DEPARTMENT OF DEFENSE
OFFICE OF FREEDOM OF INFORMATION
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155

DEC 03 2014
Ref: 15-F-0166

MEMORANDUM FOR DEPARTMENT OF THE NAVY
ATTN: CCJ6-RDF (FOIA)
SECNAV/CNO FOIA OFFICE
CHIEF OF NAVAL OPERATIONS (DNS-36)
2000 NAVY PENTAGON
WASHINGTON, DC 20350-2000

SUBJECT: Freedom of Information Act (FOIA) Request Referral – Judicial Watch

The enclosed FOIA request is referred to your organization for your search, review and direct response to the requestor. The requester has clarified that he is only seeking "Working Papers. Please forward a copy of this memorandum along with the enclosed clarified request to:

Office of the Assistant Secretary of the Navy for Energy, Installations and Environment
Ms. (b) (6) [redacted]

Navy Task Force Climate Change (OPNAV N2/N6)
CDR (b) (6) [redacted]

Chief of Naval Operations N45
LCDR (b) (6) [redacted]

Note the following is "For informational Purposes Only." The Chairman of the Task Force is (b) (6) [redacted] PMP, Climate Change Adaptation Integration, ODUSD (I&E)/S&T.

You may direct any questions regarding this request to Mr. (b) (6) [redacted] at (b) (6) [redacted] or (b) (6) [redacted] @mail.mil.

Sincerely,

(b) (6) [redacted]

Acting Chief

Enclosures:
As stated

(b) (6) [redacted] CIV WHS ESD (US)

Subject: FW: OSD/JS FOIA 15-F-0166 - Judicial Watch by McCarthy

-----Original Message-----
From: Justin McCarthy [mailto:JMcCarthy@JUDICIALWATCH.ORG]
Sent: Friday, November 21, 2014 12:17 PM
To: (b) (6) [redacted] CIV WHS ESD (US)
Cc: (b) (6) [redacted] CIV (US)
Subject: RE: OSD/JS FOIA 15-F-0166 - Judicial Watch by McCarthy

Dear Ms. (b) (6) [redacted]

Thank you for your reply. I apologize I am late in responding as I was on business travel to a place with very limited Internet access.

Yes, I am looking for "working papers." Thank you for the clarification.

Sincerely,

Justin McCarthy

-----Original Message-----
From: (b) (6) [redacted] CIV WHS ESD (US) [mailto: (b) (6) [redacted] @mail.mil]
Sent: Tuesday, November 18 2014 3:56 PM
To: Justin McCarthy
Cc: (b) (6) [redacted] CIV (US)
Subject: OSD/JS FOIA 15-F-0166 - Judicial Watch by McCarthy

Mr. Justin McCarthy
Judicial Watch
425 Third Street, SW, Suite 800
Washington, DC 20024

Mr. McCarthy

We received your Freedom of Information Act request and tasked it to the Office of the Deputy Under Secretary of Defense, Installations & Environment (I&E), requesting that search for records be made to find:

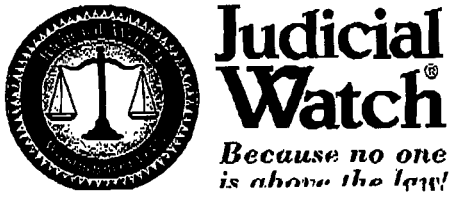
1) working papers to prepare the Pentagon Climate Change Report and,
2) working papers that indicate work (consultation) with non-Government sources to prepare the report.

Since tasking search, the I&E Climate Change Adaptation Integration folks tell us that the 2014 DoD Climate Change Adaptation Roadmap is the "report" in question, and that the Roadmap was the product of a group of individuals from across the Department of Defense, including Components.

If you would be so kind to let us know if we have interpreted your request correctly in tasking I&E to search for "working papers", we would appreciate it. We need this clarification because the OSD/JS FOIA Requester Service Center processes only requests for the Office of the Secretary of Defense (OSD) and the Joint Chiefs of Staff (JS), and indications are there are other DoD agencies and Components not under our purview that may have records responsive to your request. Certainly, we will ensure your request is referred to any other DoD entities that may hold records and advise you.

Please let us hear from you. The Action Officer, Mr. Rey Williams, is copied on this email. Thank you.

(b) (6)
Senior Advisor
Office of the Secretary of Defense and Joint Staff
Office of Freedom of Information
1155 Defense Pentagon
Washington, DC 20301-1155



15-F-0166

October 15, 2014

VIA CERTIFIED MAIL & FACSIMILE

Mail/Courier:
OSD/JS FOIA Requester Service Center
Office of Freedom of Information
1155 Defense Pentagon
Washington, DC 20301-1155
(571) 372-0500

Re: Freedom of Information Act Request

Dear Freedom of Information Officer:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, Judicial Watch, Inc. hereby requests that the Office of the Secretary of Defense (OSD) produce the following within twenty (20) business days:

> Any and all records on the compilation of the Pentagon report on climate change and its potential national security threats[1] including, but not limited to, any non-government sources consulted.
>
> The time frame for this request runs from January 1, 2013 to the present.

We call your attention to President Obama's January 21, 2009 Memorandum concerning the Freedom of Information Act, in which he states:

> All agencies should adopt a presumption in favor of disclosure, in order to renew their commitment to the principles embodied in FOIA...The presumption of disclosure should be applied to all decisions involving FOIA.[2]

The memo further provides that "The Freedom of Information Act should be administered with a clear presumption: In the case of doubt, openness prevails."

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[1] New York Times: "Pentagon Signals Security Risks of Climate Change," October 14, 2014 http://www.nytimes.com/2014/10/14/us/pentagon-says-global-warming-presents-immediate-security-threat.html?smid=fb-share&_r=0

[2] Freedom of Information Act. Pres. Mem. of January 21, 2009, 74 Fed. Reg. 4683.

425 Third St., SW, Suite 800, Washington, DC 20024 • Tel: (202) 646-5172 or 1-888-593-8442
FAX: (202) 646-5199 • Email: info@JudicialWatch.org • www.JudicialWatch.org

Nevertheless, if any responsive record or portion thereof is claimed to be exempt from production under FOIA, please provide sufficient identifying information with respect to each allegedly exempt record or portion thereof to allow us to assess the propriety of the claimed exemption. *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), *cert. denied*, 415 U.S. 977 (1974). In addition, any reasonably segregable portion of a responsive record must be provided, after redaction of any allegedly exempt material. 5 U.S.C. § 552(b).

For purposes of this request, the term "record" shall mean: (1) any written, printed, or typed material of any kind, including without limitation all correspondence, memoranda, notes, messages, letters, cards, facsimiles, papers, forms, telephone messages, diaries, schedules, calendars, chronological data, minutes, books, reports, charts, lists, ledgers, invoices, worksheets, receipts, returns, computer printouts, printed matter, prospectuses, statements, checks, statistics, surveys, affidavits, contracts, agreements, transcripts, magazine or newspaper articles, or press releases; (2) any electronically, magnetically, or mechanically stored material of any kind, including without limitation all electronic mail or e-mail; (3) any audio, aural, visual, or video records, recordings, or representations of any kind; (4) any graphic materials and data compilations from which information can be obtained; and (5) any materials using other means of preserving thought or expression.

Judicial Watch also hereby requests a waiver of both search and duplication fees pursuant to 5 U.S.C. §§ 552(a)(4)(A)(ii)(II) and (a)(4)(A)(iii). Judicial Watch is entitled to a waiver of search fees under 5 U.S.C. § 552(a)(4)(A)(ii)(II) because it is a member of the news media. *Cf. National Security Archive v. Department of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989)(defining news media within FOIA context). Judicial Watch has also been recognized as a member of the news media in other FOIA litigation. *See, e.g., Judicial Watch, Inc. v. U.S. Department of Justice*, 133 F. Supp.2d 52 (D.D.C. 2000); and, *Judicial Watch, Inc. v. Department of Defense*, 2006 U.S. Dist. LEXIS 44003, *1 (D.D.C. June 28, 2006). Judicial Watch regularly obtains information about the operations and activities of government through FOIA and other means, uses its editorial skills to turn this information into distinct works, and publishes and disseminates these works to the public. It intends to do likewise with the records it receives in response to this request.

Judicial Watch also is entitled to a complete waiver of both search fees and duplication fees pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). Under this provision, records:

> shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of government

> and is not primarily in the commercial interest of the requester.

5 U.S.C. § 552(a)(4)(A)(iii).

In addition, if records are not produced within twenty (20) business days, Judicial Watch is entitled to a complete waiver of search and duplication fees under Section 6(b) of the OPEN Government Act of 2007, which amended FOIA at 5 U.S.C. § (a)(4)(A)(viii).

Judicial Watch is a 501(c)(3), not-for-profit, educational organization, and, by definition, it has no commercial purpose. Judicial Watch exists to educate the public about the operations and activities of government, as well as to increase public understanding about the importance of ethics and the rule of law in government. The particular records requested herein are sought as part of Judicial Watch's ongoing efforts to document the operations and activities of the federal government and to educate the public about these operations and activities. Once Judicial Watch obtains the requested records, it intends to analyze them and disseminate the results of its analysis, as well as the records themselves, as a special written report. Judicial Watch will also educate the public via radio programs, Judicial Watch's website, and/or newsletter, among other outlets. It also will make the records available to other members of the media or researchers upon request. Judicial Watch has a proven ability to disseminate information obtained through FOIA to the public, as demonstrated by its long-standing and continuing public outreach efforts.

Given these circumstances, Judicial Watch is entitled to a public interest fee waiver of both search costs and duplication costs. Nonetheless, in the event our request for a waiver of search and/or duplication costs is denied, Judicial Watch is willing to pay up to $350.00 in search and/or duplication costs. Judicial Watch requests that it be contacted before any such costs are incurred, in order to prioritize search and duplication efforts.

In an effort to facilitate record production within the statutory time limit, Judicial Watch is willing to accept documents in electronic format (e.g. e-mail, .pdfs). When necessary, Judicial Watch will also accept the "rolling production" of documents.

If you do not understand this request or any portion thereof, or if you feel you require clarification of this request or any portion thereof, please contact us immediately at 202-646-5172 or jmccarthy@judicialwatch.org. We look forward to receiving the requested documents and a waiver of both search and duplication costs within twenty (20) business days. Thank you for your cooperation.

Sincerely,

Justin McCarthy
Judicial Watch

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