE WITHHELD RECORDS WAS NOT REASONABLY SEGREGABLE.

FERC has also failed to either segregate and disclose the factual information contained in its withheld records or explain why it would not be feasible to do so. FERC regulations provide that "[a]ny reasonably segregated non-exempt portion of a record will be provided to a requester. The DOE will delete portions which are withholdable under the exemptions listed above."²⁶ Courts have affirmed that, before claiming privilege under Exemption 5, an agency has an affirmative duty to make reasonable efforts to separate any nonexempt material, and if it finds that separation is not feasible, it bears the burden of accounting for its determination.²⁷ Even if a document contains some exempt material, "an agency cannot justify withholding an entire document simply by showing that it contains some exempt material."²⁸ Courts have declared an agency's refusal to segregate information unjustified where the agency gave no description of its "process for making such a determination, no factual recitation of why certain materials are not reasonably segregable, and no indication of what proportion of the information in a document is non-exempt and how that material is dispersed throughout the document."²⁹ Rather, FOIA requires the disclosure of "any reasonable segregable portion of a record . . . after deletion of the portions which are exempt under this subsection."³⁰

Particularly instructive is the First Circuit's reaction to an agency's statement that "[t]here are no segregable portions which have not been released which could be released without creating a substantial risk of disclosing information protected from disclosure."³¹ In *Church of Scientology*, the First Circuit wrote,

These declarations are written too generally to supplement the index in any meaningful way. They treat the documents within various exemption categories as a group, without referring to specific documents, and make broad statements essentially explaining that the documents were withheld because they contain the type of information generally protected by that particular exemption. The statements regarding segregability are wholly conclusory, providing no information that would enable a requester to evaluate the agency's decisions. Thus, none of the functions of the index identified in *Maynard* are served: the declarations do not demonstrate careful analysis of each document by the government; the court has not been assisted in its duty of ruling on the

²⁶ 10 C.F.R. § 1004.10(c).

²⁷ *Davin*, 60 F.3d at 1050, 1052 (citing 5 U.S.C. § 552(a)(4)(B)).

²⁸ *Mead Data Cent., Inc. v. United States Dep't of Air Force*, 566 F.2d 242, 260 (D.C. Cir. 1977).

²⁹ *Abdelfattah v. U.S. Dept. Homeland Sec.*, 488 F.3d 178, 186-87 (3d Cir. 2007) (internal quotation marks omitted).

³⁰ 5 U.S.C. § 552(b).

³¹ *Church of Scientology Int'l v. United States Dep't of Justice*, 30 F.3d 224, 231 (1st Cir. 1994).

applicability of an exemption; and the adversary system has not been visibly strengthened.³²

We requested information about the impact of dams upon the endangered Atlantic Salmon. Thus, statements regarding factual matters, such as mortality statistics, entrainment rates, turbine designs and costs, and similar matters are segregable and should have been disclosed. FERC makes the conclusory assertions, however, that “[s]ince the documents are not reasonably segregable, the full twenty-nine (29) documents are being withheld” and that “any factual portions of the withheld documents are so inextricably intertwined with the deliberative matter that disclosure would reveal the predecisional deliberations.” As in *Church of Scientology*, these broad statements do not refer to specific documents and provide no insight as to segregability. FERC has failed to explain what steps, if any, were taken to determine segregability. In the absence of such an explanation, it appears FERC has failed to make reasonable efforts to determine if any portions of the withheld material may be disclosed without compromising allegedly protected information.

VI. FERC’S RESPONSE DOES NOT REFLECT FOIA’S STRONG PRESUMPTION IN FAVOR OF DISCLOSURE AND TRANSPARENCY.

As the Supreme Court has recognized, broad disclosure of public records is “vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed.”³³ The First Circuit has also affirmed this policy of broad disclosure, requiring the government to comply with requests unless a specific exemption applies, construing exemptions narrowly.³⁴ In this spirit, the Obama administration has recently urged all federal agencies to be more transparent in their responses.³⁵ All federal agencies are directed to “adopt a presumption in favor of disclosure, in order to renew their commitment to the principles embodied in FOIA, and to usher in a new era of open Government.”³⁶ Similarly, the Attorney General has emphasized that a federal agency “should not withhold information simply because it may do so legally.”³⁷

As noted above, it is in the public interest to disclose information that will help citizens understand dam licensees’ responsibilities. Public access to information is particularly important when current practices may threaten the survival of newly listed endangered species. FERC’s failure to adequately respond to CBD’s FOIA request, as described above, interferes with citizens’ ability to understand the impact of dam operations on endangered Atlantic Salmon, as

³² *Id.*

³³ *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 242 (1978).

³⁴ *Aronson v. IRS*, 973 F.2d 962, 966 (1st Cir. 1992).

³⁵ See Obama Memorandum, Jan 1, 2009, 74 Fed. Reg. 4683 at 4683.

³⁶ *Id.*

³⁷ Attorney General Memorandum, Mar. 19, 2009, available at www.justice.gov/ag/foia-memo-march2009.pdf

well as their ability discover and address potential violations.³⁸ In light of the strong public interest in these records, FERC should not only disclose all responsive documents required by law, it should also exercise its discretion to waive any exemption and disclose all other relevant records as well.

VII. CONCLUSION

For the foregoing reasons, we appeal FERC's response to our FOIA request. We respectfully urge the Office of Hearings and Appeals to (1) require FERC to make a reasonable and diligent search for records, (2) to make a complete disclosure of records responsive to CBD's FOIA request, (3) to improve the availability and accessibility of key documents such as dam licenses and EISs on its website, (4) to provide an adequate explanation justifying its withholding of records under any claim of exemption through a Vaughn index or other similar means, (5) to segregate and release non-exempt factual information set forth within any withheld documents, and (6) to exercise its discretion to disclose relevant records to the maximum extent possible notwithstanding the availability of an exemption.

We look forward to receiving a response to this appeal within 20 days. In the event the Office of Hearings and Appeals affirms FERC's denial, please provide a statement of reasons as well as notice of the procedures for judicial review.³⁹ Please mail all correspondence to my attention at the address listed above. If you have any questions or need any further information, please contact me by telephone at (802) 831-1136 or by email at tclemmer@vermontlaw.edu. Thank you very much for your prompt attention to this appeal.

Very truly yours,



Teresa B. Clemmer
Acting Director ENRLC

cc: Mollie Matteson, Conservation Advocate CBD
Laura Colangelo, Intern CBD⁴⁰
Patrick Parenteau, Senior Counsel ENRLC
Jordan Gonda, Student Clinician ENRLC

³⁸ See FERC Division of Hydropower, *Compliance Handbook*, § 4.2.1 (March 2004), available at http://www.ferc.gov/industries/hydropower/gen-info/handbooks/compliance_handbook.pdf (last visited June 29, 2010) (explaining the ongoing responsibilities of licensees with regard to the Endangered Species Act in its Compliance Handbook and outlining the process by which violations are discovered and addressed).

³⁹ 5 U.S.C. § 552(a)(6)(A)(ii); C.F.R. § 338.110(a)(2); 10 C.F.R. § 1004.8(e).

⁴⁰ We would like to acknowledge the excellent contributions of Laura Colangelo in researching and drafting this appeal.

Environmental and Natural Resources Law Clinic
Vermont Law School
PO Box 96, Chelsea Street
South Royalton, VT 05068
802.831.1626
Fax: 802.831.1631

Submitted via Email to: foia-ceii@ferc.gov

April 15, 2010

RE: Freedom of Information Act Request

Julia Bovey, Director
Office of External Affairs
Federal Energy Regulation Commission
888 First Street, NE
Washington, D.C. 20426
Phone: (202) 502-8004 / Fax: (202) 208-2106

Toyia Johnson, FOIA Public Liason
Office of External Affairs
Federal Energy Regulation Commission
888 First Street, NE
Washington, D.C. 20426
Phone: (202) 502-6088 / Fax: (202) 208-2106

Ms. Julia Bovey and Ms. Toyia Johnson,

The Environmental and Natural Resources Law Clinic (ENRLC), on behalf of our client Center for Biological Diversity (CBD), seeks information regarding the impact on the endangered Atlantic salmon (*Salmo salar*) of FERC-licensed dams on the Androscoggin and Kennebec Rivers in Maine. What follows are our detailed requests, matters regarding FOIA exemptions, and our request for a fee waiver.

A. Request for Records

For purposes of this request, the term "records" means information of any kind, including, but not limited to, writings (handwritten, typed, electronic or otherwise produced or stored), letters, e-mails, facsimiles, inspection reports, memoranda, correspondence, notes, field notes, telephone conversations, documents, data bases, drawings, graphs, charts, maps, photographs, minutes of meetings, electronic and magnetic recordings of meetings, and any other compilation of data from which information can be obtained. All of the foregoing is included in this request if they are in the possession of, or otherwise under the control of, FERC. If such records are no longer under the control of the FERC, but were at any time, the term "records" shall include all information of any kind regarding the current location of such records, including, but not limited to, those types of information listed above.

For purposes of this request, "Maine" means all land, air and water within the state's boundaries.

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and implementing regulations, 18 C.F.R. § 388.108 *et seq.*, the ENRLC respectfully requests the following:

1. All records including correspondences and communications between FERC and dam licensees regarding Atlantic salmon on the Androscoggin and Kennebec Rivers in Maine since January 1, 2005.
2. All records including correspondences and communications between FERC and the U.S. Fish and Wildlife Service (USFWS) regarding dam licensees and Atlantic salmon on the Androscoggin and Kennebec Rivers in Maine since January 1, 2005.
3. All records including correspondences and communications between FERC and the National Marine Fisheries Service (NMFS) regarding dam licensees and Atlantic salmon on the Androscoggin and Kennebec Rivers in Maine since January 1, 2005.
4. All records concerning or related to effects on Atlantic salmon from the operation of FERC- licensed dams on the Androscoggin and Kennebec Rivers in Maine since January 1, 2005.
5. All records concerning or related to the potential need for incidental take permits under section 9 of the Endangered Species Act for Atlantic salmon on the Androscoggin and Kennebec Rivers in Maine since June 19, 2009.

B. Exempt Records

If you regard any of the requested records to be exempt from required disclosure under FOIA, we request that you nevertheless disclose them in the public interest since disclosure will serve to educate the public about the operations and activities of the federal government. The Obama administration reversed the previous policy on FOIA requests, urging federal agencies to be more transparent. See Memorandum for the Heads of Executive Departments and Agencies, 74 Fed. Reg. 4683 (Jan. 26, 2009). Under the new policy, "[a]ll agencies should adopt a presumption in favor of disclosure..." and should act "in a spirit of cooperation, recognizing that such agencies are servants of the public." Additionally, guidelines from the Attorney General under this policy state that agencies "should not withhold information simply because it may do so legally." Attorney General, Memorandum on the Freedom of Information Act (Mar. 19, 2009).

Should you decide to invoke a FOIA exemption, please include in your full or partial denial letter sufficient information for us to appeal the denial. To comport with legal requirements this information must include reasons for denying any part of the requested documents and notice that the requester has the right to "appeal any adverse determination" to the General Counsel in writing. 18 C.F.R. 388.108(c)(1). If information is withheld the Director should "indicate the approximate volume of

information withheld, and...for partially-released materials, where redactions have been made, unless to do so would harm an interest protected by a FOIA exemption." 18 C.F.R. 388.108(c)(3).

If you determine that portions of the records requested are exempt from disclosure, please segregate the exempt portions and mail the remaining records to the above location within the statutory time limits after the exempted material has been redacted from the records CBD is seeking.

C. Request for Fee Waiver

On behalf of CBD, we ask that you waive all fees in connection with this request. The request is being made in the public interest and the information obtained will be used to enhance the public awareness of agency decision-making regarding the impact of agency actions on threatened or endangered species. Moreover, consistent with 18 C.F.R. § 388.109(c)(1), the disclosure of this information is likely to contribute significantly to the public's understanding of FERC operations and activities, and it is not in the commercial interest of the requester. CBD's request also satisfies all of the specific criteria for a fee waiver. See 18 C.F.R. § 388.109(c)(1),(2),(3) as follows:

1. The records concern the operations or activities of the government.

The subject matter of this request concerns FERC's duty to protect threatened and endangered species under the Federal Power Act, the National Environmental Policy Act, and Endangered Species Act. Under the Federal Power Act, FERC must consider whether the project is best adapted to habitat protection for fish and wildlife, including spawning grounds, among the factors for approval. 16 USC § 803(a)(1). FERC's actions and communications related to this duty are clearly identifiable activities of the government.

2. Disclosure of these materials will likely contribute to public understanding of these operations and activities.

The contents of the records requested are meaningfully informative of FERC's operations and activities. There is a need to inform the public on how FERC is carrying out its statutory obligations concerning FERC's operations and activities with dams and salmon, a matter of strong public interest. The manner in which FERC fulfills these obligations concerning dams and salmon is a matter of strong public interest. CBD intends to use the requested information to better understand the operations and activities of FERC and FERC licensees concerning Atlantic salmon and dams on the Androscoggin and Kennebec Rivers in Maine. CBD intends to use any information gathered to educate the public on how FERC goes about determining whether actions taken by dam licensees affect or jeopardize endangered or threatened species. "The greatest impediment to self-sustaining Atlantic salmon populations in Maine is obstructed fish passage and degraded habitat caused by dams. In addition to direct loss of production habitat to impoundment and inundation, dams also alter natural river hydrology and geomorphology, interrupt natural sediment and debris transport processes, and alter natural temperature regimes."

Status Review for Anadromous Atlantic Salmon (*Salmo salar*) in the United States, Atlantic Salmon Biological Review Team 75 (July 2006). "Probably the most significant contributing factor to the loss of habitat connectivity within the range of the GOM DPS is the historical and contemporary presence of artificial dams, especially on the larger river systems." *Id.* at 88. It is important that the public understand these issues and what is being done by the responsible federal agencies to address them.

3. *There is likely to be a contribution to public understanding, and the release of the requested records will contribute significantly to that sense of understanding.*

CBD has spent years promoting the public interest through the development of policies that provide enhanced natural resource protection, including salmon, and have routinely received fee waivers under FOIA. This is in large part because CBD has repeatedly proven its ability to disseminate the information it obtains through FOIA to large segments of the public by means of membership correspondence, multiple publications, its websites, educational programs, media initiatives, and congressional testimony. CBD plans to disseminate at its own expense any information obtained so that the release of the requested records is likely to contribute significantly to public understanding of how and when FERC consults with dam licensees, NMFS, and USFWS regarding endangered species in Maine. This information is not otherwise available.

4. *Disclosure would not be beneficial to the commercial interests of CBD.*

CBD is a well-established national, non-profit, conservation organization with no commercial interest in obtaining the requested information. Instead, at its own expense, CBD will use the disclosed information to inform its members and educate the public about the operations and activities of the FERC. CBD has been significantly involved with species conservation in Maine in the past, including the Atlantic salmon. These efforts include supporting critical habitat designation and the expansion of endangered species listing for Atlantic salmon, and advocating for critical habitat designation for Canada lynx (*Lynx canadensis*). Our formal actions on behalf of Atlantic salmon conservation have included two successful lawsuits to compel the federal government's compliance with provisions of the Endangered Species Act for species listing and critical habitat designation.

For the foregoing reasons, the disclosure of the information requested is in the public interest because it is likely to contribute significantly to the public's understanding of FERC decision-making processes regarding impacts on threatened or endangered species. This information is not otherwise readily attainable and the public unquestionably will be the primary beneficiary of this requested information. Therefore, please waive processing and copying fees pursuant to 5 U.S.C. § 552(a)(4).

CBD qualifies for a full waiver of fees and we request that you promptly locate, copy, and send the requested materials at no charge. In the event that you determine CBD is not


eligible for a fee waiver, CBD is willing to pay up to \$100 for administrative costs and copying fees. If such is the case, please include in your denial of our petition for a fee waiver, in accordance with 18 C.F.R. § 388.109(c)(4) and 18 C.F.R. 388.108(c)(1), the basis for the denial, including a full explanation of why our fee waiver request did not meet FERC's fee waiver criteria.

Please note that the request for a fee waiver should not be construed as an extension of time in which to reply to this FOIA request. Please send information on a rolling basis as it becomes available.

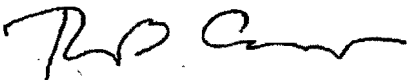
As provided in FOIA, we anticipate a reply within twenty working days, i.e., by May 14. 5 U.S.C. § 552 (a)(6)(A)(i); 18 C.F.R. § 388.108(c)(1). If you find that this request is unclear in any way, please do not hesitate to contact Christopher Davis or Sadie Spruce at (802)831-1630 to see if we can clarify the request or otherwise expedite and simplify your efforts to comply with our request.

Thank you for your assistance. Please send the requested records to my attention at the address listed above.

Sincerely,



Patrick Parenteau



Teresa Clemmer

Sarah Spruce - ACKNOWLEDGEMENT: FOIA Request FY10-56

EXHIBIT

2

From: "FOIA-CEII"
To: "Patrick Parenteau" , "Teresa Clemmer"
Date: 4/15/2010 6:37 PM
Subject: ACKNOWLEDGEMENT: FOIA Request FY10-56
CC: "FOIA-CEII" , "Christopher Davis" , "Sarah Spruce"
Attachments: "FOIA-CEII" , "Christopher Davis" , "Sarah Spruce"

Mr. Parenteau & Ms. Clemmer

We received your Freedom of Information Request (FOIA) request on April 15, 2010. This request has been assigned reference number **FY10-56**. Every effort will be made to respond to your FOIA request within twenty business days or by May 13, 2010. I attempted to contact Ms. Spruce via telephone today, however she was not available. I left a message stating that a preliminary search of the FERC e-library identified public material that may be responsive to this request. For your convenience we are providing links to this material. We are also including links to the list of hydropower licenses that have been issued by FERC. We kindly ask that you withdraw your Freedom of Information Act (FOIA) request if this information meets the needs of your request.

■ **RESULTS OF E-LIBRARY SEARCH:**

- Search term: **Kennebec and Atlantic Salmon** (1/1/1990 – 4/15/10)

<http://elibrary.ferc.gov/idmws/search/eSaveAdv.asp?fdt=on&fd=1/1/1990&txt=kennebec+and+Atlantic+Salmon&>

- Search term: **Androscoggin and Atlantic salmon** (1/1/1990 – 4/15/10)

<http://elibrary.ferc.gov/idmws/search/eSaveAdv.asp?fdt=on&fd=1/1/1990&txt=androscoggin+and+atlantic+salmon&>

■ **FROM FERC WEBPAGE:**

Hydropower licenses

<http://www.ferc.gov/industries/hydropower/gen-info/licensing/issued-licenses.asp>

Complete list of Issued Licenses

If you have any questions or need assistance with the FERC e-library, please do not hesitate to contact our FOIA-CEII Service Center by email at foia-ceii@ferc.gov or by phone at 202 502-6088.

Sincerely,

Toyia Johnson

Toyia Johnson
Federal Energy Regulatory Commission
Office of External Affairs
FOIA Public Liaison
(202) 502-8389

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From: Sarah Spruce [mailto:SSPRUCE@vermontlaw.edu]
Sent: Thursday, April 15, 2010 10:02 AM
To: FOIA-CEII
Cc: Christopher Davis; Patrick Parenteau; Teresa Clemmer
Subject: FOIA Request

Jean Carter-Johnson,

Enclosed is a FOIA Request from the Environmental and Natural Resources Law Clinic on behalf of the Center for Biological Diversity. Thank you for your time and attention to this matter. If you have any questions or concerns regarding this request please contact Christopher Davis or Sadie Spruce at (802)831-1630.

Sincerely,
Sadie Spruce
Vermont Law School, 2010

Federal Energy Regulatory Commission
Washington, DC 20426

MAY 26 2010

Re: Response Letter
FOIA No. FY10-56

VIA EMAIL AND REGULAR MAIL

Patrick Parenteau & Teresa Clemmer
Environmental and Natural Resources Law Clinic
Vermont Law School
PO Box 96, Chelsea Street
South Royalton, VT 05068

Dear Mr. Parenteau and Ms. Clemmer:

On April 15, 2010, you filed a request on behalf of the Center for Biological Diversity (CBD) pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552 (2006), *amended by* OPEN Government Act of 2007, Pub. L. No. 110-175, 121 Stat. 2524, and the Federal Energy Regulatory Commission's (FERC or the Commission) FOIA regulations, 18 C.F.R. § 388.108 (2009). You seek information about FERC licensed dams and Atlantic salmon in the Androscoggin and Kennebec Rivers in Maine.¹ Specifically, you requested:

1. All records including correspondence and communications between FERC and dam licensees regarding Atlantic salmon on the Androscoggin and Kennebec Rivers in Maine since January 1, 2005.
2. All records including correspondence and communications between FERC and the U.S. Fish and Wildlife Service (USFWS) regarding dam licensees and Atlantic salmon on the Androscoggin and Kennebec Rivers in Maine since January 1, 2005.

¹ You also requested a fee waiver. A determination of your fee waiver request is unnecessary because CBD qualified for a reduced processing fees under 18 C.F.R. § 388.109(b)(2)(iii) that when applied to the request resulted in no fees being assessed.

3. All records including correspondence and communications between FERC and the National Marine Fisheries Services (NMFS) regarding dam licensees and Atlantic salmon on the Androscoggin and Kennebec Rivers in Maine since January 1, 2005.
4. All records concerning or related to the effects on Atlantic salmon from the operation of FERC-licensed dams on the Androscoggin and Kennebec Rivers in Maine since January 1, 2005.
5. All records concerning or related to the potential need for incidental take permits under section 9 of the Endangered Species Act for Atlantic salmon on the Androscoggin and Kennebec Rivers in Maine since June 19, 2009.

A search of the Commission's non-public files identified seventeen (17) documents and one (1) DVD containing another twenty-seven (27) documents responsive to your request.² Fifteen (15) documents are being provided to you in full. The remaining twenty-nine (29) documents are being withheld pursuant to FOIA Exemption 5, which protects from disclosure "intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency." 5 U.S.C. § 552(b)(5).

More precisely, FOIA Exemption 5 incorporates various privileges, including the deliberative process privilege which is at issue here. Courts have consistently held that three policy purposes constitute the basis for the FOIA Exemption 5 deliberative process privilege: (1) to encourage open, frank discussions on matters of proposed policy between subordinates and superiors; (2) to protect against premature disclosure of proposed policies before they are finally adopted; and (3) to protect against public

² In addition to the non-public information identified in this letter, there is already a considerable amount of information in the public record about the Atlantic salmon in the Androscoggin and Kennebec Rivers. This information can be found on the Commission's eLibrary database, which is located on FERC's website. For example, 686 publically available documents refer to the Kennebec River and Atlantic salmon from 1990 to the present. Likewise, 266 publically available documents refer to the Androscoggin River and Atlantic salmon during that same date range. Information about FERC hydropower licensees and the docket numbers for each licensee can be found on FERC's website, as well. In an email dated April 15, 2010, Commission staff informed you of the availability of this information and provided you with links to this material.

confusion that might result from disclosure of reasons and rationales that were not in fact ultimately the grounds for an agency's action. *See Russell v. Dep't of the Air Force*, 682 F.2d 1045, 1048 (D.C. Cir. 1982); *see also Environmental Protection Agency v. Mink*, 410 U.S. 73, 87 (1972) (recognizing that "[i]t would be impossible to have any frank discussions of legal or policy matters in writing if all such writings were to be subjected to public scrutiny").

All of the documents being withheld are precisely the type of information FOIA Exemption 5 was created to protect. Specifically, one of the documents is an email string between Commission staff discussing the substance of a formal correspondence. Another document consists entirely of hand written notes from a Commission staff member. The other twenty-seven (27) documents are drafts of Commission letters, orders, and settlement agreements.³ Not only does release of these documents risk chilling future staff discussion on such matters, release here could cause public confusion by disclosing analysis that ultimately did not form part of the final document that was released to the public. Furthermore, any factual portions of the withheld documents are so inextricably intertwined with the deliberative matter that disclosure would reveal the predecisional deliberations. *See In re Sealed Case*, 121 F.3d 729, 737 (D.C. Cir. 1997); *Mead Data Central, Inc. v. United States Dep't of the Air Force*, 566 F.2d 242, 256 (D.C. Cir. 1977) (recognizing that FOIA Exemption 5 protects all communications including purely factual material that would expose to public view an agency's decision-making process). Since the documents are not reasonably segregable, the full twenty-nine (29) documents are being withheld.

³ The final versions of the majority of these documents are publically available on eLibrary. For instance, twenty (20) of the withheld documents are drafts of Accession No. 20050304-3069, *Order issuing new license re: Merimil Limited Partnership's Lockwood Project, under P-2574*, 110 FERC ¶ 61,240 (March 4, 2005). Likewise, four (4) of the withheld documents are drafts of Accession No. 20050502-3012, *Response to FPL Energy Maine's request for FERC to issue an errata notice to reflect three changes in the new license for the Lockwood Project etc under P-257420050502-3012*, (May, 2, 2005).

As provided by FOIA and 18 C.F.R. § 388.110 of the Commission's regulations, any appeal from this determination must be filed within 45 days of the date of this letter. The appeal must be in writing, addressed to Thomas R. Sheets, General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, and clearly marked "Freedom of Information Act Appeal." I would appreciate it if you would also send a copy to Charles A. Beamon, Associate General Counsel, General and Administrative Law, at the same address.

Sincerely,

A handwritten signature in black ink, appearing to read "Mary O'Driscoll", written over a horizontal line.

Mary O'Driscoll
Acting Director
Office of External Affairs

Enclosure

Record	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER
"Email string between Commission staff"	?	?	?	?		"discussing the substance of a formal correspondence"	?
"Hand written notes from a Commission staff member"	?	?	?	?		?	?
Draft: Accession No. 20050304-3069, Order issuing new license re: Merimll Limited Partnership's Lockwood Project, under P-2574, 110 FERC ~ 61,240	?	?	?	?		?	?
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Draft: Accession No. 20050502-3012, Response to FPL Energy Maine's request for FERC to issue an errata notice to reflect three changes in the new license for the Lockwood Project etc under P-257420050502-3012.	?	?	?	?		?	?
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FY10-83

Exemption 6

FOIA-CEII

From: FOIA-CEII
Sent: Tuesday, July 27, 2010 1:10 PM
To: [REDACTED]
Cc: FOIA-CEII
Subject: ACKNOWLEDGEMENT: Freedom of Information Action FY10-83

[REDACTED]

On July 23, 2010, we received your Freedom of Information Act (FOIA) request. This request has been assigned reference number **FY10-83**.

Please be advised that FY10-83 will address new material described in this request. *Note: The appeal regarding FY10-56 is being processed by the FERC Office of General Counsel.

Every effort will be made to respond to your FOIA request within twenty business days or by August 20, 2009.

If you need assistance with the FERC e-library or have questions regarding this request, please do not hesitate to contact our FOIA-CEII Service Center by email at foia-ceii@ferc.gov or by phone at 202 502-6088.

Sincerely,

Toyla Johnson
Toyla Johnson
Federal Energy Regulatory Commission
Office of External Affairs
FOIA Public Liaison
(202) 502-8389

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attachments.

Exemption 6

From: [REDACTED] [mailto:[REDACTED]]
Sent: Friday, July 23, 2010 3:46 PM
To: FOIA-CEII; Julia Bovey
Cc: Mollie Matteson; Jordan Gonda; Laura Colangelo; Patrick Parenteau
Subject: Supplemental FOIA Request

Dear Ms. Bovey and Ms. Johnson,

We are submitting the attached FOIA request concerning Atlantic salmon in Maine. This is meant to supplement our earlier request dated April 15, 2010. Please feel free to contact us if you have any questions or concerns.

Sincerely,

Teresa Clemmer

Teresa B. Clemmer
Acting Director of ENRLC & Associate Professor of Law
Vermont Law School
164 Chelsea Street, PO Box 96
South Royalton, VT 05068
(802) 831-1136 (phone)
(802) 831-1631 (fax)
tclemmer@vermontlaw.edu

Exemption 6

FOIA-CEII

From: FOIA-CEII
Sent: Thursday, August 19, 2010 1:21 PM
To: [REDACTED]
Cc: FOIA-CEII
Subject: FOIA FY10-83 - Extension Letter - 8-19-10
Attachments: Extension Letter - FY10-83 8-19-10.pdf

Ms. Clemmer

Please find attached a letter from the Federal Energy Regulatory Commission (FERC) regarding Freedom of Information Act (FOIA) request (**FY10-83**). A copy of this letter has also been mailed to you via the U.S. Postal Service.

If you have any questions please do not hesitate to contact our FOIA Service Center by email at foia-ceii@ferc.gov or by phone at 202 502-6088.

Sincerely,

Toyia Johnson

Toyia Johnson
Federal Energy Regulatory Commission
Office of External Affairs
FOIA Public Liaison
(202) 502-8389

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FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D. C. 20426

August 19, 2010

Re: FOIA No. FY10-83

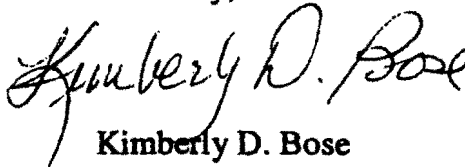
VIA ELECTRONIC MAIL

Ms. Teresa Clemmer
Associate Director
Environmental & Natural Resources Law Clinic
Vermont Law School
P.O. Box 96, Chelsea Street
South Royalton, VT 05068
tclemmer@vermontlaw.edu

Dear Ms. Clemmer:

This letter is in reference to your Freedom of Information Act, 5 U.S.C. § 552 (2006), *amended by* OPEN Government Act of 2007, Pub. L. No. 110-175, 121 Stat. 2524, request filed with the Federal Energy Regulatory Commission (Commission) on July 23, 2010. We have determined that to reply to your request, we need to consult with other components of the agency having substantial subject-matter interest therein. Therefore, in accordance with the provisions in section 388.110(b) of the Commission's Rules of Practice and Procedure, we are notifying you that we have extended the time limit to make an initial determination on your request for records. We expect to be able to send you an initial determination on your request by September 3, 2010.

Cordially,



Kimberly D. Bose
Secretary

cc: Ms. Mary O'Driscoll
Acting Director
Office of External Affairs
Federal Energy Regulatory Commission
Washington, DC 20426

FOIA-CEII

From: Postmaster@vermontlaw.edu on behalf of Teresa Clemmer [TCLEMMER@vermontlaw.edu]
Sent: Thursday, August 19, 2010 1:23 PM
To: FOIA-CEII
Subject: Re: FOIA FY10-83 - Extension Letter - 8-19-10 (Out of Office)

I will be out of the office from August 12-23, returning on Tuesday, August 24. If you need help right away, please contact Beth Rodger at 802-831-1364, and she will put you in touch with the right person.

FOIA-CEII

From: FOIA-CEII
Sent: Monday, August 30, 2010 6:05 PM
To: 'Teresa Clemmer'; 'PPARENTEAU@vermontlaw.edu'
Cc: FOIA-CEII
Subject: Freedom of Information Action FY10-83 - Initial response letter - 8-30-10
Attachments: Initial response letter -8-30-10.pdf; FY10-83 .pdf

Ms. Clemmer

Please find attached a letter from the Federal Energy Regulatory Commission (FERC) regarding Freedom of Information Act (FOIA) request (**FY10-83**). A copy of this letter and one DVD have been mailed to you via the U.S. Postal Service.

If you have any questions please do not hesitate to contact our FOIA Service Center by email at foia-ceii@ferc.gov or by phone at 202 502-6088.

Sincerely,

Toya Johnson

Toya Johnson
Federal Energy Regulatory Commission
Office of External Affairs
FOIA Public Liaison
(202) 502-8389

NOTICE: This email message and any attachments are for the sole use of the intended recipients and may contain information that is classified as privileged, CEII or otherwise protected from disclosure. Any unauthorized review, use, disclosure or distribution is strictly prohibited. If you are not the intended recipient, please contact the sender by reply email and delete the original message from your computer system and destroy any copies of the message as well as any attachments.

Federal Energy Regulatory Commission
Washington, D.C. 20426

AUG 30 2010

Re: FOIA No. FY10-83
Initial Response

Ms. Teresa B. Clemmer
Acting Director
Environmental and Natural Resources Law Clinic
Vermont Law School
P.O. Box 96, Chelsea Street
South Royalton, VT 05068

Dear Ms. Clemmer:

This is a partial response to your July 23, 2010 request for documents pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552 (2006), *amended by* OPEN Government Act of 2007, Pub. L. No. 110-175, 121 Stat. 2524, and the Federal Energy Regulatory Commission's (Commission or FERC) FOIA regulations, 18 C.F.R. § 388.108 (2009). Specifically, you requested:

1. All records discussing Atlantic salmon in the Androscoggin, Kennebec, Sebasticook and/or Little Androscoggin Rivers in Maine dated on or after January 1, 2005, including but not limited to correspondence and communications between or among FERC, U.S. Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS), the State of Maine, and/or dam licensees.
2. All records discussing FERC-licensed dams and/or dam licensees on the Androscoggin, Kennebec, Sebasticook and/or Little Androscoggin Rivers in Maine dated on or after January 1, 2005, including but not limited to correspondence and communications between or among FERC, U.S. Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS), the State of Maine, and/or dam licensees.
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4. All records discussing effects on Atlantic salmon from the existence and/or operation of the following non-FERC-licensed dams dated on or after January 1, 2005: Pioneer and Waverly Dams (both in Pittsfield, ME), Mechanic Falls Dam (Mechanic Falls, ME), Welchville Dam (Oxford, ME), and South Paris and Blacoe Falls Dams (both in South Paris, ME).

5. All records discussing the potential need for incidental take permits under section 9 of the Endangered Species Act for Atlantic salmon on the Kennebec, Androscoggin, Sebasticook and/or Little Androscoggin Rivers in Maine dated on or after January 1, 2005.
6. Dam licenses and corresponding water quality certifications for the specific projects that you listed.
7. All final NEPA documents prepared with respect to specific FERC-licensed dams that you listed, including but not limited to determinations concerning the applicability of categorical exclusions, environmental assessments, findings of no significant impact, environmental impact statements, and records of decision.
8. All records discussing exemptions and/or other special permits granted for Pioneer and Waverly Dams (both in Pittsfield, ME), Mechanic Falls Dam (Mechanic Falls, ME), Welchville Dam (Oxford, ME), and/or South Paris and Blacoe Falls Dams (both in South Paris, ME).

Given the number of specific requests, which include requests for several older records, and the amount of Commission staff time required to collect any responsive information addressing these requests, we are making an initial release of documents with additional determinations concerning the remaining documents to follow on a rolling basis. At this time, Commission staff is providing you with twelve (12) documents in their entirety. The twelve (12) documents, which are responsive to Request No. 6 listed above, are licenses that you claimed were either unavailable on the Commission's eLibrary database or in a form that you could not access.

The Commission will continue to search its non-public files for additional responsive documents and will endeavor to provide you with another determination within twenty (20) business days from the date of this letter. If you have any questions regarding this matter, please contact the undersigned by facsimile at (202) 208-2106 or contact Toyia Johnson of my staff at (202) 502-8004.

Sincerely,



Mary O'Driscoll
Acting Director
Office of External Affairs

Enclosure:

Y10-83
Received via e-mail:
Date: August 20, 2010
Track 3
Environmental and Natural Resources Law Clinic
Vermont Law School, PO Box 96, Chelsea Street, South Royalton, VT 05068
802.831.1630 (phone), 802.831.1631 (fax)

July 23, 2010

Via Email and U.S. Mail to:

Julia Bovey, Director
Office of External Affairs
Federal Energy Regulation Commission
888 First Street, NE
Washington, D.C. 20426
julia.bovey@ferc.gov

Toyia Johnson, FOIA Public Liaison
Office of External Affairs
Federal Energy Regulation Commission
888 First Street, NE
Washington, D.C. 20426
foia-ceii@ferc.gov

Re: Supplemental Freedom of Information Act Request Concerning Dams and Atlantic Salmon in Maine

Dear Ms. Bovey and Ms. Johnson:

On behalf of our client Center for Biological Diversity (CBD), we filed a FOIA request on April 15, 2010 regarding the impact of FERC-licensed dams on the endangered Atlantic salmon (*Salmo salar*) in the Androscoggin and Kennebec Rivers in Maine. We are writing to renew that request, as well as to request additional records beyond those included in our original request.

A. Request for Records

For purposes of the following requests, the term "records" means information of any kind, including, but not limited to, writings (handwritten, typed, electronic or otherwise produced or stored), letters, e-mails, facsimiles, inspection reports, memoranda, correspondence, notes, field notes, telephone conversations, documents, data bases, drawings, graphs, charts, maps, photographs, minutes of meetings, electronic and magnetic recordings of meetings, and any other compilation of data from which information can be obtained. All of the foregoing is included in these requests if they are in the possession of, or otherwise under the control of, FERC. If such records are no longer under the control of the FERC, but were at any time, the term "records" shall include all information of any kind regarding the current location of such records, including, but not limited to, those types of information listed above. Moreover, for purposes of the following requests, "Maine" means all land, air, and water within the State's boundaries.

1. *Renewal of Earlier Requests*

FERC initially responded to our FOIA request with an email on April 15, 2010 directing us to the e-library, where the agency maintained we could find much of the information we sought through our own efforts. With its formal determination letter dated May 26, 2010, FERC

reiterated the availability of information on the website, and also provided fifteen documents and withheld twenty-nine others as exempt. We have filed an appeal regarding the withheld documents. In our appeal, we also discussed the unavailability of many key documents on the website, the difficulty of navigation without assistance from agency staff, and the inadequacy of the website search as a means to comply with the FOIA. (Please see pages 4-7 of our appeal dated July 12, 2010, which is attached hereto.)

In the hope of obviating the need to pursue the appeal process any further, we respectfully renew our earlier request for records concerning the Androscoggin and Kennebec Rivers in light of the sincere but unsuccessful efforts we have made in attempting to navigate your website. These requests should be construed as excluding the fifteen documents you have already provided to us. We remain hopeful that you will reconsider your decision to withhold twenty-nine documents and disclose those notwithstanding the availability of an exemption. If not, please provide us with detailed information concerning the basis for withholding of each document, as described in the attached appeal.

2. *Additional Requests for Records*

The requests below represent an expansion of our earlier requests to encompass not only the Androscoggin and Kennebec Rivers, but also the Little Androscoggin and the Sebasticook, which are tributaries of the Androscoggin and Kennebec respectively. In addition, we are seeking dam licenses and water quality certifications for several dams because their license dates pre-dated the scope of our original request, and because they do not appear to be available on your website. Finally, since Environmental Impact Statements (EISs) for the dams in question were unavailable on your website and the FERC website assistance customer service representative with whom we consulted was unable to locate them, we are requesting final National Environmental Policy Act (NEPA) documents for several specified dams.

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and its implementing regulations, 18 C.F.R. § 388.108 *et seq.*, we respectfully request all records including:

1. All records discussing Atlantic salmon in the Androscoggin, Kennebec, Sebasticook and/or Little Androscoggin Rivers in Maine dated on or after January 1, 2005, including but not limited to correspondence and communications between or among FERC, U.S. Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS), the State of Maine, and/or dam licensees.
2. All records discussing FERC-licensed dams and/or dam licensees on the Androscoggin, Kennebec, Sebasticook and/or Little Androscoggin Rivers in Maine dated on or after January 1, 2005, including but not limited to correspondence and communications between or among FERC, U.S. Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS), the State of Maine, and/or dam licensees.
3. All records discussing effects on Atlantic salmon from the existence and/or operation of FERC- licensed dams on the Androscoggin, Kennebec, Sebasticook and/or Little Androscoggin Rivers in Maine dated on or after January 1, 2005.

4. All records discussing effects on Atlantic salmon from the existence and/or operation of the following non-FERC-licensed dams dated on or after January 1, 2005: Pioneer and Waverly Dams (both in Pittsfield, ME), Mechanic Falls Dam (Mechanic Falls, ME), Welchville Dam (Oxford, ME), and South Paris and Blacoe Falls Dams (both in South Paris, ME).
5. All records discussing the potential need for incidental take permits under section 9 of the Endangered Species Act for Atlantic salmon on the Kennebec, Androscoggin, Sebasticook and/or Little Androscoggin Rivers in Maine dated on or after January 1, 2005.
6. Dam licenses and corresponding water quality certifications for the projects listed below. An asterisk by the docket number indicates that the license is available in the e-library, but only in a form that we cannot access or save (such as Microfilm). Projects without an asterisk did not appear to be available on your website at all. Please send all licenses and water quality certifications requested via email, CD, or flash drive in PDF or Word document format.

Requests for Dam Licenses and Water Quality Certifications					
P-2322	SHAWMUT	FPL ENERGY MAINE HYDRO, LLC.	01/05/81	01/31/21	Kennebec
P-2325*	WESTON	FPL ENERGY MAINE HYDRO, LLC.	11/25/97	10/31/36	
P-2611*	HYDRO-KENNEBEC	HYDRO KEENEBC L.P.	10/15/86	09/30/36	
P-2284	BRUNSWICK	FPL ENERGY MAINE HYDRO, LLC.	02/09/79	02/28/29	Androscoggin
P-2302*	LEWISTON FALLS	FPL ENERGY MAINE HYDRO, LLC.	09/29/86	08/31/26	
P-2333*	RUMFORD FALLS	RUMFORD FALLS HYDRO, LLC.	10/18/94	09/30/24	
P-3428*	WORUMBO	MILLER HYDRO GROUP INC (ME)	12/24/85	11/30/25	
P-4784	PEJEPSCOT	TETON POWER FUNDING, LLC	09/16/82	08/31/22	
P-11006	UPPER ANDROSCOGGIN	LEWISTON CITY OF (ME)	02/26/91	08/31/26	
p-5073*	BENTON FALLS	BENTON FALLS ASSOCIATES (NY)	03/08/84	02/28/34	Sebasticook

P-2808	BARKER'S MILL	KEI (MAINE) POWER MGMT (III) LLC	02/23/79	01/31/19	Little Androscoggin
P-3562*	BARKER MILL UPPER	KEI (MAINE) POWER MGMT (III) LLC	08/22/83	07/31/23	
P-6398*	HACKETT MILLS	HACKETT MILLS HYDRO ASSOCIATES (MD)	09/12/84	08/31/24	

7. All final NEPA documents prepared with respect to each of the FERC-licensed dams listed below, including but not limited to determinations concerning the applicability of categorical exclusions, environmental assessments, findings of no significant impact, environmental impact statements, and records of decision.

Requests for Final NEPA Documents					
P-2322	SHAWMUT	FPL ENERGY MAINE HYDRO, LLC.	01/05/81	01/31/21	Kennebec
P-2325	WESTON	FPL ENERGY MAINE HYDRO, LLC.	11/25/97	10/31/36	
P-2574	LOCKWOOD	MERIMIL LTD PARTNERSHIP (ME)	03/04/05	10/31/36	
P-2611	HYDRO- KENNEBEC	HYDRO KEENEBC L.P.	* 10/15/86	09/30/36	
P-2283	GULF ISLAND - DEER RIPS	FPL ENERGY MAINE HYDRO, LLC.	08/23/06	07/31/36	Androscoggin
P-2284	BRUNSWICK	FPL ENERGY MAINE HYDRO, LLC.	02/09/79	02/28/29	
P-2302	LEWISTON FALLS	FPL ENERGY MAINE HYDRO, LLC.	09/29/86	08/31/26	
P-2333	RUMFORD FALLS	RUMFORD FALLS HYDRO, LLC.	10/18/94	09/30/24	
P-2375	RILEY-JAY- LIVERMORE	VERSO ANDROSCOGGIN, LLC.	09/16/98	09/15/48	
P-3428	WORUMBO	MILLER HYDRO GROUP INC (ME)	12/24/85	11/30/25	
P-4784	PEJEPSCOT	TETON POWER FUNDING, LLC	09/16/82	08/31/22	
P-8277	OTIS	VERSO ANDROSCOGGIN, LLC.	09/16/98	09/15/48	

P-11006	UPPER ANDROSCOGGIN	LEWISTON CITY OF (ME)	02/26/91	08/31/26	
p-5073	BENTON FALLS	BENTON FALLS ASSOCIATES (NY)	03/08/84	02/28/34	Sebasticook
p-11472	BURNHAM	KEI (MAINE) POWER MGMT (II) LLC	04/07/04	10/31/36	
P-2808	BARKER'S MILL	KEI (MAINE) POWER MGMT (III) LLC	02/23/79	01/31/19	Little Androscoggin
P-3562	BARKER MILL UPPER	KEI (MAINE) POWER MGMT (III) LLC	08/22/83	07/31/23	
P-6398	HACKETT MILLS	HACKETT MILLS HYDRO ASSOCIATES (MD)	09/12/84	08/31/24	
P-11482	MARCAL	KEI (MAINE) POWER MGMT (IV) LLC	07/17/97	06/30/37	

8. All records discussing exemptions and/or other special permits granted for Pioneer and Waverly Dams (both in Pittsfield, ME), Mechanic Falls Dam (Mechanic Falls, ME), Welchville Dam (Oxford, ME), and/or South Paris and Blacoe Falls Dams (both in South Paris, ME).

B. Claims of Exemption from Disclosure,

If you regard any of the requested records to be exempt from required disclosure under FOIA, we request that you nevertheless disclose them in the public interest since disclosure will serve to educate the public about the operations and activities of the federal government. The Obama administration reversed the previous policy on FOIA requests, urging federal agencies to be more transparent. *See* Memorandum for the Heads of Executive Departments and Agencies, 74 Fed. Reg. 4683 (Jan. 26, 2009). Under the new policy, "[a]ll agencies should adopt a presumption in favor of disclosure..." and should act "in a spirit of cooperation, recognizing that such agencies are servants of the public." Additionally, guidelines from the Attorney General under this policy state that agencies "should not withhold information simply because it may do so legally." Attorney General, Memorandum on the Freedom of Information Act (Mar. 19, 2009).

Should you decide to invoke a FOIA exemption, please include in your full or partial denial letter sufficient information for us to appeal the denial. To comport with legal requirements this information must include reasons for denying any part of each requested document and notice that the requester has the right to "appeal any adverse determination" to the General Counsel in writing. 18 C.F.R. 388.108(c)(1). If information is withheld the Director should "indicate the approximate volume of information withheld, and...for partially-released materials, where redactions have been made, unless to do so would harm an interest protected by a FOIA exemption." 18 C.F.R. 388.108(c)(3).

If you determine that portions of the records requested are exempt from disclosure, please segregate the exempt portions and mail the remaining records to the above location within the statutory time limits after the exempted material has been redacted.

C. Fee Waiver

In your response to our initial request dated May 26, 2010, you noted that determination of our fee waiver request was unnecessary as CBD qualified for a reduced processing fees under 18 C.F.R. § 388.109(b)(2)(iii), and thus no fees were assessed once this was applied to our request. Please confirm that this reduced processing fee will apply in a similar manner to this supplemental request. If not, please refer to the explanation in our April 15, 2010 FOIA request as to why our current request should be entitled to a fee waiver as well.

As provided in FOIA, we anticipate a reply within twenty working days, i.e., by August 20, 2010. See 5 U.S.C. § 552 (a)(6)(A)(i); 18 C.F.R. § 388.108(c)(1). If you find this request is unclear in any way, please do not hesitate to contact me at (802) 831-1136 or tclemmer@vermontlaw.edu. We would be happy to discuss ways to clarify this request or otherwise expedite and simplify your efforts to comply with our request.

Thank you for your assistance. Please send the requested records to my attention at the above address.

Very truly yours,



Teresa B. Clemmer
Associate Director ENRLC

Cc: Mollie Matteson, CBD
Laura Colangelo, CBD
Patrick Parenteau, ENRLC
Jordan Gonda, ENRLC

FOIA-CEII

From: anyadouglas22@gmail.com on behalf of Anastasia Douglas [adouglas@vermontlaw.edu]
Sent: Wednesday, September 22, 2010 10:26 AM
To: FOIA-CEII
Subject: Status of FOIA Request
Attachments: 2010-07-23 -- FERC Supplemental FOIA (FINAL).pdf; Initial response letter -8-30-10.pdf

I am currently working as an intern at the Environmental and Natural Resources Clinic at Vermont Law School. I was hoping you could update me on the status of a FOIA request.

On July 23, 2010, the Clinic sent out a FOIA request. I am attaching this request. On August 30, 2010, the Clinic received a partial response. I am also attaching the response. The response stated it was an initial response to the request and that another determination would be made within twenty business days from the date of this letter.

Could you please update us on the status of our July 23rd FOIA request?

Thank you,

--
Anastasia M. Douglas

Environmental and Natural Resources Law Clinic
Vermont Law School, PO Box 96, Chelsea Street, South Royalton, VT 05068
802.831.1630 (phone), 802.831.1631 (fax)

July 23, 2010

Via Email and U.S. Mail to:

Julia Bovey, Director
Office of External Affairs
Federal Energy Regulation Commission
888 First Street, NE
Washington, D.C. 20426
julia.bovey@ferc.gov

Toyia Johnson, FOIA Public Liaison
Office of External Affairs
Federal Energy Regulation Commission
888 First Street, NE
Washington, D.C. 20426
foia-ceii@ferc.gov

Re: Supplemental Freedom of Information Act Request Concerning Dams and Atlantic Salmon in Maine

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Requests for Dam Licenses and Water Quality Certifications					
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P-2333*	RUMFORD FALLS	RUMFORD FALLS HYDRO, LLC.	10/18/94	09/30/24	
P-3428*	WORUMBO	MILLER HYDRO GROUP INC (ME)	12/24/85	11/30/25	
P-4784	PEJEPSCOT	TETON POWER FUNDING, LLC	09/16/82	08/31/22	
P-11006	UPPER ANDROSCOGGIN	LEWISTON CITY OF (ME)	02/26/91	08/31/26	
p-5073*	BENTON FALLS	BENTON FALLS ASSOCIATES (NY)	03/08/84	02/28/34	Sebasticook

P-2808	BARKER'S MILL	KEI (MAINE) POWER MGMT (III) LLC	02/23/79	01/31/19	Little Androscoggin
P-3562*	BARKER MILL UPPER	KEI (MAINE) POWER MGMT (III) LLC	08/22/83	07/31/23	
P-6398*	HACKETT MILLS	HACKETT MILLS HYDRO ASSOCIATES (MD)	09/12/84	08/31/24	

7. All final NEPA documents prepared with respect to each of the FERC-licensed dams listed below, including but not limited to determinations concerning the applicability of categorical exclusions, environmental assessments, findings of no significant impact, environmental impact statements, and records of decision.

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P-2333	RUMFORD FALLS	RUMFORD FALLS HYDRO, LLC.	10/18/94	09/30/24	
P-2375	RILEY-JAY- LIVERMORE	VERSO ANDROSCOGGIN, LLC.	09/16/98	09/15/48	
P-3428	WORUMBO	MILLER HYDRO GROUP INC (ME)	12/24/85	11/30/25	
P-4784	PEJEPSCOT	TETON POWER FUNDING, LLC	09/16/82	08/31/22	
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P-6398	HACKETT MILLS	HACKETT MILLS HYDRO ASSOCIATES (MD)	09/12/84	08/31/24	
P-11482	MARCAL	KEI (MAINE) POWER MGMT (IV) LLC	07/17/97	06/30/37	

8. All records discussing exemptions and/or other special permits granted for Pioneer and Waverly Dams (both in Pittsfield, ME), Mechanic Falls Dam (Mechanic Falls, ME), Welchville Dam (Oxford, ME), and/or South Paris and Blacoe Falls Dams (both in South Paris, ME).

B. Claims of Exemption from Disclosure

If you regard any of the requested records to be exempt from required disclosure under FOIA, we request that you nevertheless disclose them in the public interest since disclosure will serve to educate the public about the operations and activities of the federal government. The Obama administration reversed the previous policy on FOIA requests, urging federal agencies to be more transparent. *See Memorandum for the Heads of Executive Departments and Agencies*, 74 Fed. Reg. 4683 (Jan. 26, 2009). Under the new policy, "[a]ll agencies should adopt a presumption in favor of disclosure..." and should act "in a spirit of cooperation, recognizing that such agencies are servants of the public." Additionally, guidelines from the Attorney General under this policy state that agencies "should not withhold information simply because it may do so legally." Attorney General, *Memorandum on the Freedom of Information Act* (Mar. 19, 2009).

Should you decide to invoke a FOIA exemption, please include in your full or partial denial letter sufficient information for us to appeal the denial. To comport with legal requirements this information must include reasons for denying any part of each requested document and notice that the requester has the right to "appeal any adverse determination" to the General Counsel in writing. 18 C.F.R. 388.108(c)(1). If information is withheld the Director should "indicate the approximate volume of information withheld, and...for partially-released materials, where redactions have been made, unless to do so would harm an interest protected by a FOIA exemption." 18 C.F.R. 388.108(c)(3).

If you determine that portions of the records requested are exempt from disclosure, please segregate the exempt portions and mail the remaining records to the above location within the statutory time limits after the exempted material has been redacted.

C. Fee Waiver

In your response to our initial request dated May 26, 2010, you noted that determination of our fee waiver request was unnecessary as CBD qualified for a reduced processing fees under 18 C.F.R. § 388.109(b)(2)(iii), and thus no fees were assessed once this was applied to our request. Please confirm that this reduced processing fee will apply in a similar manner to this supplemental request. If not, please refer to the explanation in our April 15, 2010 FOIA request as to why our current request should be entitled to a fee waiver as well.

As provided in FOIA, we anticipate a reply within twenty working days, i.e., by August 20, 2010. See 5 U.S.C. § 552 (a)(6)(A)(i); 18 C.F.R. § 388.108(c)(1). If you find this request is unclear in any way, please do not hesitate to contact me at (802) 831-1136 or tclemmer@vermontlaw.edu. We would be happy to discuss ways to clarify this request or otherwise expedite and simplify your efforts to comply with our request.

Thank you for your assistance. Please send the requested records to my attention at the above address.

Very truly yours,



Teresa B. Clemmer
Associate Director ENRLC

Cc: Mollie Matteson, CBD
Laura Colangelo, CBD
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July 12, 2010

Via Facsimile, Email, and Certified Mail

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**Re: FREEDOM OF INFORMATION ACT APPEAL
FOIA No. FY10-56 (Maine Atlantic Salmon)**

On behalf of our client the Center for Biological Diversity ("CBD"), we are writing to appeal the Federal Energy Regulatory Commission's ("FERC's") response to our request for records discussing endangered Atlantic Salmon on the Androscoggin and Kennebec rivers in Maine. First, FERC has not conducted a reasonable and diligent search. Second, FERC has directed us to its e-library as a publicly available source of information, but many of the records we seek are unavailable on the website. Furthermore, the complexity of the site's various search mechanisms makes it excessively burdensome and unreliable for citizens without assistance from agency personnel. Third, FERC has failed to demonstrate the applicability of the deliberative process privilege. Finally, FERC's response runs counter to the FOIA statute's strong presumption in favor of discretionary disclosure as well as President Obama's recent call for increased agency transparency.

I. BACKGROUND

In our Request dated April 15, 2010 (hereinafter "Request") (Exhibit 1), we sought:

1. All records including correspondences and communications between FERC and dam licensees regarding Atlantic salmon on the Androscoggin and Kennebec Rivers in Maine since January 1, 2005.
2. All records including correspondences and communications between FERC and the U.S. Fish and Wildlife Service (USFWS) regarding dam licensees and Atlantic salmon on the Androscoggin and Kennebec Rivers in Maine since January 1, 2005.
3. All records including correspondences and communications between FERC and the National Marine Fisheries Service (NMFS) regarding dam licensees and Atlantic salmon on the Androscoggin and Kennebec Rivers in Maine since January 1, 2005.
4. All records concerning or related to effects on Atlantic salmon from the operation of FERC- licensed dams on the Androscoggin and Kennebec Rivers in Maine since January 1, 2005.
5. All records concerning or related to the potential need for incidental take permits under section 9 of the Endangered Species Act for Atlantic salmon on the Androscoggin and Kennebec Rivers in Maine since June 19, 2009.

FERC initially responded to our FOIA request with an email on April 15, 2010 (hereinafter "Initial Email") (Exhibit 2) directing us to the FERC website's e-library, where the agency maintained we could find much of the information we sought through our own efforts. With its formal determination letter dated May 26, 2010 (hereinafter "Response") (Exhibit 3), FERC provided fifteen documents and withheld twenty-nine others as exempt under the deliberative process privilege. These withheld documents included "drafts of Commission letters, orders, or settlement agreements." The Response also reiterated that more information was available on the FERC website's e-library.

As per the instructions in FERC's formal determination letter (Exhibit 3) and applicable regulations, we are making a timely appeal.¹

II. FERC DID NOT CONDUCT A REASONABLE AND DILIGENT SEARCH.

It is well established that an agency responding to a FOIA request must conduct a search "reasonably calculated to uncover all relevant documents."² The reasonableness of the search

¹ See 18 C.F.R. § 388.110(a)(1) (authorizing a requester to appeal within 45 days of the determination). As Saturday, July 10, 2010 falls on a weekend, we are submitting this appeal on the next business day, Monday, July 12, consistent with the Department of Energy's Office of Hearing and Appeals Procedural Regulations regarding the computation of time, which state, "...in computing any period of time prescribed or allowed by these regulations or by an order of the OHA, the day of the act, event, or default from which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included unless it is a Saturday, Sunday, or federal legal holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or a federal legal holiday." 10 C.F.R. § 1003.5(a)(1).

can depend on “whether the agency properly determined where responsive records were likely to be found, and searched those locations.”³

The paucity of the responsive materials disclosed by FERC strongly suggests that its search was inadequate. We requested all records over the past five years concerning over twenty FERC-licensed dams and their effects of endangered Atlantic Salmon in the Kennebec and Androscoggin Rivers, including “writings (handwritten, typed, electronic or otherwise produced or stored), letters, e-mails, facsimiles, inspection reports, memoranda, correspondence, notes, field notes, telephone conversations, documents, data bases, drawings, graphs, charts, maps, photographs, minutes of meetings, electronic and magnetic recordings of meetings, and any other compilation of data from which information can be obtained.” Yet FERC’s search turned up merely twelve emails, three letters, one file with handwritten notes, twenty-four drafts concerning the Lockwood dam license, and three documents that FERC declined to describe. It is particularly curious that twenty-four responsive documents exist for the Lockwood dam, but none exist for the remaining nineteen dams on the two rivers. We also note the complete absence of image-based records such as photographs, maps, drawings, graphs, and charts. Accordingly, we are doubtful that FERC has disclosed all records responsive to our request.

While the quality and quantity of search results do not necessarily determine the “reasonableness” of a search, “they are not irrelevant.”⁴ For example, the federal district court in Maine was bothered by the fact that the U.S. Bureau of Indian Affairs initially responded to a FOIA request by telling the plaintiff “that, but for a smattering of exempt documents, it had all the relevant documents and there were no more,” when in fact the agency subsequently produced many more responsive documents in fits and starts over a period of years.⁵

² *Weisberg v. U.S. Dept. Justice*, 705 F.2d 1344, 1351 (D.C. Cir. 1983). See also *Truitt v. U.S. Dept. State*, 897 F.2d 540, 542 (D.C. Cir. 1990), *Williams v. U.S. Dept. Justice*, 177 F. Appx. 231, 233 (3d Cir. 2006), *Oglesby v. U.S. Dept. Army*, 920 F.2d 57, 68 (D.C. Cir. 1990), and 5 U.S.C. § 552(a)(3).

³ U.S. Dept. Justice, *Guide to the Freedom of Information Act*, available at www.justice.gov/oip/foia_guide09/procedural-requirements.pdf at 72 (last visited June 23, 2010). See *Friends of Blackwater v. U.S. Dept. Interior*, 391 F. Supp. 2d 115, 121 (D.D.C. 2005) (finding agency’s search inadequate where agency did not describe specific search terms used and did not forward request to leadership office where documents likely existed); *Davidson v. U.S. Env’tl. Prot. Agency*, 121 F. Supp. 2d 38, 39 (D.D.C. 2000) (requiring defendant to explain procedure for conducting search and for issuing and retaining records); *Schoenman v. Fed. Bur. Invest.*, No. 04-2202, 2009 WL 763065, at *15-16 (D.D.C. Mar. 19, 2009) (finding that agency failed to demonstrate adequate search because it did not describe methodology used by individuals conducting searches, even though agency did describe general procedure for processing requests, specify search terms used, and reveal number of responsive documents located).

⁴ *Hiken v. U.S. Dept. Defense*, 521 F. Supp. 2d 1047, 1054 (N.D. Cal. 2007).

⁵ *Nulankeyutmonen Nkihtaqmikon v. U.S. Bureau Indian Affairs*, 672 F. Supp. 2d 154, 169 (D. Me. 2009).

A fairly broad request like ours should have produced a broad array of results. The fact that it did not calls into question the reasonableness and diligence of FERC's search. Moreover, FERC made no effort to describe how it stores its records nor what methods it used to locate records responsive to our request. FERC did not explain which databases it searched or which personnel it consulted. Without such explanations, we remain doubtful that FERC's search was reasonably calculated to uncover all documents responsive to our FOIA request.

III. FERC MAINTAINS THAT ITS PUBLIC WEBSITE CONTAINS RESPONSIVE DOCUMENTS, BUT MANY DOCUMENTS WERE UNAVAILABLE OR TOO DIFFICULT TO FIND.

FERC initially directed us to its e-library so that we could find responsive records through our own efforts. We acknowledge that, in general, agencies are entitled to direct citizens to responsive materials that are posted on public websites in a reasonably accessible manner.⁶ Based on our efforts in attempting to search for responsive records, however, the FERC e-library does not represent a reasonable mechanism for disclosure of responsive documents. For instance, some of the most basic and important documents, such as dam licenses and environmental impact statements are not available on the site at all. Moreover, the search mechanism is a prohibitively time-intensive and excessively burdensome way for citizens to obtain public records to which they are entitled by law.

A. Numerous Key Documents Are Not Available on the FERC Website.

Hydroelectric dams alter stream flow, interfere with natural processes of geomorphology, and change the temperature and quality of the water that passes from impoundments back into rivers. Such changes can have significant impacts on wildlife, downstream riparian property owners (individuals, municipalities, and industries), as well as on citizens who enjoy using rivers for recreation. Thus, out of all dam-related records that FERC could publish, dam licenses and the accompanying environmental impact statements ("EISs") are among the most important. It is in the public interest that stakeholders have the opportunity to understand the terms of licenses, licensees' ongoing responsibilities, and the environmental impact of hydropower projects. Hence, it is particularly troubling that the FERC website does not provide public access to many EISs and dam licenses.

Environmental impact statements on hydropower dam projects are almost absent from the FERC website entirely. Under "Industries >> Hydropower >> Environment >> Environmental Impact Statements," one can find a list of twenty Final EISs and two Draft EISs. Considering that FERC regulates over 1,700 dams, the lack of Environmental Impact Statements on the portion of the website entitled "Environmental Impact Statements" is inexplicable. A call to FERC's website navigation help-line revealed that even FERC employees could not locate them.⁷

⁶ See 5 U.S.C. § 552(a)(3).

⁷ Laura Colangelo, CBD intern; June 22, 2010 phone call to e-library assistance hotline at 1-866-208-3676

Similarly, searching for dam licenses is a convoluted and often fruitless process. FERC's initial email directed us to a list of dam licenses viewable on the FERC website, but the list includes only dam licenses dated from 2007 to the present. All of the dams we are researching were licensed before 2007 and were thus unavailable through this link. The initial email also provided a link to an Excel spreadsheet entitled "Complete List of Issued Licenses," available on the FERC website under "Industries >> Hydropower >> Licensing." This spreadsheet includes licenses dating back to the early part of the twentieth century, but there appears to be no way to access the text of the licenses themselves; it is merely a list. There are other Excel spreadsheets for "Issued Preliminary Permits," "Pending Preliminary Permits," "Issued Exemptions," and "Pending Licenses, Relicenses, and Exemptions." However, none of these spreadsheets contain links to the licenses we are attempting to research.

Further searching under "For Citizens >> Projects Near You" allows the user to click on the region of the Northeast, which pulls up a list of over 400 projects. Inexplicably, this list includes just three of the ten projects listed on the "Complete List of Issued Licenses" spreadsheet for the Kennebec, only one of the two projects listed for the Sebasticook, *none* of the nine dams listed for the Androscoggin, and *none* of the four dams listed for the Little Androscoggin. It is unclear why a list entitled "Projects Near You" would not include all projects in the area specified, or why users cannot access a list of projects by state rather than by region.

Using the e-library in conjunction with the "Complete List of issued Licenses" Excel spreadsheet, we were able to find some of the licenses using a date range of a few days before through a few days after the issuance, or by using the project number to look them up. However, most of the licenses were in an inaccessible form, such as Microfilm, and some did not come up at all.

We also conducted an experimental search for the license of the Lockwood, a dam located on the Kennebec River. (The Lockwood Dam license was issued in March of 2005, and is therefore not accessible under the "Industries >> Hydropower >> Issued Licenses since 2007" link.) A search in the e-library using "Kennebec and Lockwood and license" for the time period 03/01/2005 through the present returns a table of 111 documents, the vast majority of which are wholly unrelated to the search terms. The documents concern other projects, such as the Benton Falls Dam, the Upper Mechanicville project, the Goodwin Dam, the St. Lawrence / FDR power project 2000, and the Greenup power project, to name a few. Results include a document for a project located approximately 980 miles away. Seeking to improve the search, we re-ran for the same date period using quotation marks: "'Kennebec' and 'Lockwood' and 'license.'" This turned up 109 documents; it is unclear which two were absent or why, or whether this search with quotations marks may have included additional records not present in the first search. The discrepancy resulting from such a minor modification calls into question the reliability of the search engine itself.

To discover why this simple and specific request would force the website user to wade through such a baffling array of results, we explored the document entitled, "The City of Ann Arbor Michigan requests approval for Dana Dougherty as the independent consultant to perform inspections and prepare safety inspection report for the Barton and Superior dams under P-3142 et al." This document did, in fact, contain all three search terms; they were in the context of

Dougherty's lengthy resume. It would appear that the e-library search mechanism returns every document that mentions the terms in the search even tangentially. Though this is certainly typical of any search engine, it is still noteworthy that simply organizing records by dam would immediately alleviate this problem. The convoluted set of steps necessary to locate the licenses is thus outdated and inefficient.

With an ever-growing library of records, term searches will continue to become unwieldy. Simply organizing the documents by dam and including the all-important EISs would allow users quick, straightforward access to some of the most fundamental information they seek. At present, however, the absence of the EISs and the difficulty of finding dam licenses leads us to question whether there may be other responsive documents that have not been disclosed by FERC, but are likewise inaccessible via the FERC website.

B. FERC's Website Is Inadequate as a Means to Comply with FOIA.

President Obama has directed all federal agencies to "use modern technology to inform citizens what is known and done by their Government" and to make disclosures "in forms that the public can readily find and use."⁸ Moreover, the Attorney General has noted that "[u]nnecessary bureaucratic hurdles have no place in the 'new era of open Government' that the President has proclaimed."⁹ Even before these statements, agencies were required to list records under separate links or headings on their websites and to organize records "from a citizen-centered perspective" to allow the public to locate specific documents easily and efficiently.¹⁰ As "a party who asserts that material is publicly available," FERC "carries the burden of production on that issue."¹¹ The U.S. Supreme Court has noted that, "[e]ven if there were some agreement over what constitutes publicly available materials, Congress surely did not envision agencies satisfying their disclosure obligations under the FOIA simply by handing requesters a map and sending them on scavenger expeditions throughout the Nation."¹²

⁸ President Obama, *Memorandum for the Heads of Executive Departments and Agencies*, 74 Fed. Reg. 4683 (Jan. 26, 2009).

⁹ Attorney General, *Memorandum on the Freedom of Information Act* (Mar. 19, 2009).

¹⁰ FOIA Post: Memorandum for Chief FOIA Officers, *Guidance on Submitting Certification of Agency Compliance with FOIA's Reading Room Requirements* (posted June 27, 2008), available at www.justice.gov/oip/readingrooms/map062508.pdf. See also U.S. Office Management and Budget, *Improving Public Access to and Dissemination of Government Information and Using the Federal Enterprise Architecture Data Reference Model*, OMB Memorandum M-06-02 (Dec. 16, 2005) (requiring agencies to organize and categorize information intended for public access, thus promoting "a more citizen-centered government"); U.S. Office Management and Budget, *Management of Federal Information Resources*, OMB Circular A-130 (Nov. 28, 2000) (directing agencies to "help the public locate" information they disseminate).

¹¹ *Davis v. U.S. Dept. Justice*, 968 F.2d 1276, 1279 (D.C. Cir. 1992).

¹² *U.S. Dept. Justice v. Tax Analysts*, 492 U.S. 136, 153 (U.S. 1989).

Our frustrating efforts to find responsive documents on the FERC website, as described above, demonstrate that FERC has sent us on just such a scavenger hunt or wild goose chase. The FERC website is missing numerous critical documents, and the search engine does not function in a clear, straightforward manner. Thus, the website is an inadequate mechanism for compliance with FOIA.

IV. FERC HAS IMPROPERLY INVOKED THE DELIBERATIVE PROCESS PRIVILEGE.

FERC has a duty to promptly disclose all responsive records in accordance with FOIA. Any invocation of an exemption must be narrowly construed.¹³ The agency invoking the exemption carries the burden of establishing its applicability.¹⁴ Indeed, agencies must satisfy a high burden of proof in order to claim an exemption under section 552(b) of the FOIA.¹⁵ The government's burden has been interpreted to require "a relatively detailed justification, specifically identifying the reasons why a particular exemption is relevant and correlating those claims with the particular part of a withheld document to which they apply."¹⁶ As explained in *Vaughn*, "courts will simply no longer accept conclusory and generalized allegations of exemptions...but will require a relatively detailed analysis in manageable segments."¹⁷ This "relatively detailed analysis" must "(1) identify each document withheld; (2) state the statutory exemption claimed; and (3) explain how disclosure would damage the interests protected by the claimed exemption."¹⁸ This is usually accomplished through a Vaughn index. In order to serve its purpose, the index must give "the FOIA requester a meaningful opportunity to contest, and the district court an adequate foundation to review, the soundness of the withholding."¹⁹ Where

¹³ See *Fed. Trade Comm'n v. Grolier, Inc.*, 462 U.S. 19, 23 (1983) (citing S. Rep. No. 813 at 9; H.R. Rep. No. 1497 at 10) ("Congress intended Exemption 5 to be as [narrow] as [is] consistent with efficient Government operations.").

¹⁴ See *Coastal States Gas Corp. v. U.S. Dept. Energy*, 617 F.2d 854, 861 (D.C. Cir. 1980).

¹⁵ *Vaughn v. Rosen*, 484 F.2d 820, 823 (1973).

¹⁶ *Davin v. U.S. Dept. Justice*, 60 F.3d 1043, 1050 (3d Cir. 1995).

¹⁷ *Vaughn*, 484 F.2d at 823.

¹⁸ *Citizens Comm'n on Human Rights v. U.S. Food and Drug Admin.*, 45 F.3d 1325, 1326 n.1 (9th Cir. 1995).

¹⁹ *Wiener v. Fed. Bur. Invest.*, 943 F.2d 972, 977-8 (9th Cir. 1991). See *Rein v. U.S. Patent and Trademark Office*, 553 F.3d 353, 366 (4th Cir. 2009) (finding that "Vaughn index documents that fail to include information about their author and recipient, or which fail to provide an explanation that adequately substitutes for this information, do not contain adequate information for the district court to have determined whether they were properly withheld"); *Morley v. CIA*, 508 F.3d 1108, 1127 (D.C. Cir. 2007) (criticizing "minimal information" provided in agency submissions as being inadequate for court to determine if privilege was claimed properly); *Church of Scientology v. U.S. Dept. Justice*, 30 F.3d 224, 231 (1st Cir. 1994) (finding Vaughn index inadequate where agency provided "only general and conclusory assertions concerning the documents.")

entire documents are being withheld, agencies must advise requesters of the volume of the documents by providing exact page counts (or estimates, in large volume cases).²⁰

FERC maintains that each of the withheld documents are exempt under the deliberative process privilege set forth 5 U.S.C. § 552(b)(5), known as "Exemption 5." Exemption 5 allows an agency to withhold from disclosure "inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency."²¹ The deliberative process privilege serves to prevent "injury to the quality of agency decisions."²² It does so by ensuring circulation of "uninhibited opinions and recommendations."²³ An agency asserting the privilege must show that the withheld document is both "predecisional" and "deliberative."²⁴ Though agencies do not necessarily have to point to a specific final decision influenced by each record withheld, agencies must establish "what deliberative process is involved, and the role played by the documents in issue in the course of that process."²⁵ H

FERC has made conclusory statements that releasing the withheld records would risk "chilling future staff discussion" and "could cause public confusion by disclosing analysis that ultimately did not form part of the final document that was released to the public." FERC has not provided authors, recipients, dates or any other reasonably descriptive information. Vague statements -- such as "one of the documents is an email string between Commission staff discussing the substance of a formal correspondence" and "[a]nother document consists entirely of hand written notes from a Commission staff member" -- are insufficient. Indeed, FERC has provided no Vaughn index or otherwise explained how the withheld documents are predecisional or deliberative, or why their disclosure would have a chilling effect on agency deliberations. In addition, FERC has failed to identify the nature or volume of information contained in the withheld records. Accordingly, FERC has not adequately demonstrated the applicability of Exemption 5. We have created a chart setting forth the only information that FERC has provided about the 29 withheld records, which demonstrates the inadequacy of FERC's statements (see Exhibit 4).

²⁰ See *FOIA Update*, XVIII, No. 2 at 2 (Spring 1997) (citing 5 U.S.C. § 552(a)(6)(F)) available at www.justice.gov/oip/foia_updates/Vol_XVIII_2/page2.htm; *FOIA Update*, XVII, No. 4 at 10-11 (Fall 1996, available at www.justice.gov/oip/foia_updates/Vol_XVII_4/page2.htm; *Maine v. U.S. Dept. Interior*, 124 F. Supp. 2d 728, 736-37 (D. Me. 2001) ("An agency's burden of establishing a FOIA exemption is significant, and conclusory assertions of privilege by a defendant agency regarding an exemption claim will not fulfill its burden of proof [under the FOIA].").

²¹ 5 U.S.C. § 552(b)(5).

²² *NLRB v. Sears, Roebuck and Co.*, 421 U.S. 132, 151-53 (1975).

²³ *Coastal States*, 617 F.2d at 866.

²⁴ See *Wolfe v. U.S. Dept. of Health and Human Servs.*, 839 F.2d 768, 774 (D.C. Cir 1988); *Coastal States*, 617 F.2d at 866.

²⁵ *Coastal States*, 617 F.2d at 868.

V. FERC HAS FAILED TO DEMONSTRATE THAT FACTUAL INFORMATION IN THE WITHHELD RECORDS WAS NOT REASONABLY SEGREGABLE.

FERC has also failed to either segregate and disclose the factual information contained in its withheld records or explain why it would not be feasible to do so. FERC regulations provide that "[a]ny reasonably segregated non-exempt portion of a record will be provided to a requester. The DOE will delete portions which are withholdable under the exemptions listed above."²⁶ Courts have affirmed that, before claiming privilege under Exemption 5, an agency has an affirmative duty to make reasonable efforts to separate any nonexempt material, and if it finds that separation is not feasible, it bears the burden of accounting for its determination.²⁷ Even if a document contains some exempt material, "an agency cannot justify withholding an entire document simply by showing that it contains some exempt material."²⁸ Courts have declared an agency's refusal to segregate information unjustified where the agency gave no description of its "process for making such a determination, no factual recitation of why certain materials are not reasonably segregable, and no indication of what proportion of the information in a document is non-exempt and how that material is dispersed throughout the document."²⁹ Rather, FOIA requires the disclosure of "any reasonable segregable portion of a record . . . after deletion of the portions which are exempt under this subsection."³⁰

Particularly instructive is the First Circuit's reaction to an agency's statement that "[t]here are no segregable portions which have not been released which could be released without creating a substantial risk of disclosing information protected from disclosure."³¹ In *Church of Scientology*, the First Circuit wrote,

These declarations are written too generally to supplement the index in any meaningful way. They treat the documents within various exemption categories as a group, without referring to specific documents, and make broad statements essentially explaining that the documents were withheld because they contain the type of information generally protected by that particular exemption. The statements regarding segregability are wholly conclusory, providing no information that would enable a requester to evaluate the agency's decisions. Thus, none of the functions of the index identified in *Maynard* are served: the declarations do not demonstrate careful analysis of each document by the government; the court has not been assisted in its duty of ruling on the

²⁶ 10 C.F.R. § 1004.10(c).

²⁷ *Davin*, 60 F.3d at 1050, 1052 (citing 5 U.S.C. § 552(a)(4)(B)).

²⁸ *Mead Data Cent., Inc. v. United States Dep't of Air Force*, 566 F.2d 242, 260 (D.C. Cir. 1977).

²⁹ *Abdelfattah v. U.S. Dept. Homeland Sec.*, 488 F.3d 178, 186-87 (3d Cir. 2007) (internal quotation marks omitted).

³⁰ 5 U.S.C. § 552(b).

³¹ *Church of Scientology Int'l v. United States Dep't of Justice*, 30 F.3d 224, 231 (1st Cir. 1994).

applicability of an exemption; and the adversary system has not been visibly strengthened.³²

We requested information about the impact of dams upon the endangered Atlantic Salmon. Thus, statements regarding factual matters, such as mortality statistics, entrainment rates, turbine designs and costs, and similar matters are segregable and should have been disclosed. FERC makes the conclusory assertions, however, that “[s]ince the documents are not reasonably segregable, the full twenty-nine (29) documents are being withheld” and that “any factual portions of the withheld documents are so inextricably intertwined with the deliberative matter that disclosure would reveal the predecisional deliberations.” As in *Church of Scientology*, these broad statements do not refer to specific documents and provide no insight as to segregability. FERC has failed to explain what steps, if any, were taken to determine segregability. In the absence of such an explanation, it appears FERC has failed to make reasonable efforts to determine if any portions of the withheld material may be disclosed without compromising allegedly protected information.

VI. FERC’S RESPONSE DOES NOT REFLECT FOIA’S STRONG PRESUMPTION IN FAVOR OF DISCLOSURE AND TRANSPARENCY.

As the Supreme Court has recognized, broad disclosure of public records is “vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed.”³³ The First Circuit has also affirmed this policy of broad disclosure, requiring the government to comply with requests unless a specific exemption applies, construing exemptions narrowly.³⁴ In this spirit, the Obama administration has recently urged all federal agencies to be more transparent in their responses.³⁵ All federal agencies are directed to “adopt a presumption in favor of disclosure, in order to renew their commitment to the principles embodied in FOIA, and to usher in a new era of open Government.”³⁶ Similarly, the Attorney General has emphasized that a federal agency “should not withhold information simply because it may do so legally.”³⁷

As noted above, it is in the public interest to disclose information that will help citizens understand dam licensees’ responsibilities. Public access to information is particularly important when current practices may threaten the survival of newly listed endangered species. FERC’s failure to adequately respond to CBD’s FOIA request, as described above, interferes with citizens’ ability to understand the impact of dam operations on endangered Atlantic Salmon, as

³² *Id.*

³³ *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 242 (1978).

³⁴ *Aronson v. IRS*, 973 F.2d 962, 966 (1st Cir. 1992).

³⁵ See Obama Memorandum, Jan 1, 2009, 74 Fed. Reg. 4683 at 4683.

³⁶ *Id.*

³⁷ Attorney General Memorandum, Mar. 19, 2009, available at www.justice.gov/ag/foia-memo-march2009.pdf

well as their ability discover and address potential violations.³⁸ In light of the strong public interest in these records, FERC should not only disclose all responsive documents required by law, it should also exercise its discretion to waive any exemption and disclose all other relevant records as well.

VII. CONCLUSION

For the foregoing reasons, we appeal FERC's response to our FOIA request. We respectfully urge the Office of Hearings and Appeals to (1) require FERC to make a reasonable and diligent search for records, (2) to make a complete disclosure of records responsive to CBD's FOIA request, (3) to improve the availability and accessibility of key documents such as dam licenses and EISs on its website, (4) to provide an adequate explanation justifying its withholding of records under any claim of exemption through a Vaughn index or other similar means, (5) to segregate and release non-exempt factual information set forth within any withheld documents, and (6) to exercise its discretion to disclose relevant records to the maximum extent possible notwithstanding the availability of an exemption.

We look forward to receiving a response to this appeal within 20 days. In the event the Office of Hearings and Appeals affirms FERC's denial, please provide a statement of reasons as well as notice of the procedures for judicial review.³⁹ Please mail all correspondence to my attention at the address listed above. If you have any questions or need any further information, please contact me by telephone at (802) 831-1136 or by email at tclemmer@vermontlaw.edu. Thank you very much for your prompt attention to this appeal.

Very truly yours,



Teresa B. Clemmer
Acting Director ENRLC

cc: Mollie Matteson, Conservation Advocate CBD
Laura Colangelo, Intern CBD⁴⁰
Patrick Parenteau, Senior Counsel ENRLC
Jordan Gonda, Student Clinician ENRLC

³⁸ See FERC Division of Hydropower, *Compliance Handbook*, § 4.2.1 (March 2004), available at http://www.ferc.gov/industries/hydropower/gen-info/handbooks/compliance_handbook.pdf (last visited June 29, 2010) (explaining the ongoing responsibilities of licensees with regard to the Endangered Species Act in its Compliance Handbook and outlining the process by which violations are discovered and addressed).

³⁹ 5 U.S.C. § 552(a)(6)(A)(ii); C.F.R. § 338.110(a)(2); 10 C.F.R. § 1004.8(e).

⁴⁰ We would like to acknowledge the excellent contributions of Laura Colangelo in researching and drafting this appeal.

Environmental and Natural Resources Law Clinic
Vermont Law School
PO Box 96, Chelsea Street
South Royalton, VT 05068
802.831.1626
Fax: 802.831.1631

Submitted via Email to: foia-ceii@ferc.gov

April 15, 2010

RE: Freedom of Information Act Request

Julia Bovey, Director
Office of External Affairs
Federal Energy Regulation Commission
888 First Street, NE
Washington, D.C. 20426
Phone: (202) 502-8004 / Fax: (202) 208-2106

Toyia Johnson, FOIA Public Liason
Office of External Affairs
Federal Energy Regulation Commission
888 First Street, NE
Washington, D.C. 20426
Phone: (202) 502-6088 / Fax: (202) 208-2106

Ms. Julia Bovey and Ms. Toyia Johnson,

The Environmental and Natural Resources Law Clinic (ENRLC), on behalf of our client Center for Biological Diversity (CBD), seeks information regarding the impact on the endangered Atlantic salmon (*Salmo salar*) of FERC-licensed dams on the Androscoggin and Kennebec Rivers in Maine. What follows are our detailed requests, matters regarding FOIA exemptions, and our request for a fee waiver.

A. Request for Records

For purposes of this request, the term "records" means information of any kind, including, but not limited to, writings (handwritten, typed, electronic or otherwise produced or stored), letters, e-mails, facsimiles, inspection reports, memoranda, correspondence, notes, field notes, telephone conversations, documents, data bases, drawings, graphs, charts, maps, photographs, minutes of meetings, electronic and magnetic recordings of meetings, and any other compilation of data from which information can be obtained. All of the foregoing is included in this request if they are in the possession of, or otherwise under the control of, FERC. If such records are no longer under the control of the FERC, but were at any time, the term "records" shall include all information of any kind regarding the current location of such records, including, but not limited to, those types of information listed above.

For purposes of this request, "Maine" means all land, air and water within the state's boundaries.

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and implementing regulations, 18 C.F.R. § 388.108 *et seq.*, the ENRLC respectfully requests the following:

1. All records including correspondences and communications between FERC and dam licensees regarding Atlantic salmon on the Androscoggin and Kennebec Rivers in Maine since January 1, 2005.
2. All records including correspondences and communications between FERC and the U.S. Fish and Wildlife Service (USFWS) regarding dam licensees and Atlantic salmon on the Androscoggin and Kennebec Rivers in Maine since January 1, 2005.
3. All records including correspondences and communications between FERC and the National Marine Fisheries Service (NMFS) regarding dam licensees and Atlantic salmon on the Androscoggin and Kennebec Rivers in Maine since January 1, 2005.
4. All records concerning or related to effects on Atlantic salmon from the operation of FERC-licensed dams on the Androscoggin and Kennebec Rivers in Maine since January 1, 2005.
5. All records concerning or related to the potential need for incidental take permits under section 9 of the Endangered Species Act for Atlantic salmon on the Androscoggin and Kennebec Rivers in Maine since June 19, 2009.

B. Exempt Records

If you regard any of the requested records to be exempt from required disclosure under FOIA, we request that you nevertheless disclose them in the public interest since disclosure will serve to educate the public about the operations and activities of the federal government. The Obama administration reversed the previous policy on FOIA requests, urging federal agencies to be more transparent. *See* Memorandum for the Heads of Executive Departments and Agencies, 74 Fed. Reg. 4683 (Jan. 26, 2009). Under the new policy, "[a]ll agencies should adopt a presumption in favor of disclosure....," and should act "in a spirit of cooperation, recognizing that such agencies are servants of the public." Additionally, guidelines from the Attorney General under this policy state that agencies "should not withhold information simply because it may do so legally." Attorney General, Memorandum on the Freedom of Information Act (Mar. 19, 2009).

Should you decide to invoke a FOIA exemption, please include in your full or partial denial letter sufficient information for us to appeal the denial. To comport with legal requirements this information must include reasons for denying any part of the requested documents and notice that the requester has the right to "appeal any adverse determination" to the General Counsel in writing. 18 C.F.R. 388.108(c)(1). If information is withheld the Director should "indicate the approximate volume of

information withheld, and...for partially-released materials, where redactions have been made, unless to do so would harm an interest protected by a FOIA exemption." 18 C.F.R. 388.108(c)(3).

If you determine that portions of the records requested are exempt from disclosure, please segregate the exempt portions and mail the remaining records to the above location within the statutory time limits after the exempted material has been redacted from the records CBD is seeking.

C. Request for Fee Waiver

On behalf of CBD, we ask that you waive all fees in connection with this request. The request is being made in the public interest and the information obtained will be used to enhance the public awareness of agency decision-making regarding the impact of agency actions on threatened or endangered species. Moreover, consistent with 18 C.F.R. § 388.109(c)(1), the disclosure of this information is likely to contribute significantly to the public's understanding of FERC operations and activities, and it is not in the commercial interest of the requester. CBD's request also satisfies all of the specific criteria for a fee waiver. See 18 C.F.R. § 388.109(c)(1),(2),(3) as follows:

1. The records concern the operations or activities of the government.

The subject matter of this request concerns FERC's duty to protect threatened and endangered species under the Federal Power Act, the National Environmental Policy Act, and Endangered Species Act. Under the Federal Power Act, FERC must consider whether the project is best adapted to habitat protection for fish and wildlife, including spawning grounds, among the factors for approval. 16 USC § 803(a)(1). FERC's actions and communications related to this duty are clearly identifiable activities of the government.

2. Disclosure of these materials will likely contribute to public understanding of these operations and activities.

The contents of the records requested are meaningfully informative of FERC's operations and activities. There is a need to inform the public on how FERC is carrying out its statutory obligations concerning FERC's operations and activities with dams and salmon, a matter of strong public interest. The manner in which FERC fulfills these obligations concerning dams and salmon is a matter of strong public interest. CBD intends to use the requested information to better understand the operations and activities of FERC and FERC licensees concerning Atlantic salmon and dams on the Androscoggin and Kennebec Rivers in Maine. CBD intends to use any information gathered to educate the public on how FERC goes about determining whether actions taken by dam licensees affect or jeopardize endangered or threatened species. "The greatest impediment to self-sustaining Atlantic salmon populations in Maine is obstructed fish passage and degraded habitat caused by dams. In addition to direct loss of production habitat to impoundment and inundation, dams also alter natural river hydrology and geomorphology, interrupt natural sediment and debris transport processes, and alter natural temperature regimes."

Status Review for Anadromous Atlantic Salmon (*Salmo salar*) in the United States, Atlantic Salmon Biological Review Team 75 (July 2006). "Probably the most significant contributing factor to the loss of habitat connectivity within the range of the GOM DPS is the historical and contemporary presence of artificial dams, especially on the larger river systems." *Id.* at 88. It is important that the public understand these issues and what is being done by the responsible federal agencies to address them.

3. *There is likely to be a contribution to public understanding, and the release of the requested records will contribute significantly to that sense of understanding.*

CBD has spent years promoting the public interest through the development of policies that provide enhanced natural resource protection, including salmon, and have routinely received fee waivers under FOIA. This is in large part because CBD has repeatedly proven its ability to disseminate the information it obtains through FOIA to large segments of the public by means of membership correspondence, multiple publications, its websites, educational programs, media initiatives, and congressional testimony. CBD plans to disseminate at its own expense any information obtained so that the release of the requested records is likely to contribute significantly to public understanding of how and when FERC consults with dam licensees, NMFS, and USFWS regarding endangered species in Maine. This information is not otherwise available.

4. *Disclosure would not be beneficial to the commercial interests of CBD.*

CBD is a well-established national, non-profit, conservation organization with no commercial interest in obtaining the requested information. Instead, at its own expense, CBD will use the disclosed information to inform its members and educate the public about the operations and activities of the FERC. CBD has been significantly involved with species conservation in Maine in the past, including the Atlantic salmon. These efforts include supporting critical habitat designation and the expansion of endangered species listing for Atlantic salmon, and advocating for critical habitat designation for Canada lynx (*Lynx canadensis*). Our formal actions on behalf of Atlantic salmon conservation have included two successful lawsuits to compel the federal government's compliance with provisions of the Endangered Species Act for species listing and critical habitat designation.

For the foregoing reasons, the disclosure of the information requested is in the public interest because it is likely to contribute significantly to the public's understanding of FERC decision-making processes regarding impacts on threatened or endangered species. This information is not otherwise readily attainable and the public unquestionably will be the primary beneficiary of this requested information. Therefore, please waive processing and copying fees pursuant to 5 U.S.C. § 552(a)(4).

CBD qualifies for a full waiver of fees and we request that you promptly locate, copy, and send the requested materials at no charge. In the event that you determine CBD is not

eligible for a fee waiver, CBD is willing to pay up to \$100 for administrative costs and copying fees. If such is the case, please include in your denial of our petition for a fee waiver, in accordance with 18 C.F.R. § 388.109(c)(4) and 18 C.F.R. 388.108(c)(1), the basis for the denial, including a full explanation of why our fee waiver request did not meet FERC's fee waiver criteria.

Please note that the request for a fee waiver should not be construed as an extension of time in which to reply to this FOIA request. Please send information on a rolling basis as it becomes available.

As provided in FOIA, we anticipate a reply within twenty working days, i.e., by May 14. 5 U.S.C. § 552 (a)(6)(A)(i); 18 C.F.R. § 388.108(c)(1). If you find that this request is unclear in any way, please do not hesitate to contact Christopher Davis or Sadie Spruce at (802)831-1630 to see if we can clarify the request or otherwise expedite and simplify your efforts to comply with our request.

Thank you for your assistance. Please send the requested records to my attention at the address listed above.

Sincerely,



Patrick Parenteau



Teresa Clemmer

Sarah Spruce - ACKNOWLEDGEMENT: FOIA Request FY10-56

EXHIBIT

2

From: "FOIA-CEII"
To: "Patrick Parenteau" , "Teresa Clemmer"
Date: 4/15/2010 6:37 PM
Subject: ACKNOWLEDGEMENT: FOIA Request FY10-56
CC: "FOIA-CEII" , "Christopher Davis" , "Sarah Spruce"
Attachments: "FOIA-CEII" , "Christopher Davis" , "Sarah Spruce"

Mr. Parenteau & Ms. Clemmer

We received your Freedom of Information Request (FOIA) request on April 15, 2010. This request has been assigned reference number **FY10-56**. Every effort will be made to respond to your FOIA request within twenty business days or by May 13, 2010. I attempted to contact Ms. Spuce via telephone today, however she was not available. I left a message stating that a preliminary search of the FERC e-library identified public material that may be responsive to this request. For your convenience we are providing links to this material. We are also including links to the list of hydropower licenses that have been issued by FERC. We kindly ask that you withdraw your Freedom of Information Act (FOIA) request if this information meets the needs of your request.

■ **RESULTS OF E-LIBRARY SEARCH:**

- Search term: **Kennebec and Atlantic Salmon** (1/1/1990 – 4/15/10)

[http://elibrary.ferc.gov/idmws/search/eSaveAdv.asp?
fdt=on&fd=1/1/1990&txt=kennebec+and+Atlantic+Salmon&](http://elibrary.ferc.gov/idmws/search/eSaveAdv.asp?fdt=on&fd=1/1/1990&txt=kennebec+and+Atlantic+Salmon&)

- Search term: **Androscoggin and Atlantic salmon** (1/1/1990 – 4/15/10)

[http://elibrary.ferc.gov/idmws/search/eSaveAdv.asp?
fdt=on&fd=1/1/1990&txt=androscoggin+and+atlantic+salmon&](http://elibrary.ferc.gov/idmws/search/eSaveAdv.asp?fdt=on&fd=1/1/1990&txt=androscoggin+and+atlantic+salmon&)

■ **FROM FERC WEBPAGE:**

Hydropower licenses

<http://www.ferc.gov/industries/hydropower/gen-info/licensing/issued-licenses.asp>

Complete list of Issued Licenses

If you have any questions or need assistance with the FERC e-library, please do not hesitate to contact our FOIA-CEII Service Center by email at foia-ceii@ferc.gov or by phone at 202 502-6088.

Sincerely,

Toyia Johnson

Toyia Johnson
Federal Energy Regulatory Commission
Office of External Affairs
FOIA Public Liaison
(202) 502-8389

NOTICE: This email message and any attachments are for the sole use of the intended recipients and may contain information that is classified as privileged, CEII or otherwise protected from disclosure. Any unauthorized review, use, disclosure or distribution is strictly prohibited. If you are not the intended recipient, please contact the sender by reply email and delete the original message from your computer system and destroy any copies of the message as well as any attachments.

From: Sarah Spruce [mailto:SSPRUCE@vermontlaw.edu]
Sent: Thursday, April 15, 2010 10:02 AM
To: FOIA-CEII
Cc: Christopher Davis; Patrick Parenteau; Teresa Clemmer
Subject: FOIA Request

Jean Carter-Johnson,

Enclosed is a FOIA Request from the Environmental and Natural Resources Law Clinic on behalf of the Center for Biological Diversity. Thank you for your time and attention to this matter. If you have any questions or concerns regarding this request please contact Christopher Davis or Sadie Spruce at (802)831-1630.

Sincerely,
Sadie Spruce
Vermont Law School, 2010

Federal Energy Regulatory Commission
Washington, DC 20426

MAY 28 2010

Re: Response Letter
FOIA No. FY10-56

VIA EMAIL AND REGULAR MAIL

Patrick Parenteau & Teresa Clemmer
Environmental and Natural Resources Law Clinic
Vermont Law School
PO Box 96, Chelsea Street
South Royalton, VT 05068

Dear Mr. Parenteau and Ms. Clemmer:

On April 15, 2010, you filed a request on behalf of the Center for Biological Diversity (CBD) pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552 (2006), *amended by* OPEN Government Act of 2007, Pub. L. No. 110-175, 121 Stat. 2524, and the Federal Energy Regulatory Commission's (FERC or the Commission) FOIA regulations, 18 C.F.R. § 388.108 (2009). You seek information about FERC licensed dams and Atlantic salmon in the Androscoggin and Kennebec Rivers in Maine.¹ Specifically, you requested:

1. All records including correspondence and communications between FERC and dam licensees regarding Atlantic salmon on the Androscoggin and Kennebec Rivers in Maine since January 1, 2005.
2. All records including correspondence and communications between FERC and the U.S. Fish and Wildlife Service (USFWS) regarding dam licensees and Atlantic salmon on the Androscoggin and Kennebec Rivers in Maine since January 1, 2005.

¹ You also requested a fee waiver. A determination of your fee waiver request is unnecessary because CBD qualified for a reduced processing fees under 18 C.F.R. § 388.109(b)(2)(iii) that when applied to the request resulted in no fees being assessed.

3. All records including correspondence and communications between FERC and the National Marine Fisheries Services (NMFS) regarding dam licensees and Atlantic salmon on the Androscoggin and Kennebec Rivers in Maine since January 1, 2005.
4. All records concerning or related to the effects on Atlantic salmon from the operation of FERC-licensed dams on the Androscoggin and Kennebec Rivers in Maine since January 1, 2005.
5. All records concerning or related to the potential need for incidental take permits under section 9 of the Endangered Species Act for Atlantic salmon on the Androscoggin and Kennebec Rivers in Maine since June 19, 2009.

A search of the Commission's non-public files identified seventeen (17) documents and one (1) DVD containing another twenty-seven (27) documents responsive to your request.² Fifteen (15) documents are being provided to you in full. The remaining twenty-nine (29) documents are being withheld pursuant to FOIA Exemption 5, which protects from disclosure "intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency." 5 U.S.C. § 552(b)(5).

More precisely, FOIA Exemption 5 incorporates various privileges, including the deliberative process privilege which is at issue here. Courts have consistently held that three policy purposes constitute the basis for the FOIA Exemption 5 deliberative process privilege: (1) to encourage open, frank discussions on matters of proposed policy between subordinates and superiors; (2) to protect against premature disclosure of proposed policies before they are finally adopted; and (3) to protect against public

² In addition to the non-public information identified in this letter, there is already a considerable amount of information in the public record about the Atlantic salmon in the Androscoggin and Kennebec Rivers. This information can be found on the Commission's eLibrary database, which is located on FERC's website. For example, 686 publically available documents refer to the Kennebec River and Atlantic salmon from 1990 to the present. Likewise, 266 publically available documents refer to the Androscoggin River and Atlantic salmon during that same date range. Information about FERC hydropower licensees and the docket numbers for each licensee can be found on FERC's website, as well. In an email dated April 15, 2010, Commission staff informed you of the availability of this information and provided you with links to this material.

confusion that might result from disclosure of reasons and rationales that were not in fact ultimately the grounds for an agency's action. *See Russell v. Dep't of the Air Force*, 682 F.2d 1045, 1048 (D.C. Cir. 1982); *see also Environmental Protection Agency v. Mink*, 410 U.S. 73, 87 (1972) (recognizing that "[i]t would be impossible to have any frank discussions of legal or policy matters in writing if all such writings were to be subjected to public scrutiny").

All of the documents being withheld are precisely the type of information FOIA Exemption 5 was created to protect. Specifically, one of the documents is an email string between Commission staff discussing the substance of a formal correspondence. Another document consists entirely of hand written notes from a Commission staff member. The other twenty-seven (27) documents are drafts of Commission letters, orders, and settlement agreements.³ Not only does release of these documents risk chilling future staff discussion on such matters, release here could cause public confusion by disclosing analysis that ultimately did not form part of the final document that was released to the public. Furthermore, any factual portions of the withheld documents are so inextricably intertwined with the deliberative matter that disclosure would reveal the predecisional deliberations. *See In re Sealed Case*, 121 F.3d 729, 737 (D.C. Cir. 1997); *Mead Data Central, Inc. v. United States Dep't of the Air Force*, 566 F.2d 242, 256 (D.C. Cir. 1977) (recognizing that FOIA Exemption 5 protects all communications including purely factual material that would expose to public view an agency's decision-making process). Since the documents are not reasonably segregable, the full twenty-nine (29) documents are being withheld.

³ The final versions of the majority of these documents are publically available on eLibrary. For instance, twenty (20) of the withheld documents are drafts of Accession No. 20050304-3069, *Order issuing new license re: Merimil Limited Partnership's Lockwood Project, under P-2574*, 110 FERC ¶ 61,240 (March 4, 2005). Likewise, four (4) of the withheld documents are drafts of Accession No. 20050502-3012, *Response to FPL Energy Maine's request for FERC to issue an errata notice to reflect three changes in the new license for the Lockwood Project etc under P-257420050502-3012*, (May, 2, 2005).

As provided by FOIA and 18 C.F.R. § 388.110 of the Commission's regulations, any appeal from this determination must be filed within 45 days of the date of this letter. The appeal must be in writing, addressed to Thomas R. Sheets, General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, and clearly marked "Freedom of Information Act Appeal." I would appreciate it if you would also send a copy to Charles A. Beamon, Associate General Counsel, General and Administrative Law, at the same address.

Sincerely,

A handwritten signature in black ink, appearing to read "Mary O'Driscoll", written in a cursive style.

Mary O'Driscoll
Acting Director
Office of External Affairs

Enclosure

Request	Accession	Response	Line	Comments	Description	Comments and Information Given
"Email string between Commission staff"	?	?	?	?	"discussing the substance of a formal correspondence"	?
"Hand written notes from a Commission staff member"	?	?	?	?	?	?
Draft: Accession No. 20050304-3069, Order issuing new license re: Merimll Limited Partnership's Lockwood Project, under P-2574, 110 FERC ~ 61,240	?	?	?	?	?	?
"	?	?	?	?	?	?
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"	?	?	?	?	?	?
Draft: Accession No. 20050502-3012, Response to FPL Energy Maine's request for FERC to issue an errata notice to reflect three changes in the new license for the Lockwood Project etc under P-257420050502-3012.	?	?	?	?	?	?
"	?	?	?	?	?	?
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?	?	?	?	?	?	?

Federal Energy Regulatory Commission
Washington, D.C. 20426

AUG 30 2010

Re: FOIA No. FY10-83
Initial Response

Ms. Teresa B. Clemmer
Acting Director
Environmental and Natural Resources Law Clinic
Vermont Law School
P.O. Box 96, Chelsea Street
South Royalton, VT 05068

Dear Ms. Clemmer:

This is a partial response to your July 23, 2010 request for documents pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552 (2006), *amended by* OPEN Government Act of 2007, Pub. L. No. 110-175, 121 Stat. 2524, and the Federal Energy Regulatory Commission's (Commission or FERC) FOIA regulations, 18 C.F.R. § 388.108 (2009). Specifically, you requested:

1. All records discussing Atlantic salmon in the Androscoggin, Kennebec, Sebasticook and/or Little Androscoggin Rivers in Maine dated on or after January 1, 2005, including but not limited to correspondence and communications between or among FERC, U.S. Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS), the State of Maine, and/or dam licensees.
2. All records discussing FERC-licensed dams and/or dam licensees on the Androscoggin, Kennebec, Sebasticook and/or Little Androscoggin Rivers in Maine dated on or after January 1, 2005, including but not limited to correspondence and communications between or among FERC, U.S. Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS), the State of Maine, and/or dam licensees.
3. All records discussing effects on Atlantic salmon from the existence and/or operation of FERC-licensed dams on the Androscoggin, Kennebec, Sebasticook and/or Little Androscoggin Rivers in Maine dated on or after January 1, 2005.
4. All records discussing effects on Atlantic salmon from the existence and/or operation of the following non-FERC-licensed dams dated on or after January 1, 2005: Pioneer and Waverly Dams (both in Pittsfield, ME), Mechanic Falls Dam (Mechanic Falls, ME), Welchville Dam (Oxford, ME), and South Paris and Blacoe Falls Dams (both in South Paris, ME).

5. All records discussing the potential need for incidental take permits under section 9 of the Endangered Species Act for Atlantic salmon on the Kennebec, Androscoggin, Sebasticook and/or Little Androscoggin Rivers in Maine dated on or after January 1, 2005.
6. Dam licenses and corresponding water quality certifications for the specific projects that you listed.
7. All final NEPA documents prepared with respect to specific FERC-licensed dams that you listed, including but not limited to determinations concerning the applicability of categorical exclusions, environmental assessments, findings of no significant impact, environmental impact statements, and records of decision.
8. All records discussing exemptions and/or other special permits granted for Pioneer and Waverly Dams (both in Pittsfield, ME), Mechanic Falls Dam (Mechanic Falls, ME), Welchville Dam (Oxford, ME), and/or South Paris and Blacoe Falls Dams (both in South Paris, ME).

Given the number of specific requests, which include requests for several older records, and the amount of Commission staff time required to collect any responsive information addressing these requests, we are making an initial release of documents with additional determinations concerning the remaining documents to follow on a rolling basis. At this time, Commission staff is providing you with twelve (12) documents in their entirety. The twelve (12) documents, which are responsive to Request No. 6 listed above, are licenses that you claimed were either unavailable on the Commission's eLibrary database or in a form that you could not access.

The Commission will continue to search its non-public files for additional responsive documents and will endeavor to provide you with another determination within twenty (20) business days from the date of this letter. If you have any questions regarding this matter, please contact the undersigned by facsimile at (202) 208-2106 or contact Toyia Johnson of my staff at (202) 502-8004.

Sincerely,



Mary O'Driscoll
Acting Director
Office of External Affairs

Enclosure:

FOIA-CEII

From: FOIA-CEII
Sent: Thursday, November 04, 2010 3:52 PM
To: 'Teresa Clemmer'
Cc: FOIA-CEII; 'PPARENTEAU@vermontlaw.edu'
Subject: STATUS UPDATE / PUBLIC MATERIAL: Freedom of Information Act FY10-83

Ms. Clemmer

Please be advised that the Federal Energy Regulatory Commission is continuing to process your FOIA request number FY10-83. During this process we have conducted additional searches in the FERC e-library and identified a large volume of documents that are classified as public material and may be responsive or of interest to you. As a courtesy we are providing the following links to this material:

- ☐ **Public documents containing the terms - Seabcoast, Maine, and Salmon from 1990 to the present.**

<http://elibrary.ferc.gov/idmws/search/eSaveAdv.asp?fdt=on&fd=1/1/1990&txt=seabcoast+and+maine+and+salmon&av=p&>

- ☐ **Public documents containing the terms - Little Androscoggin, Maine, and Salmon from 1990 to the present.**

<http://elibrary.ferc.gov/idmws/search/eSaveAdv.asp?fdt=on&fd=1/1/1990&txt=little+androscoggin+and+maine+and+salmon&av=p&>

The following links were previously provided to you regarding FOIA request number FY10-56 and may also be responsive or of interest to you for your current request.

- ☐ Search term: **Kennebec and Atlantic Salmon (1/1/1990 - 4/15/10)**

<http://elibrary.ferc.gov/idmws/search/eSaveAdv.asp?fdt=on&fd=1/1/1990&txt=kennebec+and+Atlantic+Salmon&>

□ Search term: **Androscoggin and Atlantic salmon** (1/1/1990 – 4/15/10)

[http://elibrary.ferc.gov/idmws/search/eSaveAdv.asp?
fdt=on&fd=1/1/1990&txt=androscoggin+and+atlantic+salmon&](http://elibrary.ferc.gov/idmws/search/eSaveAdv.asp?fdt=on&fd=1/1/1990&txt=androscoggin+and+atlantic+salmon&)

Please be advised that we expect to provide additional correspondence regarding FY10-83 when it become available. If you have any questions or need assistance with the FERC e-library, please do not hesitate to contact our FOIA-CEII Service Center by email at foia-ceii@ferc.gov or by phone at 202 502-6088.

Sincerely,

Toyia Johnson

Toyia Johnson
Federal Energy Regulatory Commission
Office of External Affairs
FOIA Public Liaison
(202) 502-8389

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FOIA-CEII

From: FOIA-CEII
Sent: Tuesday, January 11, 2011 7:17 PM
To: 'TCLEMMER@vermontlaw.edu'
Cc: FOIA-CEII; 'PPARENTEAU@vermontlaw.edu'
Subject: Second response letter - Rolling request - Teresa Clemmer FY10-83 -
Attachments: Second Response Letter - Teresa Clemmer - FY10-83 - January 11, 2011.pdf

Ms. Clemmer

Please find attached the second response letter from the Federal Energy Regulatory Commission (FERC) regarding Freedom of Information Act (FOIA) request (**FY10-83**). A copy of this letter and nine enclosures (eight (8) electronic documents are on a DVD and one (1) hard copy of the Draft Environmental Impact Statement) have been mailed to you via the U.S. Postal Service.

If you have any questions please do not hesitate to contact our FOIA Service Center by email at foia-ceii@ferc.gov or by phone at 202 502-6088.

Sincerely,

Toyia Johnson

Toyia Johnson
Federal Energy Regulatory Commission
Office of External Affairs
FOIA Public Liaison
(202) 502-8389

Federal Energy Regulatory Commission
Washington, D.C. 20426

JAN 11 2011

Re: FOIA No. FY10-83
Rolling Response

VIA EMAIL

Ms. Teresa B. Clemmer
Acting Director
Environmental and Natural Resources Law Clinic
Vermont Law School
P.O. Box 96, Chelsea Street
South Royalton, VT 05068

Dear Ms. Clemmer:

This is the second letter in response to your July 23, 2010 request for documents pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552 (2006), *amended by* OPEN Government Act of 2007, Pub. L. No. 110-175, 121 Stat. 2524, and the Federal Energy Regulatory Commission's (Commission or FERC) FOIA regulations, 18 C.F.R. § 388.108 (2010). Specifically, you requested:

1. All records discussing Atlantic salmon in the Androscoggin, Kennebec, Sebasticook and/or Little Androscoggin Rivers in Maine dated on or after January 1, 2005, including but not limited to correspondence and communications between or among FERC, U.S. Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS), the State of Maine, and/or dam licensees.
2. All records discussing FERC-licensed dams and/or dam licensees on the Androscoggin, Kennebec, Sebasticook and/or Little Androscoggin Rivers in Maine dated on or after January 1, 2005, including but not limited to correspondence and communications between or among FERC, U.S. Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS), the State of Maine, and/or dam licensees.
3. All records discussing effects on Atlantic salmon from the existence and/or operation of FERC-licensed dams on the Androscoggin, Kennebec, Sebasticook and/or Little Androscoggin Rivers in Maine dated on or after January 1, 2005.

4. All records discussing effects on Atlantic salmon from the existence and/or operation of the following non-FERC-licensed dams dated on or after January 1, 2005: Pioneer and Waverly Dams (both in Pittsfield, ME), Mechanic Falls Dam (Mechanic Falls, ME), Welchville Dam (Oxford, ME), and South Paris and Blacoe Falls Dams (both in South Paris, ME).
5. All records discussing the potential need for incidental take permits under section 9 of the Endangered Species Act for Atlantic salmon on the Kennebec, Androscoggin, Sebasticook and/or Little Androscoggin Rivers in Maine dated on or after January 1, 2005.
6. Dam licenses and corresponding water quality certifications for the specific projects that you listed.
7. All final NEPA documents prepared with respect to specific FERC-licensed dams that you listed, including but not limited to determinations concerning the applicability of categorical exclusions, environmental assessments, findings of no significant impact, environmental impact statements, and records of decision.
8. All records discussing exemptions and/or other special permits granted for Pioneer and Waverly Dams (both in Pittsfield, ME), Mechanic Falls Dam (Mechanic Falls, ME), Welchville Dam (Oxford, ME), and/or South Paris and Blacoe Falls Dams (both in South Paris, ME).

On May 26, 2010 and August 23, 2010, in response to an earlier FOIA request, the Commission released nineteen (19) non-public documents and, as a courtesy, provided you with over one-hundred (100) publicly available documents. Those documents are also responsive to Requests Nos. 1-3 and 5-7 listed above.¹

¹ In FOIA No. FY10-56, your request was for, in brief, material related to Atlantic salmon and FERC-licensed dams on the Androscoggin and Kennebec Rivers in Maine since January 1, 2005. The Commission initially released fifteen (15) documents to you. On appeal, the Commission released another four (4) documents and provided you with an additional one-hundred (100) publicly available documents. In addition to that material, you also received an email dated April 15, 2010 in which Commission staff provided you with links to a significant amount of publicly available material from its eLibrary database. You noted that this request "should be construed as excluding" the material already provided. (Request at 2.) Nonetheless, if you need additional copies of that material, please contact Toyia Johnson of my staff at foia-ceii@ferc.gov or at 202-502-8870.

On August 30, 2010, the Commission provided, as an initial response to this instant FOIA request, twelve (12) documents responsive to Request No. 6 listed above. The twelve (12) documents are all publicly available licenses that you claimed were either unavailable or in a form you could not access. The August 30, 2010 letter also informed you given the number of specific requests, which include requests for several older records, and the amount of Commission staff time required to collect any responsive information addressing these requests, that additional determinations concerning the remaining documents would follow on a rolling basis.

While continuing to search for material, Commission staff identified a considerable amount of publicly available information responsive to your request.² As a courtesy, in an email dated November 4, 2010, Commission staff sent you search results from which you could access responsive publicly available material stored in the Commission's eLibrary database. See *U.S. Dep't of Justice v. Tax Analysts*, 492 U.S. 136, 152 (1989) (recognizing that an agency need not disclose information that has been "previously published or made available by the *agency itself*") (emphasis included). The email identified more than one-thousand (1,000) publicly available documents that may be responsive to Requests Nos. 1-3 and 5-7 listed above.³

At this time, Commission staff is providing you with nine (9) documents. The nine (9) documents consist of two (2) documents responsive to Request No. 6 listed above and seven (7) documents responsive to Request No. 7 listed above. All of the material is publicly available information you claimed was either unavailable or in a form you could not access. Eight (8) of those documents are provided on the enclosed DVD and one (1) as a hardcopy.

² That material can be found on the Commission's eLibrary database located on FERC's website. Using the advanced search function of eLibrary, you may narrow a search by date, document type, document category, docket number, keyword, accession number, and author. If you experience difficulty finding material, particularly older documents, that you suspect should be publicly available, you are encouraged to contact the Public Reference Room at public.referenceroom@ferc.gov or at 1-866-208-3676. See FERC.gov, Public Reference Room (last visited 1/5/2011) <http://www.ferc.gov/help/pub-ref-rm.asp> (detailing the procedure for requesting and viewing documents).

³ Specifically, the email included links to: (a) 279 documents containing the terms "Sebasticoock and salmon and Maine" from 1990 to the present; (b) 50 documents containing the terms "Little Androscoggin and salmon and Maine" from 1990 to the present; (c) 708 documents containing the terms "Kennebec and Atlantic salmon" from 1990 to the present; and (d) 287 documents containing the terms "Androscoggin and Atlantic salmon" from 1990 to the present.

The Commission will continue to review its non-public files for additional responsive documents and will endeavor to provide you with another determination within twenty (20) business days of the date of this letter. If you have any questions regarding this matter, please contact the undersigned by facsimile at (202) 208-2106 or contact Toyia Johnson of my staff at (202) 502-8004.

Sincerely,

A handwritten signature in black ink, appearing to read "Leonard M. Tao", with a large, stylized flourish extending from the end of the signature.

Leonard M. Tao
Director
Office of External Affairs

Enclosure(s)

ITEM 4
FEDERAL JUDICIAL ACTION (1)

Number	Requester Name	Date Received	Date Closed	How Closed	Description Subject
FY08-00026-000	Bell, Brenna	2/12/2008	3/12/2008	No Documents Found	maps and other documents in PF07-13.

Item 5 Materials

KENT S. ROBINSON, OSB #09625
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Attorneys for United States Federal Energy Regulatory Commission

FILED
JAN - 4 2009

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

COLUMBIA RIVERKEEPER, an
Oregon non-profit organization,
WILLAMETTE RIVERKEEPER, an
Oregon non-profit corporation

Plaintiff,

v.

UNITED STATES FEDERAL ENERGY
REGULATORY COMMISSION,

Defendant.

CV 08-936-HU
DISTRICT OF OREGON
CLERK OF COURT
JANUARY 4, 2009
JANUARY 4, 2009

JOINT STIPULATION AND
[PROPOSED] ORDER REGARDING
ATTORNEY FEES AND COSTS

Introduction

The parties to this action, by the signatures of their counsel of record, stipulate and agree as follows:

Recitals

The parties to this action agree as follows:

1. The Plaintiffs are Columbia Riverkeeper and Willamette Riverkeeper ("Plaintiffs") and the Defendant is the Federal Energy Regulatory Commission ("FERC").
2. This action was brought by the Plaintiffs and asserted claims against FERC under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552.
3. On or about July 24, 2009, the district court granted summary judgment, in part, in favor of Plaintiffs and against FERC. On or about August 11, 2009, the district court entered the judgment.
4. On or about September 10, 2009, Plaintiffs filed a motion for attorney fees and costs.
5. On or about October 8, 2009, FERC appealed the judgment to the Ninth Circuit Court of Appeals, Case No. 09-35901. The appeal was voluntarily dismissed by FERC on or about November 19, 2009, as part of this agreement.
6. Each counsel who signs this Stipulation has all the authority required to bind the parties to the terms of this Stipulation and any judgment resulting from it.

Stipulations

The parties to this action stipulate as follows:

1. FERC agrees to pay the Plaintiffs the total sum of \$63,000.00 for attorney fees and costs arising from this action. To resolve this case, Plaintiffs agree to accept this sum which is a reduction in the amount Plaintiffs sought in their Motion for Attorney's Fees and Costs. The Plaintiffs hold to their view that the time expended and the rates requested by Plaintiffs in the Motion for Attorney's Fees and Costs are reasonable.

2. Plaintiffs agree that payment by FERC of the agreed sum will constitute full and final settlement of all claims regarding its attorney fees and costs in this action.

3. This Stipulation constitutes the full and final agreement of the parties arising from Plaintiffs' Motion for Attorney's Fees and Costs in this action. There are no other representations or promises made by either party other than those set forth in this Stipulation.

4. Upon approval of this Stipulation by the district court, FERC shall promptly communicate with Plaintiffs' counsel regarding details related to the payment of the agreed sum, and FERC will make payment to Plaintiffs within 10 business days.

5. The terms of this Stipulation shall become effective upon entry of an order by the district court accepting this Stipulation.

6. The parties agree that the district court shall retain jurisdiction over this matter to enforce the terms of the Stipulation.

DATED this 20th day of November 2009.

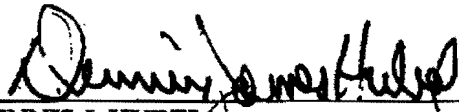
/s/Brett VandenHeuvel
Brett VandenHeuvel
Attorney for Columbia Riverkeeper

/s/Kevin Danielson
Kevin Danielson
Assistant U.S. Attorney
Attorney for Defendant

/s/Brenna B. Bell
Brenna B. Bell
Attorney for Willamette Riverkeeper

The Court has reviewed and accepted the Stipulations of the parties as set forth above.

IT IS SO ORDERED.


DENNIS J. HUBEL
United States District Court Magistrate Judge

DATED this 23rd day of December, 2009.