Message

From: perseverance2013@Ex. 6 Personal Privacy (PP) [perseverance2013@Ex. 6 Personal Privacy (PP)
Sent: 5/19/2023 10:44:56 PM
To: Thompson, BrianK [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b510f4e651cd489a8d5c6d5b2ee56d2b-Thompson, Brian]
CC: perseverance2013@Ex. 6 Personal Privacy (PP)
Subject: FOIAonline Hammond Missing Navy Cases. FW: FOIA Request Assignment 2023-004302
Attachments: FOIA Request Assignment Letter.pdf

Hi Brian,

I will be happy to talk to you pretty much anytime next week at your convenience. Non-attribution. Please propose a time.

I wanted to make sure that I got my FOIA request in first. Our conversation will not be a part of EPA's FOIA request response, as it is occurring after the request.

I have been a strong advocate of FOIAonline for years. Here, I just want to make sure I have the unfiltered facts as to what happened and how widespread the missing cases issue is/was. Also, if Navy had any involvement in my instant case. I am extremely concerned about agency plans to transition and whether the unique, original FOIAonline case processing records will all be preserved.

I am seeking positive outcomes, not blame.

I hope that EPA will remain active in advocating for the FOIAonline capabilities in new agencies' FOIA processing applications. Perhaps we may propose some draft functional requirements.

Thanks.

Bob Hammond

From: foia_hq@epa.gov <foia_hq@epa.gov>
Sent: Thursday, May 18, 2023 4:56 PM
To: perseverance2013@Ex. 6 Personal Privacy (PP)
Subject: FOIA Request Assignment 2023-004302

05/18/2023

Mr. robert hammond
1 Use my Email (b)(6)
Ex. 6 Personal Privacy (PP)

perseverance2013@Ex. 6 Personal Privacy (PP)

RE: Freedom of Information Act Request - EPA-2023-004302

Hello:

Please see attached letter.

Sincerely,

National FOIA Office
U.S. Environmental Protection Agency

Message

From: Edwards, Jeff [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BBBEAA6258D84AE8AE0A0C14F92114A9-EDWARDS, JEFF]
Sent: 5/18/2023 12:09:57 PM
To: Thompson, BrianK [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b510f4e651cd489a8d5c6d5b2ee56d2b-Thompson, Brian]; Perkins, Shannon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=efad5b5d9e604bb992b7ec536a1f8e70-Perkins, Sh]; Johnson, Laura-S [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=dea46edadaa04f2c847d3245f8f5847c-LJohns06]
Subject: FW: FOIA Request EPA-2023-004302 Submitted. Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@Ex. 6 Personal Privacy (PP)
Attachments: Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563 .pdf

Good morning,

I wanted to comment here and set the stage. We don't know what happened, but we found several things in the logs that suggests that R.H. has used a couple of email addresses with FOIAonline and he may have someone helping him. We speculated that he's confused about which account was used and when. It would be nice to know if he was trying to login to both accounts in the same browser but in different browser tabs at the same time. In short, we don't exactly what happened and we have a few questions for him.

I'm happy to join a call/meeting with him. We'll put some information together by early next week.

Thanks,
Jeff

Jeff Edwards
Office of Enterprise Information Programs
Office of Mission Support
U.S. Environmental Protection Agency
919-541-2677

From: perseverance2013@Ex. 6 Personal Privacy (PP) <perseverance2013@Ex. 6 Personal Privacy (PP)
Sent: Wednesday, May 17, 2023 4:29 PM
To: FOIA HQ <FOIA_HQ@epa.gov>; Thompson, BrianK <Thompson.BrianK@epa.gov>; Johnson, Laura-S <Johnson.Laura-S@epa.gov>; jira@cnsshelpdesk.atlassian.net; Edwards, Jeff <Edwards.Jeff@epa.gov>
Cc: perseverance2013@Ex. 6 Personal Privacy (PP)
Subject: FW: FOIA Request EPA-2023-004302 Submitted. Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@Ex. 6 Personal Privacy (PP)

Greetings All.

I am a big fan of FOIAonline and sorry to see it gong away.

That said, I want to understand exactly what happened regarding the Navy records that disappeared from my FOIAonline account. Please preserve records responsive to my expedited FOIA request attached.

If anyone wants to further amplify EPA's position to contribute to my understanding of what happened, I am available to discuss by phone. I appreciate that mistakes happen – if that is what occurred. Let me know when and what number to dial. Any conversation will not negate my FOIA request and any comments I make will be non-attribution.

Thank you for your prompt attention to my expedited FOIA request.

With my respect,

Robert Hammond

From: foia_hq@epa.gov <foia_hq@epa.gov>
Sent: Wednesday, May 17, 2023 4:17 PM
To: perseverance2013@Ex. 6 Personal Privacy (PP)
Subject: FOIA Request EPA-2023-004302 Submitted

This message is to confirm your request submission to the FOIAonline application: View Request. Request information is as follows:

- Tracking Number: EPA-2023-004302
- Requester Name: Mr. robert hammond
- Date Submitted: 05/17/2023
- Request Status: Submitted
- Description:

Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@Ex. 6 Personal Privacy (PP)

See PDF.

1. All records from March 5, 2023 to present related to FOIAonline Help Deck Ticket "FOH-123563" Cases missing from his account [perseverance2013@Ex. 6 Personal Privacy (PP)] including but not limited to:
2. All internal help desk case records conducting analysis and communicating with any party by email, text, or other means. One such email is FOIA Online HD jira@cnsshelpdesk.atlassian.net which provides the email construct for other helpdesk personnel (@cnsshelpdesk.atlassian.net).
3. All records of communications with and documents provided by Robert Hammond, perseverance2013@Ex. 6 Personal Privacy (PP)
4. All records of communications with - and documents provided by - Robert Hammond, foiacompliance@Ex. 6 Personal Privacy (PP) FOIAcomplaince@Ex. 6 Personal Privacy (PP) DOD.FOIA.PA@Ex. 6 Personal Privacy (PP) confirmed receipts, forwarding of emails and responses to them.
5. All records of communications by and with Johnson, Laura-S Johnson.Laura-S@epa.gov, including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
a. Some Department of Navy addressees may have been 'christopher.a.julka@navy.mil'; DONFOIA-PA@navy.mil
6. All records of communications by and with Thompson, BrianK , including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
7. All records of communications by and with 'Edwards, Jeff' Edwards.Jeff@epa.gov including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
8. All records of communications with any FOIAonline participating partner regarding Help Deck Ticket FOH-12356 or nay records missing from their accounts.
9. Closeout records of case Help Deck Ticket FOH-12356.
10. I am also seeking a copy of this FOIA Request, which is an Agency record subject to FOIA that exists and is in the Agency's possession at the time of my FOIA request. This record is a responsive record integral to my Request. Release of the Agency's copy is not optional.

REQUESTED FORMAT.

I am also seeking records in their native format (MS. Outlook, PowerPoint, Excel, ADA accessible PDF files or other mutually agreed by return email with: (1) a signed and dated cover letter (citing my personally assigned requester control number); (2) with record page count for all records released records (3) a copy of this request in your reply. I seek records via email in PDF format with an imbedded copy of my requests to (1) impede the agency from not addressing the FOIA Request; (2) impede the Agency from not providing the documents stated in the Agency's letter reply, and (3) make it obvious in any subsequent review what the Agency has or has not done.

Further, I request that these records be sent in any digital formats in which they exist (such as PDF and Excel). Under the terms of the E-FOIA Amendments of 1996, Section 5, if a document exists in electronic format, it must be released in that format upon request.

Each record must be provided as a distinct record in their native format. Emails should be provided as MS Outlook files, if not encrypted or otherwise unable to be open ed by me. Only if this is not possible, emails should be produced with their embedded hyperlinked attachments by using the "File => Save as Adobe PDF" command within Outlook or by other software that produces the same result.

I am also seeking the "Description Available to the Public" field I FOIAonline be set to yes and that all records be released to and viewable in the application by the general Public. The release type must be set to "Unredacted – Releasable to the General Public: Will be available to the general public," or to "Redacted – Releasable to the General Public: Will be available to the general public."

This request is distinctly separate from any other. Please do not combine this request with any other request in your reply. I am requesting that each element of the records sought be specifically addressed in the reply.

In all correspondence, return a copy of my FOIA request, cite my personal request number, and cite records sought.

Message

From: Edwards, Jeff [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BBBEAA6258D84AE8AE0A0C14F92114A9-EDWARDS, JEFF]
Sent: 5/18/2023 12:21:59 PM
To: Kristin Winter-Moy (CGI Federal) [kristin.winter-moy@cgifederal.com]
CC: alison.ferner@cgifederal.com; Thompson, BrianK [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b510f4e651cd489a8d5c6d5b2ee56d2b-Thompson, Brian]; Johnson, Laura-S [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=dea46edadaa04f2c847d3245f8f5847c-LJohns06]
Subject: FW: FOIA Request EPA-2023-004302 Submitted. Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@Ex. 6 Personal Privacy (PP)
Attachments: Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563 .pdf

Hi Kristin,

We need to assemble some information and compose a response to Mr. Hammond regarding his DON cases that he thought were misplaced. (Or that actually were misplaced). I recall that we don't know exactly what happened and found that he uses a couple of email addresses and may have been confused about which account he was logged into and when. We also speculated that he has someone else helping him too. I know we spoke about one person trying to login to FOIAonline with 2 accounts within the same browser but within different tabs at the same time. We need to setup this scenario and test the behavior.

To respond to the FOIA request, we need to give what we have and are not required to do extra work. However, we need to compile a small audit that produces enough detail to show the mistake that was made and assure him that Navy isn't messing with his cases at all.

Let's discuss it in the standup today at 10:30. If we need to setup an additional meeting to review the response, let's do it Monday at 11:00.

Thanks,
Jeff

Jeff Edwards
Office of Enterprise Information Programs
Office of Mission Support
U.S. Environmental Protection Agency
919-541-2677

From: perseverance2013@Ex. 6 Personal Privacy (PP) <perseverance2013@Ex. 6 Personal Privacy (PP)>
Sent: Wednesday, May 17, 2023 4:29 PM
To: FOIA HQ <FOIA_HQ@epa.gov>; Thompson, BrianK <Thompson.BrianK@epa.gov>; Johnson, Laura-S <Johnson.Laura-S@epa.gov>; jira@cnsshelpdesk.atlassian.net; Edwards, Jeff <Edwards.Jeff@epa.gov>
Cc: perseverance2013@Ex. 6 Personal Privacy (PP)
Subject: FW: FOIA Request EPA-2023-004302 Submitted. Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@Ex. 6 Personal Privacy (PP)

Greetings All.

I am a big fan of FOIAonline and sorry to see it gong away.

That said, I want to understand exactly what happened regarding the Navy records that disappeared from my FOIAonline account. Please preserve records responsive to my expedited FOIA request attached.

If anyone wants to further amplify EPA's position to contribute to my understanding of what happened, I am available to discuss by phone. I appreciate that mistakes happen – if that is what occurred. Let me know when and what number to dial. Any conversation will not negate my FOIA request and any comments I make will be non-attribution.

Thank you for your prompt attention to my expedited FOIA request.

With my respect,

Robert Hammond

From: foia_hq@epa.gov <foia_hq@epa.gov>
Sent: Wednesday, May 17, 2023 4:17 PM
To: perseverance2013@ Ex. 6 Personal Privacy (PP)
Subject: FOIA Request EPA-2023-004302 Submitted

This message is to confirm your request submission to the FOIAonline application: View Request. Request information is as follows:

- Tracking Number: EPA-2023-004302
- Requester Name: Mr. robert hammond
- Date Submitted: 05/17/2023
- Request Status: Submitted
- Description:

Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@ Ex. 6 Personal Privacy (PP)

See PDF.

1. All records from March 5, 2023 to present related to FOIAonline Help Deck Ticket "FOH-123563" Cases missing from his account [perseverance2013@ Ex. 6 Personal Privacy (PP)] including but not limited to:
2. All internal help desk case records conducting analysis and communicating with any party by email, text, or other means. One such email is FOIA Online HD jira@cnsshelpdesk.atlassian.net which provides the email construct for other helpdesk personnel (@cnsshelpdesk.atlassian.net).
3. All records of communications with and documents provided by Robert Hammond, perseverance2013@ Ex. 6 Personal Privacy (PP)
4. All records of communications with - and documents provided by - Robert Hammond, foiacompliance@ Ex. 6 Personal Privacy (PP) FOIAcomplaince@ Ex. 6 Personal Privacy (PP) DOD.FOIA.PA@ Ex. 6 Personal Privacy (PP) confirmed receipts, forwarding of emails and responses to them.
5. All records of communications by and with Johnson, Laura-S Johnson.Laura-S@epa.gov, including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
a. Some Department of Navy addressees may have been 'christopher.a.julka@navy.mil'; DONFOIA-PA@navy.mil
6. All records of communications by and with Thompson, BrianK , including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
7. All records of communications by and with 'Edwards, Jeff' Edwards.Jeff@epa.gov including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
8. All records of communications with any FOIAonline participating partner regarding Help Deck Ticket FOH-12356 or nay records missing from their accounts.
9. Closeout records of case Help Deck Ticket FOH-12356.
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Agency's possession at the time of my FOIA request. This record is a responsive record integral to my Request. Release of the Agency's copy is not optional.

REQUESTED FORMAT.

I am also seeking records in their native format (MS. Outlook, PowerPoint, Excel, ADA accessible PDF files or other mutually agreed by return email with: (1) a signed and dated cover letter (citing my personally assigned requester control number); (2) with record page count for all records released records (3) a copy of this request in your reply. I seek records via email in PDF format with an imbedded copy of my requests to (1) impede the agency from not addressing the FOIA Request; (2) impede the Agency from not providing the documents stated in the Agency's letter reply, and (3) make it obvious in any subsequent review what the Agency has or has not done.

Further, I request that these records be sent in any digital formats in which they exist (such as PDF and Excel). Under the terms of the E-FOIA Amendments of 1996, Section 5, if a document exists in electronic format, it must be released in that format upon request.

Each record must be provided as a distinct record in their native format. Emails should be provided as MS Outlook files, if not encrypted or otherwise unable to be open ed by me. Only if this is not possible, emails should be produced with their embedded hyperlinked attachments by using the "File => Save as Adobe PDF" command within Outlook or by other software that produces the same result.

I am also seeking the "Description Available to the Public" field I FOIAonline be set to yes and that all records be released to and viewable in the application by the general Public. The release type must be set to "Unredacted – Releasable to the General Public: Will be available to the general public," or to "Redacted – Releasable to the General Public: Will be available to the general public."

This request is distinctly separate from any other. Please do not combine this request with any other request in your reply. I am requesting that each element of the records sought be specifically addressed in the reply.

In all correspondence, return a copy of my FOIA request, cite my personal request number, and cite records sought.

Message

From: foiacompliance@[redacted] [foiacompliance@[redacted]
Sent: 6/28/2023 5:13:14 PM
To: 'FOIA Advisory Committee Mailbox' [foia-advisory-committee@nara.gov]
CC: perseverance2013@[redacted]; FOIA HQ [FOIA_HQ@epa.gov]; Michael.S.Regan@epa.gov; Michael.Regan@epa.gov; Janet.McCabe@epa.gov; Thompson, BrianK [Thompson.BrianK@epa.gov]; Johnson, Laura-S [Johnson.Laura-S@epa.gov]; jira@cnsshelpdesk.atlassian.net; Edwards, Jeff [Edwards.Jeff@epa.gov]; Joshua.Cooper@cherokee-federal.com; Mohammad.Shaikh@cherokee-federal.com; James.Horner@cherokee-federal.com; keenan.mitchell@cherokee-federal.com; larry.c.johnson@epa.gov; larry.johnson@epa.gov; roberta.l.white@epa.gov; roberta.white@epa.gov
Subject: FOIA-Advisory Committee. FW: Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@[redacted]
Attachments: FOIA Advisory Committee Meeting March 2, 2023. Hammond Comments.pdf; ED_014485_00000024_Formal_RWR.pdf; Other-20230616121353-EPA-2023-004302 Ex. 6 Partial Denial.pdf

Importance: High

FOIA Advisory Committee,

After several months EPA has still not provided me any response whatsoever as to what caused the disappearance of 71 of my Navy FOIA case records from FOIAonline, who is responsible, and whether this issue applies to other agencies and requesters; nor has EPA released all records responsive to my related FOIA request.

So, we still do not know how widespread the issue is or what the technical issues are that caused the records disappearance. This may have been an anomaly related only to me – I don't know. I will advise the Committee regarding my findings either way to provide closure to this important issue as FOIAonline decommissions with the potential loss of records.

I am a huge fan of FOIAonline – sorry to see it going away. The decommissioning must be executed properly to ensure that no records are lost.

As to EPA impermissibly charging me fees ($147 for simple electronic records searches) to discourage my subject FOIA request and any future FOIA requests related to this matter, I contend that information regarding the 71 Navy cases that were deleted from my account is of great public interest and interest to the FOIA community at large.

More to follow.

Thank you.

With my great respect,

Robert Hammond

From: perseverance2013@[redacted] <perseverance2013@[redacted]
Sent: Wednesday, June 28, 2023 12:52 PM
To: 'hq.foia@epa.gov' <hq.foia@epa.gov>; 'Michael.S.Regan@epa.gov' <Michael.S.Regan@epa.gov>; 'Michael.Regan@epa.gov' <Michael.Regan@epa.gov>; 'Janet.McCabe@epa.gov' <Janet.McCabe@epa.gov>; 'Thompson.BrianK@epa.gov' <Thompson.BrianK@epa.gov>; 'Johnson.Laura-S@epa.gov' <Johnson.Laura-S@epa.gov>;

'jira@cnsshelpdesk.atlassian.net' <jira@cnsshelpdesk.atlassian.net>; 'Edwards.Jeff@epa.gov' <Edwards.Jeff@epa.gov>; 'Joshua.Cooper@cherokee-federal.com' <Joshua.Cooper@cherokee-federal.com>; 'Mohammad.Shaikh@cherokee-federal.com' <Mohammad.Shaikh@cherokee-federal.com>; 'James.Horner@cherokee-federal.com' <James.Horner@cherokee-federal.com>; 'keenan.mitchell@cherokee-federal.com' <keenan.mitchell@cherokee-federal.com>; 'larry.c.johnson@epa.gov' <larry.c.johnson@epa.gov>; 'larry.johnson@epa.gov' <larry.johnson@epa.gov>; 'roberta.l.white@epa.gov' <roberta.l.white@epa.gov>; 'roberta.white@epa.gov' <roberta.white@epa.gov>
Cc: 'perseverance2013@Ex. 6 Personal Privacy (PP) <perseverance2013@Ex. 6 Personal Privacy (PP)
Subject: Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@Ex. 6 Personal Privacy (PP)
Importance: High

Dear Mr. Regan, Ms. Johnson, et. al:

I prefer to work cooperatively with EPA regarding FOIAonline and my FOIA requests; however, EPA is currently pursuing a different course.

Regarding my FOIA request EPA-2023-004302, it appears that EPA is attempting to use fees to discourage FOIA requests of great public interest that are an embarrassment to EPA regarding FOIAonline. I have a passion for FOIA compliance and integrity – this will not rest.

Appeal is pending regarding impermissible fee charges and other matters, including adequacy of search and impermissible withholding records.

EPA failed to meet the statutory time for processing my FOIA request and is therefore not entitled to any fees. Final determination letter and records were not released nor posted to FOIA online until June 23, 2023 (despite the June 14, 2023 date of the determination letter), which is outside the twenty working-day requirement:

"(i) determine within 20 days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any such request whether to comply with such request and shall **immediately** notify the person …"

"(4)(A) (viii) (I) Except as provided in subclause (II), an agency shall not assess any search fees (or in the case of a requester described under clause (ii)(II) of this subparagraph, duplication fees) under this subparagraph if the agency has failed to comply with any time limit under paragraph (6)."

Further EPA states that I have not demonstrated "how your work using FOIA material will specifically be distributed to a reasonably broad audience of persons interested in the subject."

I am an individual/organization primarily engaged in the dissemination of information who can prove the information is urgently needed to inform the public concerning some actual or alleged government activity. My primary activity is informing the public, which I do through a variety of means, such as open meeting public comments, blogs, etc., and I may from time to time collaborate on articles. There is extraordinary, off the charts interest in this matter. I make oral public comments at every open FOIA meeting. I have an active email distribution list of over **1,200 Chief FOIA Officers, FOIA professionals, FOIA advocacy groups media and interested parties**. I also communicate regularly with members of Congress.

EPA gets my emails and sees my public comments postings, including the attached.

Shall I distribute EPA case records and this correspondence, which is of great public interest and interest to the FOIA community?

With my deep respect,

Robert Hammond
Private citizen FOIA advocate and whistleblower.

Message

From: Johnson, Laura-S [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=DEA46EDADAA04F2C847D3245F8F5847C-LJOHNS06]
Sent: 7/20/2023 7:46:33 PM
To: Shenefiel, Pam [shenefiel.pam@epa.gov]; Waits, Matthew [Waits.Matthew@epa.gov]; Altendorfer, Ian [Altendorfer.Ian@epa.gov]
Subject: FW: Draft language for FOIA Follow Up/For Discussion this afternoon

Per our discussion this afternoon, please review the revised email text as I provided below. You'll see that I inserted FOIA tracking numbers and an additional ticket number for his new FOIA request search.

Dear Mr. Hammond,

Ex. 5 Deliberative Process (DP)

Regards,

From: Shenefiel, Pam <shenefiel.pam@epa.gov>
Sent: Thursday, July 20, 2023 3:15 PM
To: Waits, Matthew <Waits.Matthew@epa.gov>; Johnson, Laura-S <Johnson.Laura-S@epa.gov>; Altendorfer, Ian <Altendorfer.Ian@epa.gov>
Subject: RE: Draft language for FOIA Follow Up/For Discussion this afternoon

Laura, please insert case numbers.
Dear Mr. H,

Ex. 5 Deliberative Process (DP)

Regards,

Message

From: Waits, Matthew [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1DF843EE4F3D4E10A0DE44CE9CDD417F-WAITS, MATT]
Sent: 6/28/2023 8:49:50 PM
To: Altendorfer, Ian [Altendorfer.Ian@epa.gov]
CC: OMS_FOIA_Team [OMS_FOIA_Team@epa.gov]; Bossard, Justin [bossard.justin@epa.gov]
Subject: OMS FOIA Matters - June 2023
Attachments: Robert Hammond Emails; FOIA Assignment for EPA-2023-004043

Good afternoon Ian, I hope this email finds you well.

I am reaching out for your recommendations on a handful of OMS matters:

TOP PRIORITY EPA-2023-004302:
This was a recently closed request from a frequent requester, Robert Hammond. His two emails are attached. Mr. Hammond seems have improperly reached out to the wrong points of contact and seems to want to appeal his fee denial letter as well as the fees imposed for his request. He argues that the fees discourage his subject FOIA request.

- Also, the FOIAonline team noted that Mr. Hammond uses a different email account/address for these two emails, which may be the cause of his "missing cases" issue, "that he had more than one email address associated with his FOIAonline account, or that he had multiple windows opened and that he inadvertently could have deleted items." The FOIA online team also notes that through FOIA, it is difficult to freely communicate with him about these causes.

At any rate, I'd like to ask your reading on this situation, and what you suggest is the best course of action in responding to Mr. Hammond.

EPA-2023-004043 – Verti Sigurani (Request language attached):
A request we have spoken about some time ago. We have had conversations without component offices around the program and have come to the following conclusions on the requested information:

Ex. 5 Deliberative Process (DP)

I plan to discuss these determinations with you.

EPA-2023-004416 – America First Policy Institute AFGE Representative email search:
A request from James Sherk of AFPI asking for all emails from particular EPA AFGE representatives excluding all .gov domains. We have a list of the almost 500 domains that will be included in the production. In our review, we considered Ex. 5 Deliberative Process (DP) We plan to also discuss this with you.

I understand that this is quite a handful of information, but we would like to prioritize our potential appeal with Mr.

Hammond.

An hour to meet either tomorrow or Friday would be ideal if you are available.

Thank you for all of your help,

Matthew Waits
U.S. Environmental Protection Agency - OMS
Office of Resources and Business Operations
FOIA | CI
Waits.Matthew@epa.gov

Message

Sent: 6/28/2023 8:19:45 PM
Subject: Robert Hammond Emails

Importance: High

Additional Email

From: foiacompliance@[redacted] <foiacompliance@[redacted]
Sent: Wednesday, June 28, 2023 1:13 PM
To: 'FOIA Advisory Committee Mailbox' <foia-advisory-committee@nara.gov>
Cc: perseverance2013@[redacted] FOIA HQ <FOIA_HQ@epa.gov>; Michael.S.Regan@epa.gov; Michael.Regan@epa.gov; Janet.McCabe@epa.gov; Thompson, BrianK <Thompson.BrianK@epa.gov>; Johnson, Laura-S <Johnson.Laura-S@epa.gov>; jira@cnsshelpdesk.atlassian.net; Edwards, Jeff <Edwards.Jeff@epa.gov>; Joshua.Cooper@cherokee-federal.com; Mohammad.Shaikh@cherokee-federal.com; James.Horner@cherokee-federal.com; keenan.mitchell@cherokee-federal.com; larry.c.johnson@epa.gov; larry.johnson@epa.gov; roberta.l.white@epa.gov; roberta.white@epa.gov
Subject: FOIA-Advisory Committee. FW: Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@[redacted]
Importance: High

FOIA Advisory Committee,

After several months EPA has still not provided me any response whatsoever as to what caused the disappearance of 71 of my Navy FOIA case records from FOIAonline, who is responsible, and whether this issue applies to other agencies and requesters; nor has EPA released all records responsive to my related FOIA request.

So, we still do not know how widespread the issue is or what the technical issues are that caused the records disappearance. This may have been an anomaly related only to me – I don't know. I will advise the Committee regarding my findings either way to provide closure to this important issue as FOIAonline decommissions with the potential loss of records.

I am a huge fan of FOIAonline – sorry to see it going away. The decommissioning must be executed properly to ensure that no records are lost.

As to EPA impermissibly charging me fees ($147 for simple electronic records searches) to discourage my subject FOIA request and any future FOIA requests related to this matter, I contend that information regarding the 71 Navy cases that were deleted from my account is of great public interest and interest to the FOIA community at large.

More to follow.

Thank you.

With my great respect,

Robert Hammond

From: perseverance2013@[redacted] <perseverance2013@[redacted]
Sent: Wednesday, June 28, 2023 12:52 PM
To: 'hq.foia@epa.gov' <hq.foia@epa.gov>; 'Michael.S.Regan@epa.gov' <Michael.S.Regan@epa.gov>; 'Michael.Regan@epa.gov' <Michael.Regan@epa.gov>; 'Janet.McCabe@epa.gov' <Janet.McCabe@epa.gov>; 'Thompson.BrianK@epa.gov' <Thompson.BrianK@epa.gov>; 'Johnson.Laura-S@epa.gov' <Johnson.Laura-S@epa.gov>; 'jira@cnsshelpdesk.atlassian.net' <jira@cnsshelpdesk.atlassian.net>; 'Edwards.Jeff@epa.gov' <Edwards.Jeff@epa.gov>; 'Joshua.Cooper@cherokee-federal.com' <Joshua.Cooper@cherokee-federal.com>; 'Mohammad.Shaikh@cherokee-federal.com' <Mohammad.Shaikh@cherokee-federal.com>; 'James.Horner@cherokee-federal.com' <James.Horner@cherokee-federal.com>; 'keenan.mitchell@cherokee-federal.com' <keenan.mitchell@cherokee-federal.com>; 'larry.c.johnson@epa.gov' <larry.c.johnson@epa.gov>; 'larry.johnson@epa.gov' <larry.johnson@epa.gov>; 'roberta.l.white@epa.gov' <roberta.l.white@epa.gov>; 'roberta.white@epa.gov' <roberta.white@epa.gov>
Cc: 'perseverance2013@[redacted] <perseverance2013@[redacted]
Subject: Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@[redacted]
Importance: High

Dear Mr. Regan, Ms. Johnson, et. al:

I prefer to work cooperatively with EPA regarding FOIAonline and my FOIA requests; however, EPA is currently pursuing a different course.

Regarding my FOIA request EPA-2023-004302, it appears that EPA is attempting to use fees to discourage FOIA requests of great public interest that are an embarrassment to EPA regarding FOIAonline. I have a passion for FOIA compliance and integrity – this will not rest.

Appeal is pending regarding impermissible fee charges and other matters, including adequacy of search and impermissible withholding records.

EPA failed to meet the statutory time for processing my FOIA request and is therefore not entitled to any fees. Final determination letter and records were not released nor posted to FOIA online until June 23, 2023 (despite the June 14, 2023 date of the determination letter), which is outside the twenty working-day requirement:

"(i) determine within 20 days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any such request whether to comply with such request and shall **immediately** notify the person …"

"(4)(A) (viii) (I) Except as provided in subclause (II), an agency shall not assess any search fees (or in the case of a requester described under clause (ii)(II) of this subparagraph, duplication fees) under this subparagraph if the agency has failed to comply with any time limit under paragraph (6)."

Further EPA states that I have not demonstrated "how your work using FOIA material will specifically be distributed to a reasonably broad audience of persons interested in the subject."

I am an individual/organization primarily engaged in the dissemination of information who can prove the information is urgently needed to inform the public concerning some actual or alleged government activity. My primary activity is informing the public, which I do through a variety of means, such as open meeting public comments, blogs, etc., and I may from time to time collaborate on articles. There is extraordinary, off the charts interest in this matter. I make oral public comments at every open FOIA meeting. I have an active email distribution list of over **1,200 Chief FOIA Officers, FOIA professionals, FOIA advocacy groups media and interested parties**. I also communicate regularly with members of Congress.

EPA gets my emails and sees my public comments postings, including the attached.

Shall I distribute EPA case records and this correspondence, which is of great public interest and interest to the FOIA community?

With my deep respect,

Robert Hammond
Private citizen FOIA advocate and whistleblower.

Message

From: Waits, Matthew [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1DF843EE4F3D4E10A0DE44CE9CDD417F-WAITS, MATT]
Sent: 6/16/2023 4:52:28 PM
To: OGC Awareness Notification Process [OGC_Awareness_Notification_Process@usepa.onmicrosoft.com]; FOIA Awareness Notification Email Recipients [FOIA_Awareness_Notification_Email_Recipients@epa.gov]
CC: Patrick, Kimberly (she/her/hers) [Patrick.Kimberly@epa.gov]; Coogan, Daniel [Coogan.Daniel@epa.gov]; Jablonski, Janice [jablonski.janice@epa.gov]; Armstrong, Marilyn [Armstrong.Marilyn@epa.gov]; Judd, Jennifer (she/her/hers) [Judd.Jennifer@epa.gov]; OMS_FOIA_Team [OMS_FOIA_Team@epa.gov]; Schreyer, Andrew (he/him/his) [Schreyer.Andrew@epa.gov]; Shenefiel, Pam [shenefiel.pam@epa.gov]; Thompson, BrianK [Thompson.BrianK@epa.gov]; Johnson, Laura-S [Johnson.Laura-S@epa.gov]
Subject: Awareness Notification EPA-2023-003720 - Help Desk Ticket FOH-123563
Attachments: #FOOSHD-1404 Escalated Record FOH-123563 Cases missing from his account.pdf; #FOOS-4556 Associate Public FOIA Cases with Registered User's Account.pdf; ED_014485_00000019_Formal_RIF.pdf; ED_014485_00000020_Formal_RIF.pdf; ED_014485_00000001_Formal_RWR.pdf; ED_014485_00000002_Formal_RWR.pdf; ED_014485_00000003_Formal_RWR.pdf; ED_014485_00000004_Formal_RWR.pdf; ED_014485_00000005_Formal_RWR.pdf; ED_014485_00000006_Formal_RWR.pdf; ED_014485_00000007_Formal_RWR.pdf; ED_014485_00000008_Formal_RWR.pdf; ED_014485_00000009_Formal_RWR.pdf; ED_014485_00000010_Formal_RWR.pdf; ED_014485_00000023_Formal_RWR.pdf; ED_014485_00000024_Formal_RWR.pdf; ED_014485_00000025_Formal_RWR.pdf; ED_014485_00000037_Formal_RWR.pdf; ED_014485_00000038_Formal_RWR.pdf; ED_014485_00000050_Formal_RWR.pdf; ED_014485_00000051_Formal_RWR.pdf; ED_014485_00000064_Formal_RWR.pdf; ED_014485_00000077_Formal_RWR.pdf; ED_014485_00000094_Formal_RWR.pdf; ED_014485_00000106_Formal_RWR.pdf; ED_014485_00000107_Formal_RWR.pdf; ED_014485A_00000001_Formal_RWR.pdf; ED_014485A_00000003_Formal_RWR.pdf; ED_014485A_00000005_Formal_RWR.pdf

To whom it may concern,

The Office of Mission Support, Office of Enterprise Information Programs is responding to the above-referenced FOIA request. We are providing this awareness notification email pursuant to the Chief of Staff's November 16, 2018 memorandum "Awareness Notification Process for Select Freedom of Information Act Releases." Recipients of this email have up to three business days following transmission of this email to review the documents to be released.

There is no requirement for you to respond to this email or otherwise take action. The Action Office has completed review and obtained management approval consistent with the agency's FOIA policy and procedures.

After 4 p.m. on the third business day after transmission of this email, the Action Office will issue the Agency's FOIA determination to the requester. The determination will be issued promptly, but in no event later than one business day following completion of the three-day awareness notification period.

The information provided below is consistent with Paragraph 4 of the above-referenced November 16, 2018 memorandum.

Office of Mission Support – Office of Enterprise Information Programs							
FOIA Tracking Number	Requester	Requester Organization	Date FOIA Request Perfected	Date sent for Awareness Notification	Brief description of request as clarified	Interim or Final Response	Number of Records and/or pages

EPA-2023-004302	Robert Hammond	N/A	5/18/23	6/16/23	Records concerning FOIAonline Help Desk Ticket FOH-123563 regarding potentially missing case files	Final Response	29 Records

The following offices have equities in these records and have reviewed the relevant records:
Office of Enterprise Information Programs
Office of Resources and Business Operations

The manager who approved this release is: Brian K. Thompson

The records are attached.

Matthew Waits
U.S. Environmental Protection Agency - OMS
Office of Resources and Business Operations
FOIA | CI
Waits.Matthew@epa.gov

Message

From: Altendorfer, Ian [Altendorfer.Ian@epa.gov]
Sent: 6/29/2023 11:46:36 AM
To: Waits, Matthew [Waits.Matthew@epa.gov]
CC: OMS_FOIA_Team [OMS_FOIA_Team@epa.gov]; Bossard, Justin [bossard.justin@epa.gov]
Subject: RE: OMS FOIA Matters - June 2023

Morning Matthew,

Today will be tough, as I will be out of the office at noon. Please schedule a time tomorrow morning to discuss **EPA-2023-004302**. As time permits, I will try to answer your other questions as well.

From: Waits, Matthew <Waits.Matthew@epa.gov>
Sent: Wednesday, June 28, 2023 4:50 PM
To: Altendorfer, Ian <Altendorfer.Ian@epa.gov>
Cc: OMS_FOIA_Team <OMS_FOIA_Team@epa.gov>; Bossard, Justin <bossard.justin@epa.gov>
Subject: OMS FOIA Matters - June 2023

Good afternoon Ian, I hope this email finds you well.

I am reaching out for your recommendations on a handful of OMS matters:

TOP PRIORITY EPA-2023-004302:
This was a recently closed request from a frequent requester, Robert Hammond. His two emails are attached. Mr. Hammond seems have improperly reached out to the wrong points of contact and seems to want to appeal his fee denial letter as well as the fees imposed for his request. He argues that the fees discourage his subject FOIA request.

- Also, the FOIAonline team noted that Mr. Hammond uses a different email account/address for these two emails, which may be the cause of his "missing cases" issue, "that he had more than one email address associated with his FOIAonline account, or that he had multiple windows opened and that he inadvertently could have deleted items." The FOIA online team also notes that through FOIA, it is difficult to freely communicate with him about these causes.

At any rate, I'd like to ask your reading on this situation, and what you suggest is the best course of action in responding to Mr. Hammond.

EPA-2023-004043 – Verti Sigurani (Request language attached):
A request we have spoken about some time ago. We have had conversations without component offices around the program and have come to the following conclusions on the requested information:

Ex. 5 Deliberative Process (DP)

I plan to discuss these determinations with you.

EPA-2023-004416 – America First Policy Institute AFGE Representative email search:
A request from James Sherk of AFPI asking for all emails from particular EPA AFGE representatives excluding all .gov domains. We have a list of the almost 500 domains that will be included in the production. In our review, we considered Ex. 5 Deliberative Process (DP) We plan to also discuss this with you.

I understand that this is quite a handful of information, but we would like to prioritize our potential appeal with Mr. Hammond.

An hour to meet either tomorrow or Friday would be ideal if you are available.

Thank you for all of your help,

Matthew Waits
U.S. Environmental Protection Agency - OMS
Office of Resources and Business Operations
FOIA | CI
Waits.Matthew@epa.gov

Message

From: Altendorfer, Ian [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8DA1395612D041D5ABAC7F879F7188FB-ALTENDORFER]
Sent: 7/10/2023 9:44:05 PM
To: Waits, Matthew [Waits.Matthew@epa.gov]
CC: Shenefiel, Pam [shenefiel.pam@epa.gov]; Taylor, Shanya (she/her/hers) [Taylor.Shanya@epa.gov]; Elkassabany, Sara [Elkassabany.Sara@epa.gov]; Romano, Justin [romano.justin@epa.gov]
BCC: NFOFOIACounseling_sg [NFOFOIACounseling_sg@epa.gov]; NFOFOIACounseling [NFOFOIACounseling@epa.gov]
Subject: EPA-2023-004302 - Response to Requester
Attachments: Robert Hammond Emails; FOIA Assignment for EPA-2023-004043

Hi Matthew,

Below is a draft email to respond to Mr. Hammond regarding his fee waiver appeal. In your message, please include a copy of the few waiver determination letter. Reach out if you have any further questions.

Ian D. Altendorfer
Attorney-Adviser | National FOIA Office
U.S. Environmental Protection Agency | Office of General Counsel
1200 Pennsylvania Avenue, N.W. (MC 2310A)
Washington, DC 20460 | WJCN 7443E
Phone 202-564-6032| Altendorfer.ian@epa.gov
Find the DRK project request form here: https://forms.office.com/g/J81iMW7BQB

National FOIA Office
EPA Office of General Counsel

Ex. 5 AC/DP

Ex. 5 AC/DP

Appointment

From: Johnson, Laura-S [Johnson.Laura-S@epa.gov]
Sent: 5/24/2023 12:32:32 PM
To: Edwards, Jeff [Edwards.Jeff@epa.gov]; Thompson, BrianK [Thompson.BrianK@epa.gov]

Subject: Responding to FOIAonline FOIA request
Location: Microsoft Teams Meeting

Start: 5/25/2023 5:30:00 PM
End: 5/25/2023 6:00:00 PM
Show Time As: Tentative

Required Attendees: Edwards, Jeff; Thompson, BrianK

To discuss recent incoming FOIA request from Robert Hammond re missing Navy cases in his registered user account.

Microsoft Teams meeting

Join on your computer, mobile app or room device
Click here to join the meeting

Meeting ID: Ex. 6 Personal Privacy (PP)
Passcode: Ex. 6 Personal Privacy (PP)
Download Teams | Join on the web

Join with a video conferencing device
Ex. 6 Personal Privacy (PP)

Video Conference ID: Ex. 6 Personal Privacy (PP)
Alternate VTC instructions

Or call in (audio only)
Ex. 6 Personal Privacy (PP) United States, Washington DC

Phone Conference ID: Ex. 6 Personal Privacy (PP)
Find a local number | Reset PIN

For all EPA meetings, there is no expectation of privacy regarding any communications. Participation in a recorded meeting will be deemed as consent to be recorded. Information on EPA systems is the property of the Agency and may become official records.

Learn More | Meeting options

Message

From: Shenefiel, Pam [shenefiel.pam@epa.gov]
Sent: 5/24/2023 1:45:30 PM
To: Thompson, BrianK [Thompson.BrianK@epa.gov]; Perkins, Shannon [perkins.shannon@epa.gov]
CC: Edwards, Jeff [Edwards.Jeff@epa.gov]; Johnson, Laura-S [Johnson.Laura-S@epa.gov]; Grimm, Patrick [Grimm.Patrick@epa.gov]; Wells, Jeffrey [Wells.jeffrey@epa.gov]
Subject: FW: FOIA Assignment for EPA-2023-004302

From: admin@foiaonline.gov <admin@foiaonline.gov>
Sent: Wednesday, May 24, 2023 8:37 AM
To: Shenefiel, Pam <shenefiel.pam@epa.gov>
Subject: FOIA Assignment for EPA-2023-004302

Your office has been assigned to the FOIA request - EPA-2023-004302. Once logged into FOIAonline, you can navigate to this case by following this link: View. Additional details for this item are as follows:

- Tracking Number: EPA-2023-004302
- Requester: Mr. robert hammond
- Request Track: Simple
- Submitted Date: 05/17/2023
- Due Date: 07/03/2023
- Description:
- Short Description: N/A
- Description:

Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@Ex. 6 Personal Privacy (PP)

See PDF.

1. All records from March 5, 2023 to present related to FOIAonline Help Deck Ticket "FOH-123563" Cases missing from his account [perseverance2013@Ex. 6 Personal Privacy (PP)] including but not limited to:
2. All internal help desk case records conducting analysis and communicating with any party by email, text, or other means. One such email is FOIA Online HD jira@cnsshelpdesk.atlassian.net which provides the email construct for other helpdesk personnel (@cnsshelpdesk.atlassian.net).
3. All records of communications with and documents provided by Robert Hammond, perseverance2013@Ex. 6 Personal Privacy (PP)
4. All records of communications with - and documents provided by - Robert Hammond, foiacompliance@Ex. 6 Personal Privacy (PP) FOIAcomplaince@Ex. 6 Personal Privacy (PP) DOD.FOIA.PA@Ex. 6 Personal Privacy (PP) confirmed receipts, forwarding of emails and responses to them.
5. All records of communications by and with Johnson, Laura-S Johnson.Laura-S@epa.gov, including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
a. Some Department of Navy addressees may have been 'christopher.a.julka@navy.mil'; DONFOIA-PA@navy.mil
6. All records of communications by and with Thompson, BrianK , including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
7. All records of communications by and with 'Edwards, Jeff' Edwards.Jeff@epa.gov including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
8. All records of communications with any FOIAonline participating partner regarding Help Deck Ticket FOH-12356 or

nay records missing from their accounts.
9. Closeout records of case Help Deck Ticket FOH-12356.
10. I am also seeking a copy of this FOIA Request, which is an Agency record subject to FOIA that exists and is in the Agency's possession at the time of my FOIA request. This record is a responsive record integral to my Request. Release of the Agency's copy is not optional.

REQUESTED FORMAT.

I am also seeking records in their native format (MS. Outlook, PowerPoint, Excel, ADA accessible PDF files or other mutually agreed by return email with: (1) a signed and dated cover letter (citing my personally assigned requester control number); (2) with record page count for all records released records (3) a copy of this request in your reply. I seek records via email in PDF format with an imbedded copy of my requests to (1) impede the agency from not addressing the FOIA Request; (2) impede the Agency from not providing the documents stated in the Agency's letter reply, and (3) make it obvious in any subsequent review what the Agency has or has not done.

Further, I request that these records be sent in any digital formats in which they exist (such as PDF and Excel). Under the terms of the E-FOIA Amendments of 1996, Section 5, if a document exists in electronic format, it must be released in that format upon request.

Each record must be provided as a distinct record in their native format. Emails should be provided as MS Outlook files, if not encrypted or otherwise unable to be open ed by me. Only if this is not possible, emails should be produced with their embedded hyperlinked attachments by using the "File => Save as Adobe PDF" command within Outlook or by other software that produces the same result.

I am also seeking the "Description Available to the Public" field I FOIAonline be set to yes and that all records be released to and viewable in the application by the general Public. The release type must be set to "Unredacted – Releasable to the General Public: Will be available to the general public," or to "Redacted – Releasable to the General Public: Will be available to the general public."

This request is distinctly separate from any other. Please do not combine this request with any other request in your reply. I am requesting that each element of the records sought be specifically addressed in the reply.

In all correspondence, return a copy of my FOIA request, cite my personal request number, and cite records sought.

Message

From: perseverance2013@[redacted] [perseverance2013@[redacted]
Sent: 6/13/2023 4:01:45 AM
To: Epp, Timothy [Epp.Timothy@epa.gov]
CC: FOIA HQ [FOIA_HQ@epa.gov]; Thompson, BrianK [Thompson.BrianK@epa.gov]; Johnson, Laura-S [Johnson.Laura-S@epa.gov]; jira@cnsshelpdesk.atlassian.net; Edwards, Jeff [Edwards.Jeff@epa.gov]; perseverance2013@[redacted]
Subject: RE: [Expedited} FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302
Attachments: FW: FOIA Request EPA-2023-004302 Submitted. Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@[redacted] FOIA A.C Meeting Transcript 2023 06 08.doc

Importance: High

Mr. Epp,

Thank you for your email. I have been traveling.

I conduct my FOIA business in writing to assure that there is no disagreement about communications content.

I seek FPL dispute resolution based on my original submission and the June 8, 2023 FOIA Advisory Committee meeting which will ultimately be watched by thousands.

EPA's expedited processing denial is deficient and contrary to the FOIA statute and Attorney General Guidelines "Expedited Processing Disposition Reason: Request does not meet criteria."

There can be no dispute that I meet the requirements for expedited processing based on a claim of an urgency to inform the public about an actual or alleged Federal Government activity where the request is made by a person who is primarily engaged in disseminating information.

If EPA disputes my criteria for expedited processing, I will be happy to place all correspondence into the public domain and disseminate it to my 1,200+ email list of FOIA Advisory Committee members, Chief FOIA Officers, FOIA professionals, FOIA Advocacy Groups, media and interested parties. Disestablishment of FOIAonline is a matter of significant public interest and angst regarding EPA's handling. *See* Rough Transcript of the June 8, 2023 FOIA Advisory Committee Meeting, ALEX HOWARD comments.

Thank you.

With my respect,

Robert Hammond

From: Epp, Timothy <Epp.Timothy@epa.gov>
Sent: Wednesday, May 24, 2023 6:27 AM
To: perseverance2013@[redacted]
Cc: FOIA HQ <FOIA_HQ@epa.gov>
Subject: FW: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Dear Mr. Hammond,

Thank you for reaching out and seeking assistance from EPA's FOIA Public Liaison. As you know, the FOIA Public Liaison was created by the statute to serve as "a listening ear" for FOIA requesters, and to work to resolve FOIA disputes. We appreciate your reaching out to raise your concern and seek a resolution outside of litigation.

As I understand, your concern centers on EPA's denial of your request for expedited processing of request number EPA-2023-004302. I would like to schedule a time to talk with you in order to better understand your concerns and to begin searching for ways to resolve the disputes. Before meeting with you, I plan to meet with EPA's FOIA processors who

issue the expedited processing decisions as well as to reach out to the office that has been assigned the responsibility to respond to your FOIA request. In talking with them, I will seek to identify any new or updated status information that I can report to you during our first conversation as well as to make sure that I fully understand the rationale for denying your expedited processing request. Gathering this background information is also intended to help me listen to your concerns with a more informed ear for identifying possible gaps in communication or misunderstandings, to be able to focus my attention better on the key disputes, and to help us look for options for resolution in our first conversation.

Could you provide me several dates and times when you would be available next week to talk on the phone or have a Teams meeting?

In addition, please consider providing any additional information you have that might support your assertion that release of the records you seek should be expedited. And, help ensure that I am gathering the most relevant information, am I correct that you have not requested expedited processing based on a claim that lack of expedited treatment could reasonably be expected to pose a threat to someone's life or physical safety? Instead, your application for expedited processing is based on a claim of an urgency to inform the public about an actual or alleged Federal Government activity where the request is made by a person who is primarily engaged in disseminating information, correct? While considering whether you want to provide any additional information to support your expedited processing request, you may want to review the Department of Justice's long-standing guidance on expedited processing, which may be found here: https://www.justice.gov/oip/blog/foia-update-oip-guidance-when-expedite-foia-requests As you will see from the guidance and as you may already know, the Department of Justice's guidance recognizes that in considering granting expedited processing, agencies must consider the interests of FOIA requesters who submitted requests earlier than the requester seeking expedited processing. DOJ states: "Because a decision to take a FOIA request out of turn necessarily entails further delay for other requesters waiting patiently in line, simple fairness demands that it be made only upon careful scrutiny of truly exceptional circumstances." So, I would welcome hearing any information you have that would help inform whether the circumstances you have identified are truly exceptional to warrant taking your request ahead of other requests for EPA records.

Best regards,
Tim

Timothy R. Epp
Associate General Counsel | National FOIA Office
U.S. Environmental Protection Agency | Office of General Counsel
1200 Pennsylvania Avenue, N.W. (MC 2310A)
Washington, D.C. 20460 | WJCN 7309B
Phone (202) 564-2830 | epp.timothy@epa.gov

National FOIA Office
EPA Office of General Counsel

From: perseverance2013@[redacted] <perseverance2013@[redacted]
Sent: Monday, May 22, 2023 5:57 PM
To: FOIA HQ <FOIA_HQ@epa.gov>
Cc: perseverance2013@[redacted]
Subject: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

I am seeking immediate FPL Dispute Resolution regarding the insufficient expedited processing denial.

Your basis for denial is legally insufficient:

- Expedited Processing Disposition Reason: Request does not meet criteria

In that this is an expedited FOIA request, immediate response is required.

Robert Hammond

From: admin@foiaonline.gov <admin@foiaonline.gov>
Sent: Friday, May 19, 2023 12:36 PM
To: perseverance2013@Ex. 6 Personal Privacy (PP)
Subject: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Your request for Expedited Processing for the FOIA request EPA-2023-004302 has been denied. Additional details for this request are as follows:

- Request Created on: 05/17/2023
- Request Description:

Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@Ex. 6 Personal Privacy (PP)

See PDF.

1. All records from March 5, 2023 to present related to FOIAonline Help Deck Ticket "FOH-123563" Cases missing from his account [perseverance2013@Ex. 6 Personal Privacy (PP) including but not limited to:
2. All internal help desk case records conducting analysis and communicating with any party by email, text, or other means. One such email is FOIA Online HD jira@cnsshelpdesk.atlassian.net which provides the email construct for other helpdesk personnel (@cnsshelpdesk.atlassian.net).
3. All records of communications with and documents provided by Robert Hammond, perseverance2013@Ex. 6 Personal Privacy (PP)
4. All records of communications with - and documents provided by - Robert Hammond, foiacompliance@Ex. 6 Personal Privacy (PP), FOIAcomplaince@Ex. 6 Personal Privacy (PP) DOD.FOIA.PA@Ex. 6 Personal Privacy (PP) confirmed receipts, forwarding of emails and responses to them.
5. All records of communications by and with Johnson, Laura-S Johnson.Laura-S@epa.gov, including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
a. Some Department of Navy addressees may have been 'christopher.a.julka@navy.mil'; DONFOIA-PA@navy.mil
6. All records of communications by and with Thompson, BrianK , including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
7. All records of communications by and with 'Edwards, Jeff' Edwards.Jeff@epa.gov including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
8. All records of communications with any FOIAonline participating partner regarding Help Deck Ticket FOH-12356 or nay records missing from their accounts.
9. Closeout records of case Help Deck Ticket FOH-12356.
10. I am also seeking a copy of this FOIA Request, which is an Agency record subject to FOIA that exists and is in the Agency's possession at the time of my FOIA request. This record is a responsive record integral to my Request. Release of the Agency's copy is not optional.

REQUESTED FORMAT.

I am also seeking records in their native format (MS. Outlook, PowerPoint, Excel, ADA accessible PDF files or other mutually agreed by return email with: (1) a signed and dated cover letter (citing my personally assigned requester control number); (2) with record page count for all records released records (3) a copy of this request in your reply. I seek records via email in PDF format with an imbedded copy of my requests to (1) impede the agency from not addressing the FOIA Request; (2) impede the Agency from not providing the documents stated in the Agency's letter reply, and (3) make it obvious in any subsequent review what the Agency has or has not done.

Further, I request that these records be sent in any digital formats in which they exist (such as PDF and Excel). Under the

terms of the E-FOIA Amendments of 1996, Section 5, if a document exists in electronic format, it must be released in that format upon request.

Each record must be provided as a distinct record in their native format. Emails should be provided as MS Outlook files, if not encrypted or otherwise unable to be open ed by me. Only if this is not possible, emails should be produced with their embedded hyperlinked attachments by using the "File => Save as Adobe PDF" command within Outlook or by other software that produces the same result.

I am also seeking the "Description Available to the Public" field I FOIAonline be set to yes and that all records be released to and viewable in the application by the general Public. The release type must be set to "Unredacted – Releasable to the General Public: Will be available to the general public," or to "Redacted – Releasable to the General Public: Will be available to the general public."

This request is distinctly separate from any other. Please do not combine this request with any other request in your reply. I am requesting that each element of the records sought be specifically addressed in the reply.

In all correspondence, return a copy of my FOIA request, cite my personal request number, and cite records sought.

- Expedited Processing Original Justification: EXPEDITED PROCESSING.

I am seeking expedited processing due to:
"an urgency to inform the public about an actual or alleged Federal government activity, if the information is requested by a person primarily engaged in disseminating information to the public."
The subject is of widespread and exceptional interest and the information sought involves possible questions about the government's integrity that affect public confidence.
Between January 2, 2023 and February 3, 2023 (one month) seventy-one (71) of my two hundred sixty-two (262) Navy FOIA cases from 2017 forward have been deleted from FOIAonline or I have been denied access to them. This is extremely serious. EPA must determine who did this, how it happened, and if this is unique to me. See "FOIAonline Compare January 2, 2023 to February 3, 2023 Missing Cases Navy" provided by email.
Either there was intentional misconduct (possibly involving Navy) or gross malfeasance in the disappearance of or removal of access to my FOIAonline records and whether this issue is widespread among other participating agencies.
There is intense interest/angst in matters surrounding FOIAonline and its decommissioning, so much so that Laura Johnson was added last minute to brief the FOIA Advisory Committee on March 2, 2023. At that meeting:
"Mr. Howard asked two questions: first, how records are being transferred, and second, how EPA is ensuring that no data is lost or becomes unavailable to the public."
Despite assurances from EPA that everything was fine, I discovered and days later reported to Ms. Johnson and the FOIA Advisory Committee that seventy-one (71) of my two hundred sixty-two (262) Navy FOIA cases from 2017 forward have been deleted from FOIAonline or I have been denied access to them.
Having received no reply as to what happened, I notified my 1,200 plus FOIA distribution list of media, Chief FOIA Officers, FOIA professionals, FOIA/Open records Advocacy groups and interested parties of the unresolved debacle.
There is a thirst among the FOIA community to know exactly what happened.
Note that EPA's FOIA regulation, 40 CFR Subpart A—Procedures for Disclosure of Records Under the Freedom of Information Act § 2.106 Preservation of records is in violation of law citing General Records Schedule 14, which was superseded by NARA Transmittal 29 of December 2017. This alone is of great public interest.
Additionally, I am an individual/organization primarily engaged in the dissemination of information who can prove the information is urgently needed to inform the public concerning some actual or alleged government activity. My primary activity is informing the public, which I do through a variety of means, such as open meeting public comments, blogs, etc., and I may from time to time collaborate on articles. There is extraordinary, off the charts interest in this matter. I make oral public comments at every open FOAI meeting. I have an active email distribution list of Chief FOIA Officers, FOIA professionals, FOIA advocacy groups media and interested parties. I also communicate regularly with members of Congress.
• See examples below.

- Public Comments Submitted to the Chief FOIA Officers Council https://www.archives.gov/ogis/about-ogis/chief-foia-officers-council

- Public Comments Submitted to the FOIA Advisory Committee | National Archives https://www.archives.gov/ogis/foia-advisory-committee/public-comments

- OGIS Annual Open Meeting Public comments https://www.archives.gov/ogis/outreach-events/annual-open-meeting

- Document Cloud. Org https://www.documentcloud.org/app?q=%2Buser%3Arobert-hammond-106693%20 (e.g., "Sample FOIA Template With Recent Developments to Combat Agency Misconduct.")
EPA must evaluate all my public comments along with my methods of dissemination and state that it has done so in any denial of expedited processing.
• The subject of the requested records concerns government operations and activities
• The disclosure is likely to contribute to understanding of these operations or activities
• Disclosure will likely result in public understanding of the subject
• The contribution to public understanding of government operations or activities will be significant
• The requester has no commercial interest
• The public interest in disclosure is great.
• I use "editorial skills to turn the raw materials into a distinct work."
• My work is distributed to an audience with active distribution.

- Expedited Processing Disposition Reason: Request does not meet criteria

Message

From: perseverance2013@Ex. 6 Personal Privacy (PP) [perseverance2013@Ex. 6 Personal Privacy (PP)
Sent: 5/17/2023 8:29:25 PM
To: FOIA HQ [FOIA_HQ@epa.gov]; Thompson, BrianK [Thompson.BrianK@epa.gov]; Johnson, Laura-S [Johnson.Laura-S@epa.gov]; jira@cnsshelpdesk.atlassian.net; Edwards, Jeff [Edwards.Jeff@epa.gov]
CC: perseverance2013@Ex. 6 Personal Privacy (PP)
BCC: Thompson, BrianK [Thompson.BrianK@epa.gov]
Subject: FW: FOIA Request EPA-2023-004302 Submitted. Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@Ex. 6 Personal Privacy (PP)
Attachments: Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563 .pdf

Greetings All.

I am a big fan of FOIAonline and sorry to see it gong away.

That said, I want to understand exactly what happened regarding the Navy records that disappeared from my FOIAonline account. Please preserve records responsive to my expedited FOIA request attached.

If anyone wants to further amplify EPA's position to contribute to my understanding of what happened, I am available to discuss by phone. I appreciate that mistakes happen – if that is what occurred. Let me know when and what number to dial. Any conversation will not negate my FOIA request and any comments I make will be non-attribution.

Thank you for your prompt attention to my expedited FOIA request.

With my respect,

Robert Hammond

From: foia_hq@epa.gov <foia_hq@epa.gov>
Sent: Wednesday, May 17, 2023 4:17 PM
To: perseverance2013@Ex. 6 Personal Privacy (PP)
Subject: FOIA Request EPA-2023-004302 Submitted

This message is to confirm your request submission to the FOIAonline application: View Request. Request information is as follows:

- Tracking Number: EPA-2023-004302
- Requester Name: Mr. robert hammond
- Date Submitted: 05/17/2023
- Request Status: Submitted
- Description:

Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@Ex. 6 Personal Privacy (PP)

See PDF.

1. All records from March 5, 2023 to present related to FOIAonline Help Deck Ticket "FOH-123563" Cases missing from his account [perseverance2013@Ex. 6 Personal Privacy (PP) including but not limited to:
2. All internal help desk case records conducting analysis and communicating with any party by email, text, or other

means. One such email is FOIA Online HD jira@cnsshelpdesk.atlassian.net which provides the email construct for other helpdesk personnel (@cnsshelpdesk.atlassian.net).
3. All records of communications with and documents provided by Robert Hammond, perseverance2013@ Ex. 6 Personal Privacy (PP)
4. All records of communications with - and documents provided by - Robert Hammond, foiacompliance@ Ex. 6 Personal Privacy (PP) FOIAcomplaince@ Ex. 6 Personal Privacy (PP) DOD.FOIA.PA@ Ex. 6 Personal Privacy (PP) confirmed receipts, forwarding of emails and responses to them.
5. All records of communications by and with Johnson, Laura-S Johnson.Laura-S@epa.gov, including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
a. Some Department of Navy addressees may have been 'christopher.a.julka@navy.mil'; DONFOIA-PA@navy.mil
6. All records of communications by and with Thompson, BrianK , including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
7. All records of communications by and with 'Edwards, Jeff' Edwards.Jeff@epa.gov including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
8. All records of communications with any FOIAonline participating partner regarding Help Deck Ticket FOH-12356 or nay records missing from their accounts.
9. Closeout records of case Help Deck Ticket FOH-12356.
10. I am also seeking a copy of this FOIA Request, which is an Agency record subject to FOIA that exists and is in the Agency's possession at the time of my FOIA request. This record is a responsive record integral to my Request. Release of the Agency's copy is not optional.

REQUESTED FORMAT.

I am also seeking records in their native format (MS. Outlook, PowerPoint, Excel, ADA accessible PDF files or other mutually agreed by return email with: (1) a signed and dated cover letter (citing my personally assigned requester control number); (2) with record page count for all records released records (3) a copy of this request in your reply. I seek records via email in PDF format with an imbedded copy of my requests to (1) impede the agency from not addressing the FOIA Request; (2) impede the Agency from not providing the documents stated in the Agency's letter reply, and (3) make it obvious in any subsequent review what the Agency has or has not done.

Further, I request that these records be sent in any digital formats in which they exist (such as PDF and Excel). Under the terms of the E-FOIA Amendments of 1996, Section 5, if a document exists in electronic format, it must be released in that format upon request.

Each record must be provided as a distinct record in their native format. Emails should be provided as MS Outlook files, if not encrypted or otherwise unable to be open ed by me. Only if this is not possible, emails should be produced with their embedded hyperlinked attachments by using the "File => Save as Adobe PDF" command within Outlook or by other software that produces the same result.

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This request is distinctly separate from any other. Please do not combine this request with any other request in your reply. I am requesting that each element of the records sought be specifically addressed in the reply.

In all correspondence, return a copy of my FOIA request, cite my personal request number, and cite records sought.

Message

From: Johnson, Laura-S [Johnson.Laura-S@epa.gov]
Sent: 6/13/2023 10:44:25 AM
To: Thompson, BrianK [Thompson.BrianK@epa.gov]
CC: Edwards, Jeff [Edwards.Jeff@epa.gov]; Perkins, Shannon [perkins.shannon@epa.gov]
Subject: RE: WORKSPACE Review COMPLETED: ED_014485A (ED_014485_R. Hammond FOIA 004302_REVIEW)

Yes. I will reach out to Relativity support to add her name for access to the file once produced.

From: Thompson, BrianK <Thompson.BrianK@epa.gov>
Sent: Monday, June 12, 2023 7:25 PM
To: Johnson, Laura-S <Johnson.Laura-S@epa.gov>
Cc: Edwards, Jeff <Edwards.Jeff@epa.gov>; Perkins, Shannon <perkins.shannon@epa.gov>
Subject: RE: WORKSPACE Review COMPLETED: ED_014485A (ED_014485_R. Hammond FOIA 004302_REVIEW)

Thanks for the update. Can you also include Pam Shenefiel in the review with Jeff and Pat?

Thanks!!

-Brian

Brian Thompson | Director
eDiscovery Division
Office of Enterprise Information Programs (OEIP)
Office of Mission Support (OMS)
U.S. Environmental Protection Agency
phone: (202) 564-4256

From: Johnson, Laura-S <Johnson.Laura-S@epa.gov>
Sent: Monday, June 12, 2023 12:32 PM
To: Thompson, BrianK <Thompson.BrianK@epa.gov>
Cc: Edwards, Jeff <Edwards.Jeff@epa.gov>; Perkins, Shannon <perkins.shannon@epa.gov>
Subject: FW: WORKSPACE Review COMPLETED: ED_014485A (ED_014485_R. Hammond FOIA 004302_REVIEW)
Importance: High

Good afternoon Brian,
I'm sending this email to keep you apprised of this FOIA response status.

Next Steps: We're waiting on Relativity Support to provide us with a pdf of the informal production that Jeff Wells and Pat Grimm can review. After that, we can request the formal production to provide to Robert Hammond. Please see below for additional information.

Completed Actions:

- 6/8 Submitted the informal production request form to Relativity Support. ***Please note that Relativity Support indicated that their turnaround time for informal productions is 72 hours. As such, they anticipate having the production ready by 6/13.***
- 6/7 Completed my review of the jira-related and help desk ticket documents in the folder Jeff Edwards created; in the workspace, marked all duplicate documents that were responsive.
- 6/6 Completed my review of the workspace.

From: Johnson, Laura-S
Sent: Wednesday, June 7, 2023 11:46 AM
To: Thompson, BrianK <Thompson.BrianK@epa.gov>
Cc: Edwards, Jeff <Edwards.Jeff@epa.gov>
Subject: RE: WORKSPACE Review COMPLETED: ED_014485A (ED_014485_R. Hammond FOIA 004302_REVIEW)
Importance: High

I'll jump into the workspace and mark the appropriate documents as duplicates.

One quick question regarding the folder Jeff Edwards created that houses the gira/help tickets … There are a handful of responsive records that need to be redacted. **Isn't there a way we can have all of these documents included in the workspace?** How do we go about doing that?

From: Thompson, BrianK <Thompson.BrianK@epa.gov>
Sent: Wednesday, June 7, 2023 9:28 AM
To: Johnson, Laura-S <Johnson.Laura-S@epa.gov>
Cc: Edwards, Jeff <Edwards.Jeff@epa.gov>
Subject: RE: WORKSPACE Review COMPLETED: ED_014485A (ED_014485_R. Hammond FOIA 004302_REVIEW)

Laura –

Thank you so much for the review work and this terrific summary. You certainly have a better handle on this process than I do (and likely ever did), so I'd like to defer to your better judgement on what we should do with respect to marking duplicates. Once we're done the next step is to get an informal production so we can share with Jeff Wells and Pat Grimm. I'd like to try to get that done by the end of tomorrow if possible.

Thanks again –

Brian

Brian Thompson | Director
eDiscovery Division
Office of Enterprise Information Programs (OEIP)
Office of Mission Support (OMS)
U.S. Environmental Protection Agency
phone: (202) 564-4256

From: Johnson, Laura-S <Johnson.Laura-S@epa.gov>
Sent: Tuesday, June 6, 2023 4:38 PM
To: Thompson, BrianK <Thompson.BrianK@epa.gov>
Cc: Edwards, Jeff <Edwards.Jeff@epa.gov>
Subject: WORKSPACE Review COMPLETED: ED_014485A (ED_014485_R. Hammond FOIA 004302_REVIEW)

Good afternoon Brian,

BLUF:

- I completed my workspace review.
- Do you want me to mark the duplicates amongst the responsive records? Non-responsive records also?
- I will now complete my review of the jira-related documents in the folder Jeff Edwards created.
- Please let me know if you want to have a quick chat about my findings.

Detailed Observations:

- Jeff Edwards created a folder in which he placed all jira ticket documents. I'll review these documents now and send you an update in the morning. I anticipate most documents will be responsive and "release in full" unless there are private email addresses present.

- There are a lot of duplicates. I'm not sure how/why they weren't automatically tagged as such. I noticed the last 2 records of the 113 were tagged as duplicate. Did you do that? If yes, I can easily go back into the workspace and mark the respective duplicate documents accordingly. **Shall I go ahead and tag the duplicates? I could do this for responsive and non-responsive records collectively in about an hour.**

- There were 44 responsive documents of which 17 of these are duplicates. Of the responsive documents, only 16 are release in full, and the remaining responsive documents contain exemption 6 redactions to protect the privacy of a personal email or residential address.

- I marked 69 records as *non-responsive*. These documents (i.e., reference materials describing whistleblowers, email exchanges pertaining to FOIA appeals from 2018 and 2019) had no relevance to the missing cases. Keep in mind that within the group of 69 non-responsive records, there are 60 duplicates. Although it looks like there is a total of 69 non-responsive records, when you tease out all the duplicates, it's actually only 15 non-responsive unique records. Let me know if it's worth me going in to mark the duplicates amongst the non-responsive documents also (I don't necessarily see this as a need for the purposes of our FOIA response).

For more information regarding the responsive and non-responsive documents please see the tables provided below.

Responsive Duplicates

Document Description	Disposition	# of Dupes
Robert Hammond generated table of missing cases	Responsive: release in full	10
Robert Hammond letter as an attachment dated May 17, 2022	Responsive: redactions	4
Series of reference materials, including mention of his missing cases, provided as one large attachment	Responsive: redactions	6

Non-responsive Duplicates

Document Description	Disposition	# of dupes
Letter from Navy to Robert Hammond, regarding an appeal, dated Feb 27, 2023	Non-responsive	4
Robert Hammond letter (dated Sept. 26, 2018) to Navy as attachment re an appeal	Non-responsive	10
Collection of documents provided as a large attachment re an request and subsequent appeal	Non-responsive	7
Email dated Jan 19, 2019 from Robert Hammond to Navy re an appeal	Non-responsive	7
Email from no-reply@FOIAonline.gov re processing status of a referenced FOIA request	Non-responsive	7
Robert Hammond letter as an attachment dated Jan 16, 2019 to Navy re Privacy Act and HIPPA violation	Non-responsive	7
Robert Hammond letter as an attachment re Whistleblower	Non-responsive	7
Letter from Navy to Robert Hammond dated Oct 25, 2018	Non-responsive	6
Email from Navy's Judy Blizzell Re gathering info to respond to year end report concerns	Non-responsive	8

Message

From: Epp, Timothy [Epp.Timothy@epa.gov]
Sent: 6/14/2023 12:35:00 PM
To: perseverance2013@[redacted]
CC: FOIA HQ [FOIA_HQ@epa.gov]; Thompson, BrianK [Thompson.BrianK@epa.gov]; Johnson, Laura-S [Johnson.Laura-S@epa.gov]; jira@cnsshelpdesk.atlassian.net; Edwards, Jeff [Edwards.Jeff@epa.gov]
Subject: RE: [Expedited} FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Dear Mr. Hammond, thank you for reaching out again.

I have consulted with those responsible for deciding expedited processing applications to better understand their rationale for the denial of your application, and frankly, I believe their decision was correct. Consequently, I do not see further opportunity for Public Liaison engagement to mediate any dispute regarding that decision. Of course, you still have your appeal rights as stated in the denial letter.

I also talked with the EPA office assigned to respond to your FOIA request and I am able to report that the office has made considerable progress and anticipates issuing the final response on or before Friday, June 23. This is not as a result of expediting the processing of your request in any way to give it preference over other requests that the office is processing. Rather, this is the ordinary course likely processing time given the scope of your request and volume of records found.

If you desire to share our correspondence with your list serve, please feel free to go ahead and do that. All EPA staff are accustomed to living in a "Fish Bowl" as every Administrator has advised in an early email to all staff in their administration going back for many decades.

Tim

Timothy R. Epp
Associate General Counsel | National FOIA Office
U.S. Environmental Protection Agency | Office of General Counsel
1200 Pennsylvania Avenue, N.W. (MC 2310A)
Washington, D.C. 20460 | WJCN 7309B
Phone (202) 564-2830 | epp.timothy@epa.gov

National FOIA Office
EPA Office of General Counsel

From: perseverance2013@[redacted] <perseverance2013@[redacted]
Sent: Tuesday, June 13, 2023 12:02 AM
To: Epp, Timothy <Epp.Timothy@epa.gov>
Cc: FOIA HQ <FOIA_HQ@epa.gov>; Thompson, BrianK <Thompson.BrianK@epa.gov>; Johnson, Laura-S <Johnson.Laura-S@epa.gov>; jira@cnsshelpdesk.atlassian.net; Edwards, Jeff <Edwards.Jeff@epa.gov>; perseverance2013@[redacted]
Subject: RE: [Expedited} FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302
Importance: High

Mr. Epp,

Thank you for your email. I have been traveling.

I conduct my FOIA business in writing to assure that there is no disagreement about communications content.

I seek FPL dispute resolution based on my original submission and the June 8, 2023 FOIA Advisory Committee meeting which will ultimately be watched by thousands.

EPA's expedited processing denial is deficient and contrary to the FOIA statute and Attorney General Guidelines "Expedited Processing Disposition Reason: Request does not meet criteria."

There can be no dispute that I meet the requirements for expedited processing based on a claim of an urgency to inform the public about an actual or alleged Federal Government activity where the request is made by a person who is primarily engaged in disseminating information.

If EPA disputes my criteria for expedited processing, I will be happy to place all correspondence into the public domain and disseminate it to my 1,200+ email list of FOIA Advisory Committee members, Chief FOIA Officers, FOIA professionals, FOIA Advocacy Groups, media and interested parties. Disestablishment of FOIAonline is a matter of significant public interest and angst regarding EPA's handling. *See* Rough Transcript of the June 8, 2023 FOIA Advisory Committee Meeting, ALEX HOWARD comments.

Thank you.

With my respect,

Robert Hammond

From: Epp, Timothy <Epp.Timothy@epa.gov>
Sent: Wednesday, May 24, 2023 6:27 AM
To: perseverance2013@[redacted]
Cc: FOIA HQ <FOIA_HQ@epa.gov>
Subject: FW: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Dear Mr. Hammond,

Thank you for reaching out and seeking assistance from EPA's FOIA Public Liaison. As you know, the FOIA Public Liaison was created by the statute to serve as "a listening ear" for FOIA requesters, and to work to resolve FOIA disputes. We appreciate your reaching out to raise your concern and seek a resolution outside of litigation.

As I understand, your concern centers on EPA's denial of your request for expedited processing of request number EPA-2023-004302. I would like to schedule a time to talk with you in order to better understand your concerns and to begin searching for ways to resolve the disputes. Before meeting with you, I plan to meet with EPA's FOIA processors who issue the expedited processing decisions as well as to reach out to the office that has been assigned the responsibility to respond to your FOIA request. In talking with them, I will seek to identify any new or updated status information that I can report to you during our first conversation as well as to make sure that I fully understand the rationale for denying your expedited processing request. Gathering this background information is also intended to help me listen to your concerns with a more informed ear for identifying possible gaps in communication or misunderstandings, to be able to focus my attention better on the key disputes, and to help us look for options for resolution in our first conversation.

Could you provide me several dates and times when you would be available next week to talk on the phone or have a Teams meeting?

In addition, please consider providing any additional information you have that might support your assertion that release of the records you seek should be expedited. And, help ensure that I am gathering the most relevant information, am I correct that you have not requested expedited processing based on a claim that lack of expedited treatment could reasonably be expected to pose a threat to someone's life or physical safety? Instead, your application for expedited processing is based on a claim of an urgency to inform the public about an actual or alleged Federal Government activity where the request is made by a person who is primarily engaged in disseminating information, correct? While considering whether you want to provide any additional information to support your expedited

processing request, you may want to review the Department of Justice's long-standing guidance on expedited processing, which may be found here: https://www.justice.gov/oip/blog/foia-update-oip-guidance-when-expedite-foia-requests As you will see from the guidance and as you may already know, the Department of Justice's guidance recognizes that in considering granting expedited processing, agencies must consider the interests of FOIA requesters who submitted requests earlier than the requester seeking expedited processing. DOJ states: "Because a decision to take a FOIA request out of turn necessarily entails further delay for other requesters waiting patiently in line, simple fairness demands that it be made only upon careful scrutiny of truly exceptional circumstances." So, I would welcome hearing any information you have that would help inform whether the circumstances you have identified are truly exceptional to warrant taking your request ahead of other requests for EPA records.

Best regards,
Tim

Timothy R. Epp
Associate General Counsel | National FOIA Office
U.S. Environmental Protection Agency | Office of General Counsel
1200 Pennsylvania Avenue, N.W. (MC 2310A)
Washington, D.C. 20460 | WJCN 7309B
Phone (202) 564-2830 | epp.timothy@epa.gov

National FOIA Office
EPA Office of General Counsel

From: perseverance2013@[redacted] <perseverance2013@[redacted]
Sent: Monday, May 22, 2023 5:57 PM
To: FOIA HQ <FOIA_HQ@epa.gov>
Cc: perseverance2013@[redacted]
Subject: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

I am seeking immediate FPL Dispute Resolution regarding the insufficient expedited processing denial.

Your basis for denial is legally insufficient:

- Expedited Processing Disposition Reason: Request does not meet criteria

In that this is an expedited FOIA request, immediate response is required.

Robert Hammond

From: admin@foiaonline.gov <admin@foiaonline.gov>
Sent: Friday, May 19, 2023 12:36 PM
To: perseverance2013@[redacted]
Subject: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Your request for Expedited Processing for the FOIA request EPA-2023-004302 has been denied. Additional details for this request are as follows:

- Request Created on: 05/17/2023
- Request Description:

Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@[redacted]

See PDF.

1. All records from March 5, 2023 to present related to FOIAonline Help Deck Ticket "FOH-123563" Cases missing from his account [perseverance2013@ Ex. 5 Deliberative Process (DP) including but not limited to:
2. All internal help desk case records conducting analysis and communicating with any party by email, text, or other means. One such email is FOIA Online HD jira@cnsshelpdesk.atlassian.net which provides the email construct for other helpdesk personnel (@cnsshelpdesk.atlassian.net).
3. All records of communications with and documents provided by Robert Hammond, perseverance2013@ Ex. 5 Deliberative Process (DP)
4. All records of communications with - and documents provided by - Robert Hammond, foiacompliance@ Ex. 5 Deliberative Process (DP), FOIAcomplaince@ Ex. 5 Deliberative Process (DP) DOD.FOIA.PA@ Ex. 5 Deliberative Process (DP), confirmed receipts, forwarding of emails and responses to them.
5. All records of communications by and with Johnson, Laura-S Johnson.Laura-S@epa.gov, including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
a. Some Department of Navy addressees may have been 'christopher.a.julka@navy.mil'; DONFOIA-PA@navy.mil
6. All records of communications by and with Thompson, BrianK , including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
7. All records of communications by and with 'Edwards, Jeff' Edwards.Jeff@epa.gov including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
8. All records of communications with any FOIAonline participating partner regarding Help Deck Ticket FOH-12356 or nay records missing from their accounts.
9. Closeout records of case Help Deck Ticket FOH-12356.
10. I am also seeking a copy of this FOIA Request, which is an Agency record subject to FOIA that exists and is in the Agency's possession at the time of my FOIA request. This record is a responsive record integral to my Request. Release of the Agency's copy is not optional.

REQUESTED FORMAT.

I am also seeking records in their native format (MS. Outlook, PowerPoint, Excel, ADA accessible PDF files or other mutually agreed by return email with: (1) a signed and dated cover letter (citing my personally assigned requester control number); (2) with record page count for all records released records (3) a copy of this request in your reply. I seek records via email in PDF format with an imbedded copy of my requests to (1) impede the agency from not addressing the FOIA Request; (2) impede the Agency from not providing the documents stated in the Agency's letter reply, and (3) make it obvious in any subsequent review what the Agency has or has not done.

Further, I request that these records be sent in any digital formats in which they exist (such as PDF and Excel). Under the terms of the E-FOIA Amendments of 1996, Section 5, if a document exists in electronic format, it must be released in that format upon request.

Each record must be provided as a distinct record in their native format. Emails should be provided as MS Outlook files, if not encrypted or otherwise unable to be open ed by me. Only if this is not possible, emails should be produced with their embedded hyperlinked attachments by using the "File => Save as Adobe PDF" command within Outlook or by other software that produces the same result.

I am also seeking the "Description Available to the Public" field I FOIAonline be set to yes and that all records be released to and viewable in the application by the general Public. The release type must be set to "Unredacted – Releasable to the General Public: Will be available to the general public," or to "Redacted – Releasable to the General Public: Will be available to the general public."

This request is distinctly separate from any other. Please do not combine this request with any other request in your reply. I am requesting that each element of the records sought be specifically addressed in the reply.

In all correspondence, return a copy of my FOIA request, cite my personal request number, and cite records sought.

- Expedited Processing Original Justification: EXPEDITED PROCESSING.

I am seeking expedited processing due to:
"an urgency to inform the public about an actual or alleged Federal government activity, if the information is requested by a person primarily engaged in disseminating information to the public."
The subject is of widespread and exceptional interest and the information sought involves possible questions about the government's integrity that affect public confidence.
Between January 2, 2023 and February 3, 2023 (one month) seventy-one (71) of my two hundred sixty-two (262) Navy FOIA cases from 2017 forward have been deleted from FOIAonline or I have been denied access to them. This is extremely serious. EPA must determine who did this, how it happened, and if this is unique to me. See "FOIAonline Compare January 2, 2023 to February 3, 2023 Missing Cases Navy" provided by email.
Either there was intentional misconduct (possibly involving Navy) or gross malfeasance in the disappearance of or removal of access to my FOIAonline records and whether this issue is widespread among other participating agencies.
There is intense interest/angst in matters surrounding FOIAonline and its decommissioning, so much so that Laura Johnson was added last minute to brief the FOIA Advisory Committee on March 2, 2023. At that meeting:
"Mr. Howard asked two questions: first, how records are being transferred, and second, how EPA is ensuring that no data is lost or becomes unavailable to the public."
Despite assurances from EPA that everything was fine, I discovered and days later reported to Ms. Johnson and the FOIA Advisory Committee that seventy-one (71) of my two hundred sixty-two (262) Navy FOIA cases from 2017 forward have been deleted from FOIAonline or I have been denied access to them.
Having received no reply as to what happened, I notified my 1,200 plus FOIA distribution list of media, Chief FOIA Officers, FOIA professionals, FOIA/Open records Advocacy groups and interested parties of the unresolved debacle.
There is a thirst among the FOIA community to know exactly what happened.
Note that EPA's FOIA regulation, 40 CFR Subpart A—Procedures for Disclosure of Records Under the Freedom of Information Act § 2.106 Preservation of records is in violation of law citing General Records Schedule 14, which was superseded by NARA Transmittal 29 of December 2017. This alone is of great public interest.
Additionally, I am an individual/organization primarily engaged in the dissemination of information who can prove the information is urgently needed to inform the public concerning some actual or alleged government activity. My primary activity is informing the public, which I do through a variety of means, such as open meeting public comments, blogs, etc., and I may from time to time collaborate on articles. There is extraordinary, off the charts interest in this matter. I make oral public comments at every open FOAI meeting. I have an active email distribution list of Chief FOIA Officers, FOIA professionals, FOIA advocacy groups media and interested parties. I also communicate regularly with members of Congress.
• See examples below.

- Public Comments Submitted to the Chief FOIA Officers Council https://www.archives.gov/ogis/about-ogis/chief-foia-officers-council

- Public Comments Submitted to the FOIA Advisory Committee | National Archives https://www.archives.gov/ogis/foia-advisory-committee/public-comments

- OGIS Annual Open Meeting Public comments https://www.archives.gov/ogis/outreach-events/annual-open-meeting

- Document Cloud. Org https://www.documentcloud.org/app?q=%2Buser%3Arobert-hammond-106693%20 (e.g., "Sample FOIA Template With Recent Developments to Combat Agency Misconduct.")
EPA must evaluate all my public comments along with my methods of dissemination and state that it has done so in any denial of expedited processing.
• The subject of the requested records concerns government operations and activities
• The disclosure is likely to contribute to understanding of these operations or activities
• Disclosure will likely result in public understanding of the subject
• The contribution to public understanding of government operations or activities will be significant
• The requester has no commercial interest

- The public interest in disclosure is great.
- I use “editorial skills to turn the raw materials into a distinct work.”
- My work is distributed to an audience with active distribution.
- Expedited Processing Disposition Reason: Request does not meet criteria

Message

From: Johnson, Laura-S [Johnson.Laura-S@epa.gov]
Sent: 5/23/2023 10:19:10 AM
To: Thompson, BrianK [Thompson.BrianK@epa.gov]; Edwards, Jeff [Edwards.Jeff@epa.gov]
CC: Perkins, Shannon [perkins.shannon@epa.gov]
Subject: RE: FOIA - response from us
Attachments: FW: FOIA Request EPA-2023-004302 Submitted. Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@Ex. 6 Personal Privacy (PP)

Importance: High

Good morning Brian,
I'm glad you brought this up – perfect timing. Yes, on May 15th , we received a FOIA request from our friend, Robert Hammond (see his attached email with his FOIA request). He sent it directly to us all (you, Jeff Edwards, and me), as well as foia_hq@epa.gov. Neither Jeff Edwards nor I have received any internal notifications regarding it. So per your email below to us, it technically hasn't been routed to us yet. Regardless, in order to fully explain to Robert Hammond what may have happened with his Navy records, a phone conversation with him would be best. To be honest, I'm not sure we can respond to his FOIA request in that we may very well need to generate certain documentation beyond what we currently have in our records in order to respond. May I look at your calendar, as well as Jeff Edward's and mine, and coordinate with Robert to schedule a meeting with him in the near future with the hope of putting this issue to rest?

From: Thompson, BrianK <Thompson.BrianK@epa.gov>
Sent: Monday, May 22, 2023 4:35 PM
To: Edwards, Jeff <Edwards.Jeff@epa.gov>; Johnson, Laura-S <Johnson.Laura-S@epa.gov>
Cc: Perkins, Shannon <perkins.shannon@epa.gov>
Subject: FOIA - response from us

Jeff and Laura –

Did we get a FOIA issued to us that we need to respond to? I got an email from someone that attached a FOIA, but not sure if one has been routed to us yet or not.

Just asking.

-Brian

Brian Thompson | Director
eDiscovery Division
Office of Enterprise Information Programs (OEIP)
Office of Mission Support (OMS)
U.S. Environmental Protection Agency
phone: (202) 564-4256

Message

From: perseverance2013@Ex. 6 Personal Privacy (PP) perseverance2013@Ex. 6 Personal Privacy (PP)
Sent: 5/17/2023 8:29:25 PM
To: FOIA HQ [FOIA_HQ@epa.gov]; Thompson, BrianK [Thompson.BrianK@epa.gov]; Johnson, Laura-S [Johnson.Laura-S@epa.gov]; jira@cnsshelpdesk.atlassian.net; Edwards, Jeff [Edwards.Jeff@epa.gov]
CC: perseverance2013@Ex. 6 Personal Privacy (PP)
Subject: FW: FOIA Request EPA-2023-004302 Submitted. Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@Ex. 6 Personal Privacy (PP)
Attachments: Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563 .pdf

Greetings All.

I am a big fan of FOIAonline and sorry to see it gong away.

That said, I want to understand exactly what happened regarding the Navy records that disappeared from my FOIAonline account. Please preserve records responsive to my expedited FOIA request attached.

If anyone wants to further amplify EPA's position to contribute to my understanding of what happened, I am available to discuss by phone. I appreciate that mistakes happen – if that is what occurred. Let me know when and what number to dial. Any conversation will not negate my FOIA request and any comments I make will be non-attribution.

Thank you for your prompt attention to my expedited FOIA request.

With my respect,

Robert Hammond

From: foia_hq@epa.gov <foia_hq@epa.gov>
Sent: Wednesday, May 17, 2023 4:17 PM
To: perseverance2013@Ex. 6 Personal Privacy (PP)
Subject: FOIA Request EPA-2023-004302 Submitted

This message is to confirm your request submission to the FOIAonline application: View Request. Request information is as follows:

- Tracking Number: EPA-2023-004302
- Requester Name: Mr. robert hammond
- Date Submitted: 05/17/2023
- Request Status: Submitted
- Description:

Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@Ex. 6 Personal Privacy (PP)

See PDF.

1. All records from March 5, 2023 to present related to FOIAonline Help Deck Ticket "FOH-123563" Cases missing from his account [perseverance2013@Ex. 6 Personal Privacy (PP) including but not limited to:
2. All internal help desk case records conducting analysis and communicating with any party by email, text, or other means. One such email is FOIA Online HD jira@cnsshelpdesk.atlassian.net which provides the email construct for other

helpdesk personnel (@cnsshelpdesk.atlassian.net).
3. All records of communications with and documents provided by Robert Hammond, perseverance2013@ Ex. 6 Personal Privacy (PP)
4. All records of communications with - and documents provided by - Robert Hammond, foiacompliance@ Ex. 6 Personal Privacy (PP) FOIAcomplaince@ Ex. 6 Personal Privacy (PP) DOD.FOIA.PA@ Ex. 6 Personal Privacy (PP) confirmed receipts, forwarding of emails and responses to them.
5. All records of communications by and with Johnson, Laura-S Johnson.Laura-S@epa.gov, including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
a. Some Department of Navy addressees may have been 'christopher.a.julka@navy.mil'; DONFOIA-PA@navy.mil
6. All records of communications by and with Thompson, BrianK , including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
7. All records of communications by and with 'Edwards, Jeff' Edwards.Jeff@epa.gov including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
8. All records of communications with any FOIAonline participating partner regarding Help Deck Ticket FOH-12356 or nay records missing from their accounts.
9. Closeout records of case Help Deck Ticket FOH-12356.
10. I am also seeking a copy of this FOIA Request, which is an Agency record subject to FOIA that exists and is in the Agency's possession at the time of my FOIA request. This record is a responsive record integral to my Request. Release of the Agency's copy is not optional.

REQUESTED FORMAT.

I am also seeking records in their native format (MS. Outlook, PowerPoint, Excel, ADA accessible PDF files or other mutually agreed by return email with: (1) a signed and dated cover letter (citing my personally assigned requester control number); (2) with record page count for all records released records (3) a copy of this request in your reply. I seek records via email in PDF format with an imbedded copy of my requests to (1) impede the agency from not addressing the FOIA Request; (2) impede the Agency from not providing the documents stated in the Agency's letter reply, and (3) make it obvious in any subsequent review what the Agency has or has not done.

Further, I request that these records be sent in any digital formats in which they exist (such as PDF and Excel). Under the terms of the E-FOIA Amendments of 1996, Section 5, if a document exists in electronic format, it must be released in that format upon request.

Each record must be provided as a distinct record in their native format. Emails should be provided as MS Outlook files, if not encrypted or otherwise unable to be open ed by me. Only if this is not possible, emails should be produced with their embedded hyperlinked attachments by using the "File => Save as Adobe PDF" command within Outlook or by other software that produces the same result.

I am also seeking the "Description Available to the Public" field I FOIAonline be set to yes and that all records be released to and viewable in the application by the general Public. The release type must be set to "Unredacted – Releasable to the General Public: Will be available to the general public," or to "Redacted – Releasable to the General Public: Will be available to the general public."

This request is distinctly separate from any other. Please do not combine this request with any other request in your reply. I am requesting that each element of the records sought be specifically addressed in the reply.

In all correspondence, return a copy of my FOIA request, cite my personal request number, and cite records sought.

Message

From: Thompson, BrianK [Thompson.BrianK@epa.gov]
Sent: 5/23/2023 11:42:25 AM
To: Edwards, Jeff [Edwards.Jeff@epa.gov]; Johnson, Laura-S [Johnson.Laura-S@epa.gov]
CC: Perkins, Shannon [perkins.shannon@epa.gov]
Subject: RE: FOIA - response from us

I just forwarded you all the FOIA request (it apparently came in to OMS last week, they emailed me late yesterday). I think we have to respond to the FOIA and the requestor has indicated that a phone call will not suffice. Therefore, I think we focus on collecting the records we currently have at hand. I don't think a phone call is necessary.

-Brian

Brian Thompson | Director
eDiscovery Division
Office of Enterprise Information Programs (OEIP)
Office of Mission Support (OMS)
U.S. Environmental Protection Agency
phone: (202) 564-4256

From: Edwards, Jeff <Edwards.Jeff@epa.gov>
Sent: Tuesday, May 23, 2023 7:23 AM
To: Johnson, Laura-S <Johnson.Laura-S@epa.gov>; Thompson, BrianK <Thompson.BrianK@epa.gov>
Cc: Perkins, Shannon <perkins.shannon@epa.gov>
Subject: RE: FOIA - response from us

I'd like to spend a few extra minutes to put this to rest. I will gladly put together the explanation of his Navy cases going missing, but it'll be filled with "we don't know" and a few assumptions. I doubt it will satisfy him. How do we make him happy enough that he tells his friends that FOIAonline is doing it right?

Jeff Edwards
Office of Enterprise Information Programs
Office of Mission Support
U.S. Environmental Protection Agency
919-541-2677

From: Johnson, Laura-S <Johnson.Laura-S@epa.gov>
Sent: Tuesday, May 23, 2023 6:19 AM
To: Thompson, BrianK <Thompson.BrianK@epa.gov>; Edwards, Jeff <Edwards.Jeff@epa.gov>
Cc: Perkins, Shannon <perkins.shannon@epa.gov>
Subject: RE: FOIA - response from us
Importance: High

Good morning Brian,
I'm glad you brought this up – perfect timing. Yes, on May 15th , we received a FOIA request from our friend, Robert Hammond (see his attached email with his FOIA request). He sent it directly to us all (you, Jeff Edwards, and me), as well as foia_hq@epa.gov. Neither Jeff Edwards nor I have received any internal notifications regarding it. So per your email below to us, it technically hasn't been routed to us yet. Regardless, in order to fully explain to Robert Hammond what may have happened with his Navy records, a phone conversation with him would be best. To be honest, I'm not sure we can respond to his FOIA request in that we may very well need to generate certain documentation beyond what we

currently have in our records in order to respond. May I look at your calendar, as well as Jeff Edward's and mine, and coordinate with Robert to schedule a meeting with him in the near future with the hope of putting this issue to rest?

From: Thompson, BrianK <Thompson.BrianK@epa.gov>
Sent: Monday, May 22, 2023 4:35 PM
To: Edwards, Jeff <Edwards.Jeff@epa.gov>; Johnson, Laura-S <Johnson.Laura-S@epa.gov>
Cc: Perkins, Shannon <perkins.shannon@epa.gov>
Subject: FOIA - response from us

Jeff and Laura –

Did we get a FOIA issued to us that we need to respond to? I got an email from someone that attached a FOIA, but not sure if one has been routed to us yet or not.

Just asking.

-Brian

Brian Thompson | Director
eDiscovery Division
Office of Enterprise Information Programs (OEIP)
Office of Mission Support (OMS)
U.S. Environmental Protection Agency
phone: (202) 564-4256

Message

From: Edwards, Jeff [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BBBEAA6258D84AE8AE0A0C14F92114A9-EDWARDS, JEFF]
Sent: 5/23/2023 12:00:39 PM
To: Thompson, BrianK [Thompson.BrianK@epa.gov]; Johnson, Laura-S [Johnson.Laura-S@epa.gov]
CC: Perkins, Shannon [perkins.shannon@epa.gov]
Subject: RE: FOIA Assignment for EPA-2023-004302

Thanks Brian!

Jeff Edwards
Office of Enterprise Information Programs
Office of Mission Support
U.S. Environmental Protection Agency
919-541-2677

From: Thompson, BrianK <Thompson.BrianK@epa.gov>
Sent: Tuesday, May 23, 2023 7:56 AM
To: Johnson, Laura-S <Johnson.Laura-S@epa.gov>; Edwards, Jeff <Edwards.Jeff@epa.gov>
Cc: Perkins, Shannon <perkins.shannon@epa.gov>
Subject: RE: FOIA Assignment for EPA-2023-004302

I think this is the search for records we need to conduct (on the eDiscovery side):

Date Range: 3/5/2023- 5/18/2023
Custodians to search: Laura Johnson, Jeff Edwards, Brian Thompson

Search: "missing records" OR "FOH-12356" along with a participant search of: @cnsshelpdesk.atlassian.net, perseverance2013@[redacted], foiacompliance@[redacted], FOIAcomplaince@[redacted], DOD.FOIA.PA@[redacted], 'christopher.a.julka@navy.mil'; DONFOIA-PA@navy.mil,

We then just need the electronic records from the help desk ticket of FOH-12356.

I'd want to run this by our internal team – but I think doing this will hit on everything he is asking for.

Brian Thompson | Director
eDiscovery Division
Office of Enterprise Information Programs (OEIP)
Office of Mission Support (OMS)
U.S. Environmental Protection Agency
phone: (202) 564-4256

From: Thompson, BrianK
Sent: Tuesday, May 23, 2023 7:41 AM
To: Johnson, Laura-S <Johnson.Laura-S@epa.gov>; Edwards, Jeff <Edwards.Jeff@epa.gov>
Subject: FW: FOIA Assignment for EPA-2023-004302

This came in late yesterday. Let's meet up to discuss our search strategy to respond to this request.

-Brian

Brian Thompson | Director
eDiscovery Division
Office of Enterprise Information Programs (OEIP)
Office of Mission Support (OMS)
U.S. Environmental Protection Agency
phone: (202) 564-4256

From: Waits, Matthew <Waits.Matthew@epa.gov>
Sent: Monday, May 22, 2023 5:12 PM
To: Thompson, BrianK <Thompson.BrianK@epa.gov>
Cc: Bossard, Justin <bossard.justin@epa.gov>; Elkassabany, Sara <Elkassabany.Sara@epa.gov>
Subject: FW: FOIA Assignment for EPA-2023-004302

Good afternoon Brian,

I am Matthew Waits, a member of the OMS FOIA team. We have received the following request. I have made some adjustments to improve readability here.

I am emailing to ask about the capabilities of OMS processing this request. Are we able to respond to each of the points in this request?

Thank you,

Matthew Waits
U.S. Environmental Protection Agency - OMS
Office of Resources and Business Operations
FOIA | CI
Office: 202-564-2488
Waits.Matthew@epa.gov

From: admin@foiaonline.gov <admin@foiaonline.gov>
Sent: Thursday, May 18, 2023 4:58 PM
To: OMS_FOIA_Team <OMS_FOIA_Team@epa.gov>
Subject: FOIA Assignment for EPA-2023-004302

Your office has been assigned to the FOIA request - EPA-2023-004302. Once logged into FOIAonline, you can navigate to this case by following this link: View. Additional details for this item are as follows:

- Tracking Number: EPA-2023-004302
- Requester: Mr. robert hammond
- Request Track: Simple
- Submitted Date: 05/17/2023
- Due Date: 07/03/2023
- Description:
- Short Description: N/A
- Description:

Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@ Ex. 6 Personal Privacy (PP)

- All records from March 5, 2023 to present related to FOIAonline Help Deck Ticket "FOH-123563" Cases missing from his account [perseverance2013@ Ex. 6 Personal Privacy (PP) including but not limited to:

  - All internal help desk case records conducting analysis and communicating with any party by email, text, or other means. One such email is FOIA Online HD jira@cnsshelpdesk.atlassian.net which provides the email construct for other helpdesk personnel (@cnsshelpdesk.atlassian.net).

  - All records of communications with and documents provided by Robert Hammond, perseverance2013@ Ex. 6 Personal Privacy (PP)

  - All records of communications with - and documents provided by - Robert Hammond, foiacompliance@ Ex. 6 Personal Privacy (PP) FOIAcomplaince@ Ex. 6 Personal Privacy (PP), DOD.FOIA.PA@ Ex. 6 Personal Privacy (PP) confirmed receipts, forwarding of emails and responses to them.

  - All records of communications by and with Johnson, Laura-S Johnson.Laura-S@epa.gov, including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.

- Some Department of Navy addressees may have been 'christopher.a.julka@navy.mil'; DONFOIA-PA@navy.mil

  - All records of communications by and with Thompson, BrianK , including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.

  - All records of communications by and with 'Edwards, Jeff' Edwards.Jeff@epa.gov including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.

  - All records of communications with any FOIAonline participating partner regarding Help Deck Ticket FOH-12356 or nay records missing from their accounts.

  - Closeout records of case Help Deck Ticket FOH-12356.

  - I am also seeking a copy of this FOIA Request, which is an Agency record subject to FOIA that exists and is in the Agency's possession at the time of my FOIA request. This record is a responsive record integral to my Request. Release of the Agency's copy is not optional.

REQUESTED FORMAT.

I am also seeking records in their native format (MS. Outlook, PowerPoint, Excel, ADA accessible PDF files or other mutually agreed by return email with: (1) a signed and dated cover letter (citing my personally assigned requester control number); (2) with record page count for all records released records (3) a copy of this request in your reply. I seek records via email in PDF format with an imbedded copy of my requests to (1) impede the agency from not addressing the FOIA Request; (2) impede the Agency from not providing the documents stated in the Agency's letter reply, and (3) make it obvious in any subsequent review what the Agency has or has not done.

Further, I request that these records be sent in any digital formats in which they exist (such as PDF and Excel). Under the terms of the E-FOIA Amendments of 1996, Section 5, if a document exists in electronic format, it must be released in that format upon request.

Each record must be provided as a distinct record in their native format. Emails should be provided as MS Outlook files, if not encrypted or otherwise unable to be open ed by me. Only if this is not possible, emails should be produced with their embedded hyperlinked attachments by using the "File => Save as Adobe PDF" command within Outlook or by other software that produces the same result.

I am also seeking the "Description Available to the Public" field I FOIAonline be set to yes and that all records be released to and viewable in the application by the general Public. The release type must be set to "Unredacted – Releasable to the General Public: Will be available to the general public," or to "Redacted – Releasable to the General Public: Will be available to the general public."

This request is distinctly separate from any other. Please do not combine this request with any other request in your reply. I am requesting that each element of the records sought be specifically addressed in the reply.

In all correspondence, return a copy of my FOIA request, cite my personal request number, and cite records sought.

- Assigned Comments: Assigned to OMS

Message

From: Edwards, Jeff [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BBBEAA6258D84AE8AE0A0C14F92114A9-EDWARDS, JEFF]
Sent: 5/25/2023 2:31:43 PM
To: Thompson, BrianK [Thompson.BrianK@epa.gov]; Johnson, Laura-S [Johnson.Laura-S@epa.gov]; Perkins, Shannon [perkins.shannon@epa.gov]
Subject: RE: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Brian,

So you know, I didn't respond to this and think it was meant for J. Wells. We can discuss next steps at our scheduled 1:30 meeting.

Thanks,
Jeff

Jeff Edwards
Office of Enterprise Information Programs
Office of Mission Support
U.S. Environmental Protection Agency
919-541-2677

From: Thompson, BrianK <Thompson.BrianK@epa.gov>
Sent: Thursday, May 25, 2023 9:58 AM
To: Johnson, Laura-S <Johnson.Laura-S@epa.gov>; Perkins, Shannon <perkins.shannon@epa.gov>; Edwards, Jeff <Edwards.Jeff@epa.gov>
Subject: FW: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Brian Thompson | Director
eDiscovery Division
Office of Enterprise Information Programs (OEIP)
Office of Mission Support (OMS)
U.S. Environmental Protection Agency
phone: (202) 564-4256

From: Epp, Timothy <Epp.Timothy@epa.gov>
Sent: Wednesday, May 24, 2023 6:47 AM
To: Edwards, Jeff <Edwards.Jeff@epa.gov>; Thompson, BrianK <Thompson.BrianK@epa.gov>; Bossard, Justin <bossard.justin@epa.gov>
Cc: Weth, Patricia <Weth.Patricia@epa.gov>; Hill, Kevin W. <hill.kevinw@epa.gov>
Subject: FW: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Hi Jeff, Justin and Brian,

Mr. Robert Hammond submitted a FOIA request to EPA for records pertaining to FOIAonline and help desk engagement with respect to an alleged loss of Mr. Hammond's FOIA requests submitted to the Department of the Navy. He also requested expedited processing of his request, which the NFO denied, and he has now reached out seeking FOIA Public

Liaison assistance pertaining to his disputes concerning the denial of expedited processing. Below is a copy of my initial response to him in which I seek to schedule a meeting next week to talk with him.

I'd welcome any information that you can provide regarding the processing of his FOIA request, such as likely length of time it will take your office and regarding how a grant of expedited processing would impact OMS' ability to equitably process other FOIA requests that were submitted ahead of Mr. Hammond's request.

I'm hoping to schedule a meeting with Mr. Hammond mid-week next week. So your reply this week or by COB Tuesday next week would be greatly appreciated. Please let me know if we should schedule a meeting to talk about this engagement, rather than communicate solely by email.

Thanks,
Tim

Timothy R. Epp
Associate General Counsel | National FOIA Office
U.S. Environmental Protection Agency | Office of General Counsel
1200 Pennsylvania Avenue, N.W. (MC 2310A)
Washington, D.C. 20460 | WJCN 7309B
Phone (202) 564-2830 | epp.timothy@epa.gov

National FOIA Office
EPA Office of General Counsel

From: Epp, Timothy
Sent: Wednesday, May 24, 2023 6:27 AM
To: perseverance2013@ Ex. 6 Personal Privacy (PP)
Cc: FOIA HQ <FOIA_HQ@epa.gov>
Subject: FW: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Dear Mr. Hammond,

Thank you for reaching out and seeking assistance from EPA's FOIA Public Liaison. As you know, the FOIA Public Liaison was created by the statute to serve as "a listening ear" for FOIA requesters, and to work to resolve FOIA disputes. We appreciate your reaching out to raise your concern and seek a resolution outside of litigation.

As I understand, your concern centers on EPA's denial of your request for expedited processing of request number EPA-2023-004302. I would like to schedule a time to talk with you in order to better understand your concerns and to begin searching for ways to resolve the disputes. Before meeting with you, I plan to meet with EPA's FOIA processors who issue the expedited processing decisions as well as to reach out to the office that has been assigned the responsibility to respond to your FOIA request. In talking with them, I will seek to identify any new or updated status information that I can report to you during our first conversation as well as to make sure that I fully understand the rationale for denying your expedited processing request. Gathering this background information is also intended to help me listen to your concerns with a more informed ear for identifying possible gaps in communication or misunderstandings, to be able to focus my attention better on the key disputes, and to help us look for options for resolution in our first conversation.

Could you provide me several dates and times when you would be available next week to talk on the phone or have a Teams meeting?

In addition, please consider providing any additional information you have that might support your assertion that release of the records you seek should be expedited. And, help ensure that I am gathering the most relevant information, am I correct that you have not requested expedited processing based on a claim that lack of expedited treatment could reasonably be expected to pose a threat to someone's life or physical safety? Instead, your application for expedited processing is based on a claim of an urgency to inform the public about an actual or alleged Federal Government activity where the request is made by a person who is primarily engaged in disseminating information, correct? While considering whether you want to provide any additional information to support your expedited processing request, you may want to review the Department of Justice's long-standing guidance on expedited processing, which may be found here: https://www.justice.gov/oip/blog/foia-update-oip-guidance-when-expedite-foia-requests As you will see from the guidance and as you may already know, the Department of Justice's guidance recognizes that in considering granting expedited processing, agencies must consider the interests of FOIA requesters who submitted requests earlier than the requester seeking expedited processing. DOJ states: "Because a decision to take a FOIA request out of turn necessarily entails further delay for other requesters waiting patiently in line, simple fairness demands that it be made only upon careful scrutiny of truly exceptional circumstances." So, I would welcome hearing any information you have that would help inform whether the circumstances you have identified are truly exceptional to warrant taking your request ahead of other requests for EPA records.

Best regards,
Tim

Timothy R. Epp
Associate General Counsel | National FOIA Office
U.S. Environmental Protection Agency | Office of General Counsel
1200 Pennsylvania Avenue, N.W. (MC 2310A)
Washington, D.C. 20460 | WJCN 7309B
Phone (202) 564-2830 | epp.timothy@epa.gov

National FOIA Office
EPA Office of General Counsel

From: perseverance2013@[redacted] perseverance2013@[redacted]>
Sent: Monday, May 22, 2023 5:57 PM
To: FOIA HQ <FOIA_HQ@epa.gov>
Cc: perseverance2013@[redacted]
Subject: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

I am seeking immediate FPL Dispute Resolution regarding the insufficient expedited processing denial.

Your basis for denial is legally insufficient:

- Expedited Processing Disposition Reason: Request does not meet criteria

In that this is an expedited FOIA request, immediate response is required.

Robert Hammond

From: admin@foiaonline.gov <admin@foiaonline.gov>
Sent: Friday, May 19, 2023 12:36 PM
To: perseverance2013@[redacted]
Subject: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Your request for Expedited Processing for the FOIA request EPA-2023-004302 has been denied. Additional details for this request are as follows:

- Request Created on: 05/17/2023
- Request Description:

Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@ Ex. 6 Personal Privacy (PP)

See PDF.

1. All records from March 5, 2023 to present related to FOIAonline Help Deck Ticket "FOH-123563" Cases missing from his account [perseverance2013@ Ex. 6 Personal Privacy (PP) including but not limited to:
2. All internal help desk case records conducting analysis and communicating with any party by email, text, or other means. One such email is FOIA Online HD jira@cnsshelpdesk.atlassian.net which provides the email construct for other helpdesk personnel (@cnsshelpdesk.atlassian.net).
3. All records of communications with and documents provided by Robert Hammond, perseverance2013@ Ex. 6 Personal Privacy (PP)
4. All records of communications with - and documents provided by - Robert Hammond, foiacompliance@ Ex. 6 Personal Privacy (PP), FOIAcomplaince@ Ex. 6 Personal Privacy (PP) DOD.FOIA.PA@ Ex. 6 Personal Privacy (PP) confirmed receipts, forwarding of emails and responses to them.
5. All records of communications by and with Johnson, Laura-S Johnson.Laura-S@epa.gov, including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
a. Some Department of Navy addressees may have been 'christopher.a.julka@navy.mil'; DONFOIA-PA@navy.mil
6. All records of communications by and with Thompson, BrianK , including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
7. All records of communications by and with 'Edwards, Jeff' Edwards.Jeff@epa.gov including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
8. All records of communications with any FOIAonline participating partner regarding Help Deck Ticket FOH-12356 or nay records missing from their accounts.
9. Closeout records of case Help Deck Ticket FOH-12356.
10. I am also seeking a copy of this FOIA Request, which is an Agency record subject to FOIA that exists and is in the Agency's possession at the time of my FOIA request. This record is a responsive record integral to my Request. Release of the Agency's copy is not optional.

REQUESTED FORMAT.

I am also seeking records in their native format (MS. Outlook, PowerPoint, Excel, ADA accessible PDF files or other mutually agreed by return email with: (1) a signed and dated cover letter (citing my personally assigned requester control number); (2) with record page count for all records released records (3) a copy of this request in your reply. I seek records via email in PDF format with an imbedded copy of my requests to (1) impede the agency from not addressing the FOIA Request; (2) impede the Agency from not providing the documents stated in the Agency's letter reply, and (3) make it obvious in any subsequent review what the Agency has or has not done.

Further, I request that these records be sent in any digital formats in which they exist (such as PDF and Excel). Under the terms of the E-FOIA Amendments of 1996, Section 5, if a document exists in electronic format, it must be released in that format upon request.

Each record must be provided as a distinct record in their native format. Emails should be provided as MS Outlook files, if not encrypted or otherwise unable to be open ed by me. Only if this is not possible, emails should be produced with their embedded hyperlinked attachments by using the "File => Save as Adobe PDF" command within Outlook or by other software that produces the same result.

I am also seeking the "Description Available to the Public" field I FOIAonline be set to yes and that all records be released

to and viewable in the application by the general Public. The release type must be set to "Unredacted – Releasable to the General Public: Will be available to the general public," or to "Redacted – Releasable to the General Public: Will be available to the general public."

This request is distinctly separate from any other. Please do not combine this request with any other request in your reply. I am requesting that each element of the records sought be specifically addressed in the reply.

In all correspondence, return a copy of my FOIA request, cite my personal request number, and cite records sought.

- Expedited Processing Original Justification: EXPEDITED PROCESSING.

I am seeking expedited processing due to:
"an urgency to inform the public about an actual or alleged Federal government activity, if the information is requested by a person primarily engaged in disseminating information to the public."
The subject is of widespread and exceptional interest and the information sought involves possible questions about the government's integrity that affect public confidence.
Between January 2, 2023 and February 3, 2023 (one month) seventy-one (71) of my two hundred sixty-two (262) Navy FOIA cases from 2017 forward have been deleted from FOIAonline or I have been denied access to them. This is extremely serious. EPA must determine who did this, how it happened, and if this is unique to me. See "FOIAonline Compare January 2, 2023 to February 3, 2023 Missing Cases Navy" provided by email.
Either there was intentional misconduct (possibly involving Navy) or gross malfeasance in the disappearance of or removal of access to my FOIAonline records and whether this issue is widespread among other participating agencies.
There is intense interest/angst in matters surrounding FOIAonline and its decommissioning, so much so that Laura Johnson was added last minute to brief the FOIA Advisory Committee on March 2, 2023. At that meeting:
"Mr. Howard asked two questions: first, how records are being transferred, and second, how EPA is ensuring that no data is lost or becomes unavailable to the public."
Despite assurances from EPA that everything was fine, I discovered and days later reported to Ms. Johnson and the FOIA Advisory Committee that seventy-one (71) of my two hundred sixty-two (262) Navy FOIA cases from 2017 forward have been deleted from FOIAonline or I have been denied access to them.
Having received no reply as to what happened, I notified my 1,200 plus FOIA distribution list of media, Chief FOIA Officers, FOIA professionals, FOIA/Open records Advocacy groups and interested parties of the unresolved debacle.
There is a thirst among the FOIA community to know exactly what happened.
Note that EPA's FOIA regulation, 40 CFR Subpart A—Procedures for Disclosure of Records Under the Freedom of Information Act § 2.106 Preservation of records is in violation of law citing General Records Schedule 14, which was superseded by NARA Transmittal 29 of December 2017. This alone is of great public interest.
Additionally, I am an individual/organization primarily engaged in the dissemination of information who can prove the information is urgently needed to inform the public concerning some actual or alleged government activity. My primary activity is informing the public, which I do through a variety of means, such as open meeting public comments, blogs, etc., and I may from time to time collaborate on articles. There is extraordinary, off the charts interest in this matter. I make oral public comments at every open FOAI meeting. I have an active email distribution list of Chief FOIA Officers, FOIA professionals, FOIA advocacy groups media and interested parties. I also communicate regularly with members of Congress.

- See examples below.

- Public Comments Submitted to the Chief FOIA Officers Council https://www.archives.gov/ogis/about-ogis/chief-foia-officers-council

- Public Comments Submitted to the FOIA Advisory Committee | National Archives https://www.archives.gov/ogis/foia-advisory-committee/public-comments

- OGIS Annual Open Meeting Public comments https://www.archives.gov/ogis/outreach-events/annual-open-meeting

- Document Cloud. Org https://www.documentcloud.org/app?q=%2Buser%3Arobert-hammond-106693%20 (e.g., "Sample FOIA Template With Recent Developments to Combat Agency Misconduct.")

EPA must evaluate all my public comments along with my methods of dissemination and state that it has done so in any

denial of expedited processing.

- The subject of the requested records concerns government operations and activities
- The disclosure is likely to contribute to understanding of these operations or activities
- Disclosure will likely result in public understanding of the subject
- The contribution to public understanding of government operations or activities will be significant
- The requester has no commercial interest
- The public interest in disclosure is great.
- I use "editorial skills to turn the raw materials into a distinct work."
- My work is distributed to an audience with active distribution.
- Expedited Processing Disposition Reason: Request does not meet criteria

Message

From: Edwards, Jeff [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BBBEAA6258D84AE8AE0A0C14F92114A9-EDWARDS, JEFF]
Sent: 6/13/2023 12:10:35 PM
To: Epp, Timothy [Epp.Timothy@epa.gov]; Thompson, BrianK [Thompson.BrianK@epa.gov]; Bossard, Justin [bossard.justin@epa.gov]; Shenefiel, Pam [shenefiel.pam@epa.gov]
CC: Weth, Patricia [Weth.Patricia@epa.gov]; Hill, Kevin W. [hill.kevinw@epa.gov]
Subject: RE: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Good morning Tim,

Brian has the latest status and I'm sure he'll report that out shortly.

Thanks,
Jeff

Jeff Edwards
Office of Enterprise Information Programs
Office of Mission Support
U.S. Environmental Protection Agency
919-541-2677

From: Epp, Timothy <Epp.Timothy@epa.gov>
Sent: Tuesday, June 13, 2023 7:35 AM
To: Edwards, Jeff <Edwards.Jeff@epa.gov>; Thompson, BrianK <Thompson.BrianK@epa.gov>; Bossard, Justin <bossard.justin@epa.gov>; Shenefiel, Pam <shenefiel.pam@epa.gov>
Cc: Weth, Patricia <Weth.Patricia@epa.gov>; Hill, Kevin W. <hill.kevinw@epa.gov>
Subject: RE: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Hi Jeff, Brian, Justin, and Pam,

Can you provide any updates on the processing status of 2023-004302?

After going silent for the last three weeks, Mr. Hammond has finally sent an email this morning and I'd like to know what you think the processing time will be on this one.

Thanks much,
Tim

Timothy R. Epp
Associate General Counsel | National FOIA Office
U.S. Environmental Protection Agency | Office of General Counsel
1200 Pennsylvania Avenue, N.W. (MC 2310A)
Washington, D.C. 20460 | WJCN 7309B
Phone (202) 564-2830 | epp.timothy@epa.gov

National FOIA Office
EPA Office of General Counsel

From: Epp, Timothy
Sent: Wednesday, May 24, 2023 6:47 AM
To: Edwards, Jeff <Edwards.Jeff@epa.gov>; Thompson, BrianK <Thompson.BrianK@epa.gov>; Bossard, Justin <bossard.justin@epa.gov>
Cc: Weth, Patricia <Weth.Patricia@epa.gov>; Hill, Kevin W. <hill.kevinw@epa.gov>
Subject: FW: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Hi Jeff, Justin and Brian,

Mr. Robert Hammond submitted a FOIA request to EPA for records pertaining to FOIAonline and help desk engagement with respect to an alleged loss of Mr. Hammond's FOIA requests submitted to the Department of the Navy. He also requested expedited processing of his request, which the NFO denied, and he has now reached out seeking FOIA Public Liaison assistance pertaining to his disputes concerning the denial of expedited processing. Below is a copy of my initial response to him in which I seek to schedule a meeting next week to talk with him.

I'd welcome any information that you can provide regarding the processing of his FOIA request, such as likely length of time it will take your office and regarding how a grant of expedited processing would impact OMS' ability to equitably process other FOIA requests that were submitted ahead of Mr. Hammond's request.

I'm hoping to schedule a meeting with Mr. Hammond mid-week next week. So your reply this week or by COB Tuesday next week would be greatly appreciated. Please let me know if we should schedule a meeting to talk about this engagement, rather than communicate solely by email.

Thanks,
Tim

Timothy R. Epp
Associate General Counsel | National FOIA Office
U.S. Environmental Protection Agency | Office of General Counsel
1200 Pennsylvania Avenue, N.W. (MC 2310A)
Washington, D.C. 20460 | WJCN 7309B
Phone (202) 564-2830 | epp.timothy@epa.gov

National FOIA Office
EPA Office of General Counsel

From: Epp, Timothy
Sent: Wednesday, May 24, 2023 6:27 AM
To: perseverance2013@[redacted] Ex. 6 Personal Privacy (PP)
Cc: FOIA HQ <FOIA_HQ@epa.gov>
Subject: FW: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Dear Mr. Hammond,

Thank you for reaching out and seeking assistance from EPA's FOIA Public Liaison. As you know, the FOIA Public Liaison was created by the statute to serve as "a listening ear" for FOIA requesters, and to work to resolve FOIA disputes. We appreciate your reaching out to raise your concern and seek a resolution outside of litigation.

As I understand, your concern centers on EPA's denial of your request for expedited processing of request number EPA-2023-004302. I would like to schedule a time to talk with you in order to better understand your concerns and to begin searching for ways to resolve the disputes. Before meeting with you, I plan to meet with EPA's FOIA processors who issue the expedited processing decisions as well as to reach out to the office that has been assigned the responsibility to respond to your FOIA request. In talking with them, I will seek to identify any new or updated status information that I can report to you during our first conversation as well as to make sure that I fully understand the rationale for denying your expedited processing request. Gathering this background information is also intended to help me listen to your concerns with a more informed ear for identifying possible gaps in communication or misunderstandings, to be able to focus my attention better on the key disputes, and to help us look for options for resolution in our first conversation.

Could you provide me several dates and times when you would be available next week to talk on the phone or have a Teams meeting?

In addition, please consider providing any additional information you have that might support your assertion that release of the records you seek should be expedited. And, help ensure that I am gathering the most relevant information, am I correct that you have not requested expedited processing based on a claim that lack of expedited treatment could reasonably be expected to pose a threat to someone's life or physical safety? Instead, your application for expedited processing is based on a claim of an urgency to inform the public about an actual or alleged Federal Government activity where the request is made by a person who is primarily engaged in disseminating information, correct? While considering whether you want to provide any additional information to support your expedited processing request, you may want to review the Department of Justice's long-standing guidance on expedited processing, which may be found here: https://www.justice.gov/oip/blog/foia-update-oip-guidance-when-expedite-foia-requests As you will see from the guidance and as you may already know, the Department of Justice's guidance recognizes that in considering granting expedited processing, agencies must consider the interests of FOIA requesters who submitted requests earlier than the requester seeking expedited processing. DOJ states: "Because a decision to take a FOIA request out of turn necessarily entails further delay for other requesters waiting patiently in line, simple fairness demands that it be made only upon careful scrutiny of truly exceptional circumstances." So, I would welcome hearing any information you have that would help inform whether the circumstances you have identified are truly exceptional to warrant taking your request ahead of other requests for EPA records.

Best regards,
Tim

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National FOIA Office
EPA Office of General Counsel

From: perseverance2013@[redacted] <perseverance2013@[redacted]>
Sent: Monday, May 22, 2023 5:57 PM
To: FOIA HQ <FOIA_HQ@epa.gov>
Cc: perseverance2013@[redacted]
Subject: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

I am seeking immediate FPL Dispute Resolution regarding the insufficient expedited processing denial.

Your basis for denial is legally insufficient:

- Expedited Processing Disposition Reason: Request does not meet criteria

In that this is an expedited FOIA request, immediate response is required.

Robert Hammond

From: admin@foiaonline.gov <admin@foiaonline.gov>
Sent: Friday, May 19, 2023 12:36 PM
To: perseverance2013@ Ex. 6 Personal Privacy (PP)
Subject: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Your request for Expedited Processing for the FOIA request EPA-2023-004302 has been denied. Additional details for this request are as follows:

- Request Created on: 05/17/2023
- Request Description:

Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@ Ex. 6 Personal Privacy (PP)

See PDF.

1. All records from March 5, 2023 to present related to FOIAonline Help Deck Ticket "FOH-123563" Cases missing from his account [perseverance2013@ Ex. 6 Personal Privacy (PP) including but not limited to:
2. All internal help desk case records conducting analysis and communicating with any party by email, text, or other means. One such email is FOIA Online HD jira@cnsshelpdesk.atlassian.net which provides the email construct for other helpdesk personnel (@cnsshelpdesk.atlassian.net).
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4. All records of communications with - and documents provided by - Robert Hammond, foiacompliance@ Ex. 6 Personal Privacy (PP), FOIAcomplaince@ Ex. 6 Personal Privacy (PP), DOD.FOIA.PA@ Ex. 6 Personal Privacy (PP), confirmed receipts, forwarding of emails and responses to them.
5. All records of communications by and with Johnson, Laura-S Johnson.Laura-S@epa.gov, including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
a. Some Department of Navy addressees may have been 'christopher.a.julka@navy.mil'; DONFOIA-PA@navy.mil
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8. All records of communications with any FOIAonline participating partner regarding Help Deck Ticket FOH-12356 or nay records missing from their accounts.
9. Closeout records of case Help Deck Ticket FOH-12356.
10. I am also seeking a copy of this FOIA Request, which is an Agency record subject to FOIA that exists and is in the Agency's possession at the time of my FOIA request. This record is a responsive record integral to my Request. Release of the Agency's copy is not optional.

REQUESTED FORMAT.

I am also seeking records in their native format (MS. Outlook, PowerPoint, Excel, ADA accessible PDF files or other mutually agreed by return email with: (1) a signed and dated cover letter (citing my personally assigned requester control number); (2) with record page count for all records released records (3) a copy of this request in your reply. I seek records via email in PDF format with an imbedded copy of my requests to (1) impede the agency from not

addressing the FOIA Request; (2) impede the Agency from not providing the documents stated in the Agency's letter reply, and (3) make it obvious in any subsequent review what the Agency has or has not done.

Further, I request that these records be sent in any digital formats in which they exist (such as PDF and Excel). Under the terms of the E-FOIA Amendments of 1996, Section 5, if a document exists in electronic format, it must be released in that format upon request.

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I am also seeking the "Description Available to the Public" field I FOIAonline be set to yes and that all records be released to and viewable in the application by the general Public. The release type must be set to "Unredacted – Releasable to the General Public: Will be available to the general public," or to "Redacted – Releasable to the General Public: Will be available to the general public."

This request is distinctly separate from any other. Please do not combine this request with any other request in your reply. I am requesting that each element of the records sought be specifically addressed in the reply.

In all correspondence, return a copy of my FOIA request, cite my personal request number, and cite records sought.

- Expedited Processing Original Justification: EXPEDITED PROCESSING.

I am seeking expedited processing due to:
"an urgency to inform the public about an actual or alleged Federal government activity, if the information is requested by a person primarily engaged in disseminating information to the public."
The subject is of widespread and exceptional interest and the information sought involves possible questions about the government's integrity that affect public confidence.
Between January 2, 2023 and February 3, 2023 (one month) seventy-one (71) of my two hundred sixty-two (262) Navy FOIA cases from 2017 forward have been deleted from FOIAonline or I have been denied access to them. This is extremely serious. EPA must determine who did this, how it happened, and if this is unique to me. See "FOIAonline Compare January 2, 2023 to February 3, 2023 Missing Cases Navy" provided by email.
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Despite assurances from EPA that everything was fine, I discovered and days later reported to Ms. Johnson and the FOIA Advisory Committee that seventy-one (71) of my two hundred sixty-two (262) Navy FOIA cases from 2017 forward have been deleted from FOIAonline or I have been denied access to them.
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• See examples below.

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- OGIS Annual Open Meeting Public comments https://www.archives.gov/ogis/outreach-events/annual-open-meeting

- Document Cloud. Org https://www.documentcloud.org/app?q=%2Buser%3Arobert-hammond-106693%20 (e.g., "Sample FOIA Template With Recent Developments to Combat Agency Misconduct.")
EPA must evaluate all my public comments along with my methods of dissemination and state that it has done so in any denial of expedited processing.
• The subject of the requested records concerns government operations and activities
• The disclosure is likely to contribute to understanding of these operations or activities
• Disclosure will likely result in public understanding of the subject
• The contribution to public understanding of government operations or activities will be significant
• The requester has no commercial interest
• The public interest in disclosure is great.
• I use "editorial skills to turn the raw materials into a distinct work."
• My work is distributed to an audience with active distribution.

• Expedited Processing Disposition Reason: Request does not meet criteria

Message

From: Edwards, Jeff [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BBBEAA6258D84AE8AE0A0C14F92114A9-EDWARDS, JEFF]
Sent: 6/28/2023 6:03:54 PM
To: Johnson, Laura-S [Johnson.Laura-S@epa.gov]
Subject: FW: FOIA-Advisory Committee. FW: Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@ Ex. 6 Personal Privacy (PP)
Attachments: FOIA Advisory Committee Meeting March 2, 2023. Hammond Comments.pdf; ED_014485_00000024_Formal_RWR.pdf; Other-20230616121353-EPA-2023-004302 Ex. 6 Partial Denial.pdf

Importance: High

Hey Laura,

This is terrible and I consider it unacceptable. How can someone ask a simple question and not get a simple and very direct answer? With all that surrounds this, I won't respond as it may be inappropriate.

The simple truth is that we don't know what exactly happened and we quickly located the cases and reassociated them with one of the several accounts he has. The system didn't screw up by itself else we'd have seen this for others.

If you talk to him, know this:
1. Cases didn't disappear. They showed up somewhere else and were in the system the whole time.
2. It only happened to him and his Navy cases.
3. Once we were notified, we simply associated the cases with the account he requested.
4. We speculated that he caused this himself by logging into FO with multiple email addresses during the same time/session whether it was due to someone helping him or he was confused about which account he was using within multiple browser tabs etc...

Jeff Edwards
Office of Enterprise Information Programs
Office of Mission Support
U.S. Environmental Protection Agency
919-541-2677

From: foiacompliance@ Ex. 6 Personal Privacy (PP) <foiacompliance@ Ex. 6 Personal Privacy (PP)
Sent: Wednesday, June 28, 2023 1:13 PM
To: 'FOIA Advisory Committee Mailbox' <foia-advisory-committee@nara.gov>
Cc: perseverance2013@ Ex. 6 Personal Privacy (PP) FOIA HQ <FOIA_HQ@epa.gov>; Michael.S.Regan@epa.gov; Michael.Regan@epa.gov; Janet.McCabe@epa.gov; Thompson, BrianK <Thompson.BrianK@epa.gov>; Johnson, Laura-S <Johnson.Laura-S@epa.gov>; jira@cnsshelpdesk.atlassian.net; Edwards, Jeff <Edwards.Jeff@epa.gov>; Joshua.Cooper@cherokee-federal.com; Mohammad.Shaikh@cherokee-federal.com; James.Horner@cherokee-federal.com; keenan.mitchell@cherokee-federal.com; larry.c.johnson@epa.gov; larry.johnson@epa.gov; roberta.l.white@epa.gov; roberta.white@epa.gov
Subject: FOIA-Advisory Committee. FW: Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@ Ex. 6 Personal Privacy (PP)
Importance: High

FOIA Advisory Committee,

After several months EPA has still not provided me any response whatsoever as to what caused the disappearance of 71 of my Navy FOIA case records from FOIAonline, who is responsible, and whether this

issue applies to other agencies and requesters; nor has EPA released all records responsive to my related FOIA request.

So, we still do not know how widespread the issue is or what the technical issues are that caused the records disappearance. This may have been an anomaly related only to me – I don't know. I will advise the Committee regarding my findings either way to provide closure to this important issue as FOIAonline decommissions with the potential loss of records.

I am a huge fan of FOIAonline – sorry to see it going away. The decommissioning must be executed properly to ensure that no records are lost.

As to EPA impermissibly charging me fees ($147 for simple electronic records searches) to discourage my subject FOIA request and any future FOIA requests related to this matter, I contend that information regarding the 71 Navy cases that were deleted from my account is of great public interest and interest to the FOIA community at large.

More to follow.

Thank you.

With my great respect,

Robert Hammond

From: perseverance2013@Ex. 6 Personal Privacy (PP) <perseverance2013@Ex. 6 Personal Privacy (PP)>
Sent: Wednesday, June 28, 2023 12:52 PM
To: 'hq.foia@epa.gov' <hq.foia@epa.gov>; 'Michael.S.Regan@epa.gov' <Michael.S.Regan@epa.gov>; 'Michael.Regan@epa.gov' <Michael.Regan@epa.gov>; 'Janet.McCabe@epa.gov' <Janet.McCabe@epa.gov>; 'Thompson.BrianK@epa.gov' <Thompson.BrianK@epa.gov>; 'Johnson.Laura-S@epa.gov' <Johnson.Laura-S@epa.gov>; 'jira@cnsshelpdesk.atlassian.net' <jira@cnsshelpdesk.atlassian.net>; 'Edwards.Jeff@epa.gov' <Edwards.Jeff@epa.gov>; 'Joshua.Cooper@cherokee-federal.com' <Joshua.Cooper@cherokee-federal.com>; 'Mohammad.Shaikh@cherokee-federal.com' <Mohammad.Shaikh@cherokee-federal.com>; 'James.Horner@cherokee-federal.com' <James.Horner@cherokee-federal.com>; 'keenan.mitchell@cherokee-federal.com' <keenan.mitchell@cherokee-federal.com>; 'larry.c.johnson@epa.gov' <larry.c.johnson@epa.gov>; 'larry.johnson@epa.gov' <larry.johnson@epa.gov>; 'roberta.l.white@epa.gov' <roberta.l.white@epa.gov>; 'roberta.white@epa.gov' <roberta.white@epa.gov>
Cc: 'perseverance2013@Ex. 6 Personal Privacy (PP) <perseverance2013@Ex. 6 Personal Privacy (PP)>
Subject: Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@Ex. 6 Personal Privacy (PP)
Importance: High

Dear Mr. Regan, Ms. Johnson, et. al:

I prefer to work cooperatively with EPA regarding FOIAonline and my FOIA requests; however, EPA is currently pursuing a different course.

Regarding my FOIA request EPA-2023-004302, it appears that EPA is attempting to use fees to discourage FOIA requests of great public interest that are an embarrassment to EPA regarding FOIAonline. I have a passion for FOIA compliance and integrity – this will not rest.

Appeal is pending regarding impermissible fee charges and other matters, including adequacy of search and impermissible withholding records.

EPA failed to meet the statutory time for processing my FOIA request and is therefore not entitled to any fees. Final determination letter and records were not released nor posted to FOIA online until June 23, 2023 (despite the June 14, 2023 date of the determination letter), which is outside the twenty working-day requirement:

"(i) determine within 20 days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any such request whether to comply with such request and shall **immediately** notify the person …"

"(4)(A) (viii) (I) Except as provided in subclause (II), an agency shall not assess any search fees (or in the case of a requester described under clause (ii)(II) of this subparagraph, duplication fees) under this subparagraph if the agency has failed to comply with any time limit under paragraph (6)."

Further EPA states that I have not demonstrated "how your work using FOIA material will specifically be distributed to a reasonably broad audience of persons interested in the subject."

I am an individual/organization primarily engaged in the dissemination of information who can prove the information is urgently needed to inform the public concerning some actual or alleged government activity. My primary activity is informing the public, which I do through a variety of means, such as open meeting public comments, blogs, etc., and I may from time to time collaborate on articles. There is extraordinary, off the charts interest in this matter. I make oral public comments at every open FOIA meeting. I have an active email distribution list of over **1,200 Chief FOIA Officers, FOIA professionals, FOIA advocacy groups media and interested parties**. I also communicate regularly with members of Congress.

EPA gets my emails and sees my public comments postings, including the attached.

Shall I distribute EPA case records and this correspondence, which is of great public interest and interest to the FOIA community?

With my deep respect,

Robert Hammond
Private citizen FOIA advocate and whistleblower.

Message

From: Epp, Timothy [Epp.Timothy@epa.gov]
Sent: 6/13/2023 2:47:42 PM
To: Thompson, BrianK [Thompson.BrianK@epa.gov]; Shenefiel, Pam [shenefiel.pam@epa.gov]
CC: Bossard, Justin [bossard.justin@epa.gov]; Hill, Kevin W. [hill.kevinw@epa.gov]; Waits, Matthew [Waits.Matthew@epa.gov]; Grimm, Patrick [Grimm.Patrick@epa.gov]; Wells, Jeffrey [Wells.jeffrey@epa.gov]; Johnson, Laura-S [Johnson.Laura-S@epa.gov]
Subject: RE: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Thanks Brian, I'll communicate to the requester EPA's current "expected" completion date. Just a reminder, I'm engaging on this only because the requester asked for Public Liaison assistance regarding the denial of his application for expedited processing.

I appreciate you raising the timing challenges on [redacted]

NFO has been averaging less than a half working day on its intake assignments, so I don't think we can speed the intake process generally nor could we have on this particular one. The requester submitted it on May 17 close to the end of the day, and NFO assigned it to OMS on May 18. Matthew Waits assigned it to himself on May 22, and then assigned it to Pam on May 24. The weekend was May 20/21.

Tim

Timothy R. Epp
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Washington, D.C. 20460 | WJCN 7309B
Phone (202) 564-2830 | epp.timothy@epa.gov

National FOIA Office
EPA Office of General Counsel

From: Thompson, BrianK <Thompson.BrianK@epa.gov>
Sent: Tuesday, June 13, 2023 10:26 AM
To: Shenefiel, Pam <shenefiel.pam@epa.gov>
Cc: Bossard, Justin <bossard.justin@epa.gov>; Hill, Kevin W. <hill.kevinw@epa.gov>; Waits, Matthew <Waits.Matthew@epa.gov>; Grimm, Patrick <Grimm.Patrick@epa.gov>; Wells, Jeffrey <Wells.jeffrey@epa.gov>; Epp, Timothy <Epp.Timothy@epa.gov>; Johnson, Laura-S <Johnson.Laura-S@epa.gov>
Subject: RE: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

All,

A deadline of 6/23 for a final response is reasonable. I was not aware that this request had to go through Awareness Review. Therefore, we had planned to get the final response out by the end of this week, which would have hit our 20-business day mark. Awareness Review will delay our final response.

As a side note, is there any way we can [redacted]

Again, we had all intentions of hitting the 20-day mark by prioritizing our review of this FOIA over other work, but it appears we will fall a bit short of that goal.

-Brian

PS: Taking Jeff Edwards off this chain and adding in Laura Johnson who has led our effort on this and ensured we turned this around as quickly as we did. Jeff has other things on his plate and doesn't need to be looped in here.

Brian Thompson | Director
eDiscovery Division
Office of Enterprise Information Programs (OEIP)
Office of Mission Support (OMS)
U.S. Environmental Protection Agency
phone: (202) 564-4256

From: Shenefiel, Pam <shenefiel.pam@epa.gov>
Sent: Tuesday, June 13, 2023 9:52 AM
To: Thompson, BrianK <Thompson.BrianK@epa.gov>
Cc: Bossard, Justin <bossard.justin@epa.gov>; Hill, Kevin W. <hill.kevinw@epa.gov>; Waits, Matthew <Waits.Matthew@epa.gov>; Edwards, Jeff <Edwards.Jeff@epa.gov>; Grimm, Patrick <Grimm.Patrick@epa.gov>; Wells, Jeffrey <Wells.jeffrey@epa.gov>; Epp, Timothy <Epp.Timothy@epa.gov>
Subject: RE: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Brian,

Please reply all to Tim's question below regarding 6/23 for our response to the requestor for this FOIA. Thanks.

Pam Shenefiel | Senior Adviser | Office of Enterprise Information Programs
Office of Mission Support – Environmental Information | USEPA
202-566-0303

From: Epp, Timothy <Epp.Timothy@epa.gov>
Sent: Tuesday, June 13, 2023 9:49 AM

To: Shenefiel, Pam <shenefiel.pam@epa.gov>
Cc: Bossard, Justin <bossard.justin@epa.gov>; Hill, Kevin W. <hill.kevinw@epa.gov>; Waits, Matthew <Waits.Matthew@epa.gov>; Edwards, Jeff <Edwards.Jeff@epa.gov>; Thompson, BrianK <Thompson.BrianK@epa.gov>; Grimm, Patrick <Grimm.Patrick@epa.gov>; Wells, Jeffrey <Wells.jeffrey@epa.gov>
Subject: RE: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Thanks Pam,

I really appreciate your speed in processing on this. Thanks for that update.

[redacted]

Based on your current processing plan, would it be ok for me to tell the requester that EPA currently expects to be able to issue its final response on this request by the end of next week (i.e., on 6/23)?

Tim

EPA-2023-004302 Request Details **Case Phase:** Processing **Case Status:** Processing Tasks **Due Date:** 07/03/2023 **Clock Days:** 17

Submission Details | **Case File** | **Admin Costs** | **Assigned Tasks (0)** | **Comments (4)** | **Review**

Requester Information Expand +

Request Handling Collapse −

Requester Info Available to the Public
Yes

Request Track
Simple

Fee Category
Other

Fee Waiver Requested Yes
Fee Waiver Status Deny
Expedited Processing Requested Yes
Expedited Processing Status Deny

Request Type
FOIA

Request Perfected
Yes

*** Perfected Date** 05/18/2023
Acknowledgement Sent Date 05/18/2023
Unusual Circumstances Yes
Extension Justification multiple offices and multiple agencies

Litigation
No

☐ **5 Day Notifications**

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National FOIA Office
EPA Office of General Counsel

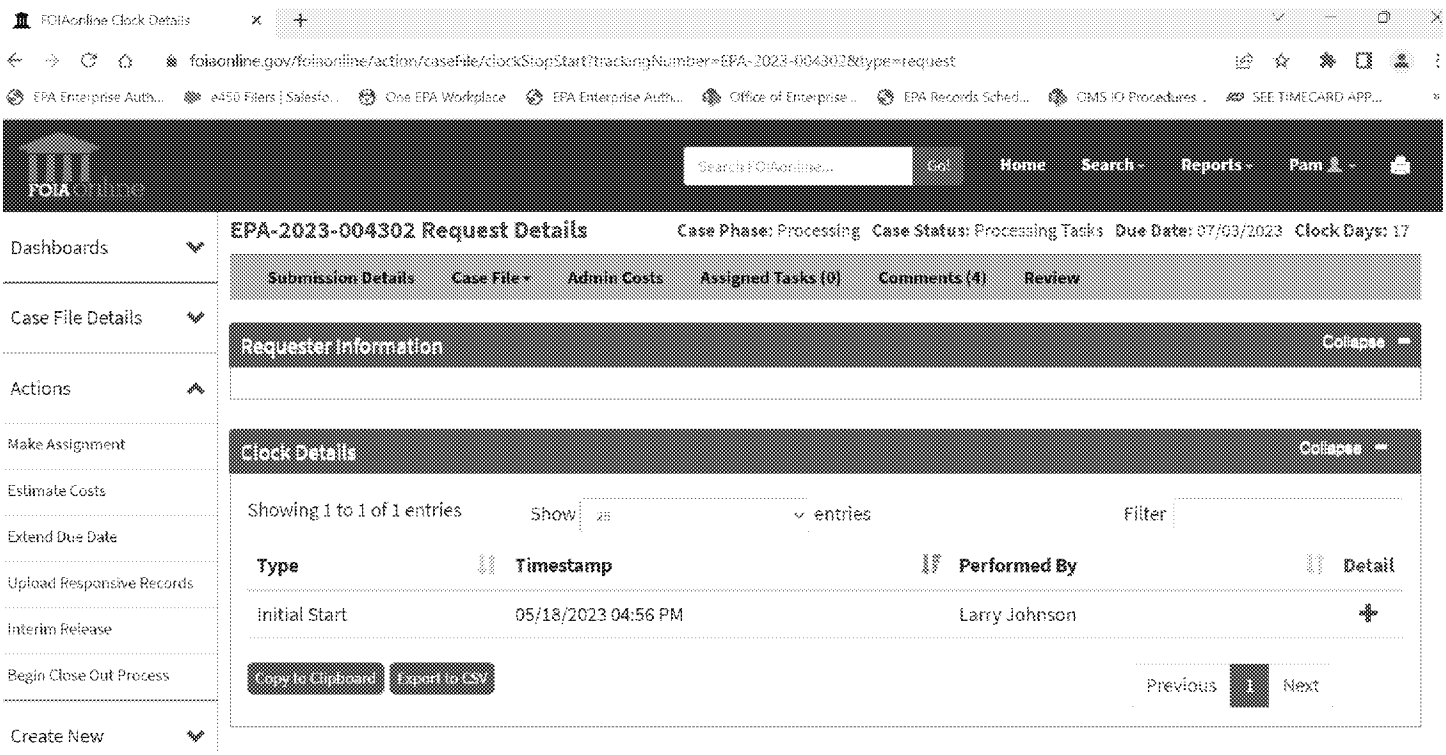
From: Shenefiel, Pam <shenefiel.pam@epa.gov>
Sent: Tuesday, June 13, 2023 9:25 AM
To: Epp, Timothy <Epp.Timothy@epa.gov>
Cc: Bossard, Justin <bossard.justin@epa.gov>; Hill, Kevin W. <hill.kevinw@epa.gov>; Waits, Matthew <Waits.Matthew@epa.gov>; Edwards, Jeff <Edwards.Jeff@epa.gov>; Thompson, BrianK <Thompson.BrianK@epa.gov>; Grimm, Patrick <Grimm.Patrick@epa.gov>; Wells, Jeffrey <Wells.jeffrey@epa.gov>
Subject: RE: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Tim,

I reached out to Matthew Waits to discuss this and we reviewed the Request in FOIAonline and we don't see that an extension was asserted for unusual circumstances. See screenshot below. Are we missing something? Please advise.

Brian has indicated that his team plans on having the responsive documents for OEIP review today, and pending that review we should be able to provide the full response by the end of the week. It would then need to go thru the 3 day awareness review.

Please let us know if we can provide any additional information or if you have any questions. Thanks.



From: Epp, Timothy <Epp.Timothy@epa.gov>
Sent: Tuesday, June 13, 2023 7:55 AM
To: Shenefiel, Pam <shenefiel.pam@epa.gov>; Bossard, Justin <bossard.justin@epa.gov>; Waits, Matthew <Waits.Matthew@epa.gov>; Hill, Kevin W. <hill.kevinw@epa.gov>
Subject: FW: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302
Importance: High

Hi Justin, Matthew, Pam, and Kev,

The file for the FOIA request at issue in the below emails (2023-004302) shows that unusual circumstances was selected for a due date extension. However, the file contains no correspondence to the requester giving the statutorily required notice. Is it possible to reconstruct who entered the due date extension? And, is it possible that there was an email communication to the requester that has not been uploaded into FOIAonline? (Kev, I included you because I cannot tell whether the extension was made in intake.)

By my count, we are still within the original 20 working days – so, we could still get a letter out to this requester telling him that we've extended the due date, the reasons for it, and giving the opportunity to negotiate a narrower request scope.

Tim

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Phone (202) 564-2830 | epp.timothy@epa.gov
National FOIA O[redacted]
EPA Office of Ge[redacted]

From: Epp, Timothy
Sent: Tuesday, June 13, 2023 7:35 AM
To: Edwards, Jeff <Edwards.Jeff@epa.gov>; Thompson, BrianK <Thompson.BrianK@epa.gov>; Bossard, Justin <bossard.justin@epa.gov>; Shenefiel, Pam <shenefiel.pam@epa.gov>
Cc: Weth, Patricia <Weth.Patricia@epa.gov>; Hill, Kevin W. <hill.kevinw@epa.gov>
Subject: RE: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Hi Jeff, Brian, Justin, and Pam,

Can you provide any updates on the processing status of 2023-004302?

After going silent for the last three weeks, Mr. Hammond has finally sent an email this morning and I'd like to know what you think the processing time will be on this one.

Thanks much,
Tim

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National FOIA Office
EPA Office of General Counsel

From: Epp, Timothy
Sent: Wednesday, May 24, 2023 6:47 AM
To: Edwards, Jeff <Edwards.Jeff@epa.gov>; Thompson, BrianK <Thompson.BrianK@epa.gov>; Bossard, Justin <bossard.justin@epa.gov>
Cc: Weth, Patricia <Weth.Patricia@epa.gov>; Hill, Kevin W. <hill.kevinw@epa.gov>
Subject: FW: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Hi Jeff, Justin and Brian,

Mr. Robert Hammond submitted a FOIA request to EPA for records pertaining to FOIAonline and help desk engagement with respect to an alleged loss of Mr. Hammond's FOIA requests submitted to the Department of the Navy. He also requested expedited processing of his request, which the NFO denied, and he has now reached out seeking FOIA Public Liaison assistance pertaining to his disputes concerning the denial of expedited processing. Below is a copy of my initial response to him in which I seek to schedule a meeting next week to talk with him.

I'd welcome any information that you can provide regarding the processing of his FOIA request, such as likely length of time it will take your office and regarding how a grant of expedited processing would impact OMS' ability to equitably process other FOIA requests that were submitted ahead of Mr. Hammond's request.

I'm hoping to schedule a meeting with Mr. Hammond mid-week next week. So your reply this week or by COB Tuesday next week would be greatly appreciated. Please let me know if we should schedule a meeting to talk about this engagement, rather than communicate solely by email.

Thanks,
Tim

Timothy R. Epp
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U.S. Environmental Protection Agency | Office of General Counsel
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Washington, D.C. 20460 | WJCN 7309B
Phone (202) 564-2830 | epp.timothy@epa.gov

National FOIA Office
EPA Office of General Counsel

From: Epp, Timothy
Sent: Wednesday, May 24, 2023 6:27 AM

To: perseverance2013@ Ex. 6 Personal Privacy (PP)
Cc: FOIA HQ <FOIA_HQ@epa.gov>
Subject: FW: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Dear Mr. Hammond,

Thank you for reaching out and seeking assistance from EPA's FOIA Public Liaison. As you know, the FOIA Public Liaison was created by the statute to serve as "a listening ear" for FOIA requesters, and to work to resolve FOIA disputes. We appreciate your reaching out to raise your concern and seek a resolution outside of litigation.

As I understand, your concern centers on EPA's denial of your request for expedited processing of request number EPA-2023-004302. I would like to schedule a time to talk with you in order to better understand your concerns and to begin searching for ways to resolve the disputes. Before meeting with you, I plan to meet with EPA's FOIA processors who issue the expedited processing decisions as well as to reach out to the office that has been assigned the responsibility to respond to your FOIA request. In talking with them, I will seek to identify any new or updated status information that I can report to you during our first conversation as well as to make sure that I fully understand the rationale for denying your expedited processing request. Gathering this background information is also intended to help me listen to your concerns with a more informed ear for identifying possible gaps in communication or misunderstandings, to be able to focus my attention better on the key disputes, and to help us look for options for resolution in our first conversation.

Could you provide me several dates and times when you would be available next week to talk on the phone or have a Teams meeting?

In addition, please consider providing any additional information you have that might support your assertion that release of the records you seek should be expedited. And, help ensure that I am gathering the most relevant information, am I correct that you have not requested expedited processing based on a claim that lack of expedited treatment could reasonably be expected to pose a threat to someone's life or physical safety? Instead, your application for expedited processing is based on a claim of an urgency to inform the public about an actual or alleged Federal Government activity where the request is made by a person who is primarily engaged in disseminating information, correct? While considering whether you want to provide any additional information to support your expedited processing request, you may want to review the Department of Justice's long-standing guidance on expedited processing, which may be found here: https://www.justice.gov/oip/blog/foia-update-oip-guidance-when-expedite-foia-requests As you will see from the guidance and as you may already know, the Department of Justice's guidance recognizes that in considering granting expedited processing, agencies must consider the interests of FOIA requesters who submitted requests earlier than the requester seeking expedited processing. DOJ states: "Because a decision to take a FOIA request out of turn necessarily entails further delay for other requesters waiting patiently in line, simple fairness demands that it be made only upon careful scrutiny of truly exceptional circumstances." So, I would welcome hearing any information you have that would help inform whether the circumstances you have identified are truly exceptional to warrant taking your request ahead of other requests for EPA records.

Best regards,
Tim

Timothy R. Epp
Associate General Counsel | National FOIA Office
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Washington, D.C. 20460 | WJCN 7309B
Phone (202) 564-2830 | epp.timothy@epa.gov

National FOIA Office
EPA Office of General Counsel

From: perseverance2013@[redacted] <perseverance2013@[redacted]
Sent: Monday, May 22, 2023 5:57 PM
To: FOIA HQ <FOIA_HQ@epa.gov>
Cc: perseverance2013@[redacted]
Subject: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

I am seeking immediate FPL Dispute Resolution regarding the insufficient expedited processing denial.

Your basis for denial is legally insufficient:

- Expedited Processing Disposition Reason: Request does not meet criteria

In that this is an expedited FOIA request, immediate response is required.

Robert Hammond

From: admin@foiaonline.gov <admin@foiaonline.gov>
Sent: Friday, May 19, 2023 12:36 PM
To: perseverance2013@[redacted]
Subject: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Your request for Expedited Processing for the FOIA request EPA-2023-004302 has been denied. Additional details for this request are as follows:

- Request Created on: 05/17/2023
- Request Description:

Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@[redacted]

See PDF.

1. All records from March 5, 2023 to present related to FOIAonline Help Deck Ticket "FOH-123563" Cases missing from his account [perseverance2013@[redacted]] including but not limited to:
2. All internal help desk case records conducting analysis and communicating with any party by email, text, or other means. One such email is FOIA Online HD jira@cnsshelpdesk.atlassian.net which provides the email construct for other helpdesk personnel (@cnsshelpdesk.atlassian.net).
3. All records of communications with and documents provided by Robert Hammond, perseverance2013@[redacted]
4. All records of communications with - and documents provided by - Robert Hammond, foiacompliance@[redacted], FOIAcomplaince@[redacted], DOD.FOIA.PA@[redacted], confirmed receipts, forwarding of emails and responses to them.
5. All records of communications by and with Johnson, Laura-S Johnson.Laura-S@epa.gov, including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
a. Some Department of Navy addressees may have been 'christopher.a.julka@navy.mil'; DONFOIA-PA@navy.mil
6. All records of communications by and with Thompson, BrianK , including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
7. All records of communications by and with 'Edwards, Jeff' Edwards.Jeff@epa.gov including communications with the

FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
8. All records of communications with any FOIAonline participating partner regarding Help Deck Ticket FOH-12356 or nay records missing from their accounts.
9. Closeout records of case Help Deck Ticket FOH-12356.
10. I am also seeking a copy of this FOIA Request, which is an Agency record subject to FOIA that exists and is in the Agency's possession at the time of my FOIA request. This record is a responsive record integral to my Request. Release of the Agency's copy is not optional.

REQUESTED FORMAT.

I am also seeking records in their native format (MS. Outlook, PowerPoint, Excel, ADA accessible PDF files or other mutually agreed by return email with: (1) a signed and dated cover letter (citing my personally assigned requester control number); (2) with record page count for all records released records (3) a copy of this request in your reply. I seek records via email in PDF format with an imbedded copy of my requests to (1) impede the agency from not addressing the FOIA Request; (2) impede the Agency from not providing the documents stated in the Agency's letter reply, and (3) make it obvious in any subsequent review what the Agency has or has not done.

Further, I request that these records be sent in any digital formats in which they exist (such as PDF and Excel). Under the terms of the E-FOIA Amendments of 1996, Section 5, if a document exists in electronic format, it must be released in that format upon request.

Each record must be provided as a distinct record in their native format. Emails should be provided as MS Outlook files, if not encrypted or otherwise unable to be open ed by me. Only if this is not possible, emails should be produced with their embedded hyperlinked attachments by using the "File => Save as Adobe PDF" command within Outlook or by other software that produces the same result.

I am also seeking the "Description Available to the Public" field I FOIAonline be set to yes and that all records be released to and viewable in the application by the general Public. The release type must be set to "Unredacted – Releasable to the General Public: Will be available to the general public," or to "Redacted – Releasable to the General Public: Will be available to the general public."

This request is distinctly separate from any other. Please do not combine this request with any other request in your reply. I am requesting that each element of the records sought be specifically addressed in the reply.

In all correspondence, return a copy of my FOIA request, cite my personal request number, and cite records sought.

- Expedited Processing Original Justification: EXPEDITED PROCESSING.

I am seeking expedited processing due to:
"an urgency to inform the public about an actual or alleged Federal government activity, if the information is requested by a person primarily engaged in disseminating information to the public."
The subject is of widespread and exceptional interest and the information sought involves possible questions about the government's integrity that affect public confidence.
Between January 2, 2023 and February 3, 2023 (one month) seventy-one (71) of my two hundred sixty-two (262) Navy FOIA cases from 2017 forward have been deleted from FOIAonline or I have been denied access to them. This is extremely serious. EPA must determine who did this, how it happened, and if this is unique to me. See "FOIAonline Compare January 2, 2023 to February 3, 2023 Missing Cases Navy" provided by email.
Either there was intentional misconduct (possibly involving Navy) or gross malfeasance in the disappearance of or removal of access to my FOIAonline records and whether this issue is widespread among other participating agencies.
There is intense interest/angst in matters surrounding FOIAonline and its decommissioning, so much so that Laura Johnson was added last minute to brief the FOIA Advisory Committee on March 2, 2023. At that meeting:
"Mr. Howard asked two questions: first, how records are being transferred, and second, how EPA is ensuring that no data is lost or becomes unavailable to the public."
Despite assurances from EPA that everything was fine, I discovered and days later reported to Ms. Johnson and the FOIA Advisory Committee that seventy-one (71) of my two hundred sixty-two (262) Navy FOIA cases from 2017 forward have

been deleted from FOIAonline or I have been denied access to them.
Having received no reply as to what happened, I notified my 1,200 plus FOIA distribution list of media, Chief FOIA Officers, FOIA professionals, FOIA/Open records Advocacy groups and interested parties of the unresolved debacle. There is a thirst among the FOIA community to know exactly what happened.
Note that EPA's FOIA regulation, 40 CFR Subpart A—Procedures for Disclosure of Records Under the Freedom of Information Act § 2.106 Preservation of records is in violation of law citing General Records Schedule 14, which was superseded by NARA Transmittal 29 of December 2017. This alone is of great public interest.
Additionally, I am an individual/organization primarily engaged in the dissemination of information who can prove the information is urgently needed to inform the public concerning some actual or alleged government activity. My primary activity is informing the public, which I do through a variety of means, such as open meeting public comments, blogs, etc., and I may from time to time collaborate on articles. There is extraordinary, off the charts interest in this matter. I make oral public comments at every open FOAI meeting. I have an active email distribution list of Chief FOIA Officers, FOIA professionals, FOIA advocacy groups media and interested parties. I also communicate regularly with members of Congress.
• See examples below.

- Public Comments Submitted to the Chief FOIA Officers Council https://www.archives.gov/ogis/about-ogis/chief-foia-officers-council

- Public Comments Submitted to the FOIA Advisory Committee | National Archives https://www.archives.gov/ogis/foia-advisory-committee/public-comments

- OGIS Annual Open Meeting Public comments https://www.archives.gov/ogis/outreach-events/annual-open-meeting

- Document Cloud. Org https://www.documentcloud.org/app?q=%2Buser%3Arobert-hammond-106693%20 (e.g., "Sample FOIA Template With Recent Developments to Combat Agency Misconduct.")
EPA must evaluate all my public comments along with my methods of dissemination and state that it has done so in any denial of expedited processing.
• The subject of the requested records concerns government operations and activities
• The disclosure is likely to contribute to understanding of these operations or activities
• Disclosure will likely result in public understanding of the subject
• The contribution to public understanding of government operations or activities will be significant
• The requester has no commercial interest
• The public interest in disclosure is great.
• I use "editorial skills to turn the raw materials into a distinct work."
• My work is distributed to an audience with active distribution.

• Expedited Processing Disposition Reason: Request does not meet criteria

Message

From: Shenefiel, Pam [shenefiel.pam@epa.gov]
Sent: 6/14/2023 1:57:11 PM
To: Waits, Matthew [Waits.Matthew@epa.gov]
CC: Thompson, BrianK [Thompson.BrianK@epa.gov]; Johnson, Laura-S [Johnson.Laura-S@epa.gov]
Subject: Assistance with FOIA response: ED_014485_R. Hammond FOIA 004302
Attachments: ED_014485_00000020_Informal_RIF.pdf; ED_014485_00000019_Informal_RIF.pdf; ED_014485A_00000005_Informal_RWR.pdf; ED_014485A_00000003_Informal_RWR.pdf; ED_014485A_00000001_Informal_RWR.pdf; ED_014485_00000107_Informal_RWR.pdf; ED_014485_00000106_Informal_RWR.pdf; ED_014485_00000094_Informal_RWR.pdf; ED_014485_00000077_Informal_RWR.pdf; ED_014485_00000064_Informal_RWR.pdf; ED_014485_00000051_Informal_RWR.pdf; ED_014485_00000050_Informal_RWR.pdf; ED_014485_00000038_Informal_RWR.pdf; ED_014485_00000037_Informal_RWR.pdf; ED_014485_00000025_Informal_RWR.pdf; ED_014485_00000024_Informal_RWR.pdf; ED_014485_00000023_Informal_RWR.pdf; ED_014485_00000010_Informal_RWR.pdf; ED_014485_00000009_Informal_RWR.pdf; ED_014485_00000008_Informal_RWR.pdf; ED_014485_00000007_Informal_RWR.pdf; ED_014485_00000006_Informal_RWR.pdf; ED_014485_00000005_Informal_RWR.pdf; ED_014485_00000004_Informal_RWR.pdf; ED_014485_00000003_Informal_RWR.pdf; ED_014485_00000002_Informal_RWR.pdf; ED_014485_00000001_Informal_RWR.pdf; #FOOS-4556 Associate Public FOIA Cases with Registered User's Account.pdf; #FOOSHD-1404 Escalated Record FOH-123563 Cases missing from his account.pdf

Importance: High

Shenefiel, Pam has shared a OneDrive for Business file with you. To view it, click the link below.

Ex. 6 Partial Grant Partial Denial for EPA-2023-004302.docx

Hi Matthew,

I am working the Response for 004302.

1. **Attached are the responsive documents** in review format. Do redactions noted get applied after Awareness Notification?
2. **Attached is a draft response letter**. Can you make sure that I indicated the disposition correctly. I have also left invoice info blank for now - not sure how to account for Admin costs. See #3 below.
3. For **Admin Costs** we have the following:

Laura Johnson – 10 hours of review
Brian Thompson – 4 hours of review and 1 hour of search
Pam Shenefiel - .5 hour of review

4. Brian Thompson indicates that there is no equity review for Navy
5. Here is draft text for the **Awareness Notification:**

Subject: Awareness Notification EPA-2023-004302 - Records of FOIAonline Help Desk Ticket FOH-123563

To Whom It May Concern:

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Message

From: Johnson, Laura-S [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=DEA46EDADAA04F2C847D3245F8F5847C-LJOHNS06]
Sent: 7/20/2023 8:19:19 PM
To: Thompson, Heather [Thompson.Heather@epa.gov]
Subject: RE: SEARCH TERMS for FOIA request EPA-2023-005096

Hey Heather,
Yes, this is the 3rd request. I provide a table below for a quick reference to the 3 Requests thus far. It looks like we will stick to the request parameters as the requester prescribes and send an email communicating that he submit a new FOIA with specific FOIAonline help tickets that would probably yield records of interest to him. That being said, we are asking for a new, workspace for the search terms.

FOIA tracking number	*Date FOIA submitted*	*Due Date*	*Description*	*status*
EPA-2023-004302	5/17	7/3	All records from March 5, 2023 to present related to FOIAonline Help Deck Ticket "FOH-123563" Cases missing from his account.	FOIA response sent and case closed
EPA-2023-005081	6/28	7/27	All records from May 18, 2023 to present related to FOIAonline Help Deck Ticket "FOH-123563" Cases missing from his account. Records of EPA's execution of a shell script offered by Mohammad Shaikh, James Horner, or any other scripts by any party in connection with Help Deck Ticket FOH-12356.	Ready for 2nd line review on 7/21
EPA-2023-005096	6/28	7/31	All records from May 14, 2023 to present related to processing FOIA request case number EPA-2023-004302, excluding records already released within the FOIAonline "EPA-2023-004302 Request.	Search terms submitted

From: Thompson, Heather <Thompson.Heather@epa.gov>
Sent: Thursday, July 20, 2023 3:38 PM
To: Johnson, Laura-S <Johnson.Laura-S@epa.gov>
Subject: RE: SEARCH TERMS for FOIA request EPA-2023-005096

Hi Laura,

Is this that third or other request you mentioned earlier? Do you want a new Relativity workspace for the documents collected? If you want the records added to the existing workspace for the underlying request, I will need the ED # for the workspace set up for the initial request.

I'm in FOIAXpress training and may have a break soon if you would like to have a quick chat.

Heather L. Thompson
Integrated Case Management & Advisory Branch | eDiscovery Division
Office of Enterprise Information Programs (OEIP) | Office of Mission Support
U.S. Environmental Protection Agency

(202) 566-1025 | EPA Cell: (202) 909-8640 | thompson.heather@epa.gov

From: Johnson, Laura-S <Johnson.Laura-S@epa.gov>
Sent: Thursday, July 20, 2023 2:40 PM
To: Thompson, Heather <Thompson.Heather@epa.gov>
Subject: SEARCH TERMS for FOIA request EPA-2023-005096
Importance: High

Good afternoon Heather,
Provided below is the information needed to initiate a search for the FOIA Request case number **EPA-2023-005096.** For your ease of reference, the FOIA request is provided as an attachment. Because this request is so narrow in scope, there aren't many search terms to use. Brian asked that this be processed as expedited (am I saying this correctly?).

Date Range:
May 14, 2023-present

Search Terms:
4302
ED_014485
Hammond
cases

Custodians:
Pam Shenefiel
Matthew Waits
Jeff Edwards
Laura S Johnson
Brian K Thompson

Participants:
kristin.winter-moy@cgifederal.com
Joshua.Cooper@cherokee-federal.com
Ian Altendorfer

With regard to the list of participants, Josh of Cherokee Federal is a contractor from our help desk. Kristen is a contractor from CGI.

Message

From: Johnson, Laura-S [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=DEA46EDADAA04F2C847D3245F8F5847C-LJOHNS06]
Sent: 6/15/2023 8:17:01 PM
To: Thompson, BrianK [Thompson.BrianK@epa.gov]; Shenefiel, Pam [shenefiel.pam@epa.gov]; Waits, Matthew [Waits.Matthew@epa.gov]
Subject: FW: Formal Production Request: ED_014485_R. Hammond FOIA 004302_Review
Attachments: #FOOSHD-1404 Escalated Record FOH-123563 Cases missing from his account.pdf; #FOOS-4556 Associate Public FOIA Cases with Registered User's Account.pdf

Good afternoon folks,
In addition to the link below, please note there are 2 additional (short) pdf documents to include in the final response (and hence the awareness review as well). Please let me know if you need me to do anything further.

From: relativitysupport <relativitysupport@epa.gov>
Sent: Thursday, June 15, 2023 2:30 PM
To: Johnson, Laura-S <Johnson.Laura-S@epa.gov>; relativitysupport <relativitysupport@epa.gov>
Cc: Thompson, BrianK <Thompson.BrianK@epa.gov>; Shenefiel, Pam <shenefiel.pam@epa.gov>
Subject: RE: Formal Production Request: ED_014485_R. Hammond FOIA 004302_Review

Hi Laura,

Your Formal Production is complete and ready for review.

Deliverable Location:	\\ Ex. 6 Personal Privacy (PP)
Relativity Saved Search:	**ED_014485_R. Hammond FOIA 004302_REVIEW - FORMAL_FOIA20230615_RIF -** https:// Ex. 6 Personal Privacy (PP) **ED_014485_R. Hammond FOIA 004302_REVIEW - FORMAL_FOIA20230615_RWR -** https: Ex. 6 Personal Privacy (PP)
Total Document Count:	**27**

Please let us know if you have any questions or if you need any additional assistance.

Thank you
Mujadded Karimullah
Deloitte – eDiscovery Contractor
U.S. Environmental Protection Agency
Office of Information Collection
1301 Constitution Avenue NW 6146-F
Washington, DC 20229
Office Phone: 202-564-3043

Please email relativitysupport@epa.gov for all Relativity inquiries and requests.
Please email eDAT@epa.gov for questions or help on search requests.
Please visit the Relativity Resource Center to access Relativity training videos and support documentation.

From: Johnson, Laura-S <Johnson.Laura-S@epa.gov>
Sent: Thursday, June 15, 2023 11:32 AM

To: relativitysupport <relativitysupport@epa.gov>
Cc: Thompson, BrianK <Thompson.BrianK@epa.gov>; Shenefiel, Pam <shenefiel.pam@epa.gov>
Subject: Formal Production Request: ED_014485_R. Hammond FOIA 004302_Review

Good morning,
Please see the attached the formal production request for FOIA workspace ED_014485_R. Hammond FOIA 004302_Review. I believe that Brian Thompson reached out with a heads up on this one.

Message

From: Johnson, Laura-S [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=DEA46EDADAA04F2C847D3245F8F5847C-LJOHNS06]
Sent: 6/30/2023 5:39:00 PM
To: Waits, Matthew [Waits.Matthew@epa.gov]
Subject: FW: FOIA Expedited Processing Disposition Reached for EPA-2023-005081. EPA 23-C FOIA case processing records of FOIA Request EPA-2023-004302
Attachments: EPA 23-C FOIA case processing records of FOIA Request EPA-2023-004302 w, encl.pdf; FOIA Expedited Processing Disposition Reached for EPA-2023-005081; EPA-2023-005081 Expedited Processing Letter.executedpdf (1).pdf

Matthew,
Keeping you in the loop. This came in about an hour ago.

I will be out of the office starting today, to return on Thursday, July 6th. However, I plan to monitor my emails during this time and will forward along any messages such as these.

From: perseverance2013@[redacted] <perseverance2013@[redacted]>
Sent: Friday, June 30, 2023 12:36 PM
To: FOIA HQ <FOIA_HQ@epa.gov>; Michael.S.Regan@epa.gov; Michael.Regan@epa.gov; Janet.McCabe@epa.gov; Thompson, BrianK <Thompson.BrianK@epa.gov>; Johnson, Laura-S <Johnson.Laura-S@epa.gov>; jira@cnsshelpdesk.atlassian.net; Edwards, Jeff <Edwards.Jeff@epa.gov>; Joshua.Cooper@cherokee-federal.com; Mohammad.Shaikh@cherokee-federal.com; James.Horner@cherokee-federal.com; keenan.mitchell@cherokee-federal.com; larry.c.johnson@epa.gov; larry.johnson@epa.gov; roberta.l.white@epa.gov; roberta.white@epa.gov
Subject: FOIA Expedited Processing Disposition Reached for EPA-2023-005081. EPA 23-C FOIA case processing records of FOIA Request EPA-2023-004302

Greetings EPA,

Please re-evaluate and grant my request for expedited processing.

If you decline, please have your FPL immediately address in entirety every element in my justification. Do not include BS related to claims that I did not make (e.g., "imminent threat to the life or physical safety").

If there are nay delays in processing my FOIA request, I may place all correspondence into the public domain and pursue other venues. We shall see if there is "an urgency to inform the public about an actual or alleged Federal government
activity, if the information is requested by a person primarily engaged in disseminating information to the public."

Please preserve all responsive or potentially responsive records for judicial review, should that become necessary.
Thank you.

With my deep respect.

Robert Hammond

From: admin@foiaonline.gov admin@foiaonline.gov
Sent: Thursday, June 29, 2023 7:38 PM

To: perseverance2013@ Ex. 6 Personal Privacy (PP)
Subject: FOIA Expedited Processing Disposition Reached for EPA-2023-005081

Your request for Expedited Processing for the FOIA request EPA-2023-005081 has been denied. Additional details for this request are as follows:

- Request Created on: 06/28/2023
- Request Description: Expedited FOIA Request EPA 23-B. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@ Ex. 6 Personal Privacy (PP)

See PDF for full request.

1. Records of EPA's execution of a shell script offered by Mohammad Shaikh, James Horner, or any other scripts by any party in connection with Help Deck Ticket FOH-12356.

2. All records from May 18, 2023 to present related to FOIAonline Help Deck Ticket "FOH-123563" Cases missing from his account [perseverance2013@ Ex. 6 Personal Privacy (PP) including but not limited to:
a. Records of a Standup on May 18, 2023 to discuss the matter cited by Jeff Edwards in an 5/18/2023 12:21:59 PM email.
b. All internal help desk case records conducting analysis and communicating with any party by email, text, or other means. One such email is FOIA Online HD jira@cnsshelpdesk.atlassian.net which provides the email construct for other helpdesk personnel (@cnsshelpdesk.atlassian.net).
c. All records of communications with and documents provided by Robert Hammond, perseverance2013@ Ex. 6 Personal Privacy (PP)
d. All records of communications with - and documents provided by - Robert Hammond, foiacompliance@ Ex. 6 Personal Privacy (PP) FOIAcomplaince@ Ex. 6 Personal Privacy (PP) DOD.FOIA.PA@ Ex. 6 Personal Privacy (PP) confirmed receipts, forwarding of emails and responses to them.
e. All records of communications by and with Johnson, Laura-S Johnson.Laura-S@epa.gov, including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
i. Some Department of Navy addressees may have been 'christopher.a.julka@navy.mil'; DONFOIA-PA@navy.mil
f. All records of communications by and with Thompson, BrianK , including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
g. All records of communications by and with 'Edwards, Jeff' Edwards.Jeff@epa.gov including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
h. All records of communications with any FOIAonline participating partner regarding Help Deck Ticket FOH-12356 or nay records missing from their accounts.
i. Closeout records of case Help Deck Ticket FOH-12356.

3. I am also seeking a copy of this FOIA Request, which is an Agency record subject to FOIA that exists and is in the Agency's possession at the time of my FOIA request. This record is a responsive record integral to my Request. Release of the Agency's copy is not optional.

REQUESTED FORMAT.

I am also seeking records in their native format (MS. Outlook, PowerPoint, Excel, ADA accessible PDF files or other mutually agreed by return email with: (1) a signed and dated cover letter (citing my personally assigned requester control number); (2) with record page count for all records released records (3) a copy of this request in your reply. I seek records via email in PDF format with an imbedded copy of my requests to (1) impede the agency from not addressing the FOIA Request; (2) impede the Agency from not providing the documents stated in the Agency's letter reply, and (3) make it obvious in any subsequent review what the Agency has or has not done.

Further, I request that these records be sent in any digital formats in which they exist (such as PDF and Excel). Under the terms of the E-FOIA Amendments of 1996, Section 5, if a document exists in electronic format, it must be released in that format upon request.

Each record must be provided as a distinct record in their native format. Emails should be provided as MS Outlook files, if not encrypted or otherwise unable to be open ed by me. Only if this is not possible, emails should be produced with their embedded hyperlinked attachments by using the "File => Save as Adobe PDF" command within Outlook or by other software that produces the same result.

I am also seeking the "Description Available to the Public" field I FOIAonline be set to yes and that all records be released to and viewable in the application by the general Public. The release type must be set to "Unredacted – Releasable to the General Public: Will be available to the general public," or to "Redacted – Releasable to the General Public: Will be available to the general public."

This request is distinctly separate from any other. Please do not combine this request with any other request in your reply. I am requesting that each element of the records sought be specifically addressed in the reply.

In all correspondence, return a copy of my FOIA request, cite my personal request number, and cite records sought.

- Expedited Processing Original Justification: EXPEDITED PROCESSING.

I am seeking expedited processing due to:
"an urgency to inform the public about an actual or alleged Federal government activity, if the information is requested by a person primarily engaged in disseminating information to the public."
• The information sought involves possible questions about the government's integrity that affect public confidence related to the integrity of FOIAonline records, haphazard disestablishment of FOIAonline and potential wide-spread data quality issues.
• The subject is of widespread and exceptional interest.
• I am a person "primarily engaged in disseminating information to the public."
Between January 2, 2023 and February 3, 2023 (one month) seventy-one (71) of my two hundred sixty-two (262) Navy FOIA cases from 2017 forward have been deleted from FOIAonline or I have been denied access to them. This is extremely serious. EPA must determine who did this, how it happened, and if this is unique to me. See "FOIAonline Compare January 2, 2023 to February 3, 2023 Missing Cases Navy" provided by email.
Either there was intentional misconduct (possibly involving Navy) or gross malfeasance in the disappearance of or removal of access to my FOIAonline records and whether this issue is widespread among other participating agencies.
There is intense interest/angst in matters surrounding FOIAonline and its decommissioning, so much so that Laura Johnson was added last minute to brief the FOIA Advisory Committee on March 2, 2023. At that meeting:
"Mr. Howard asked two questions: first, how records are being transferred, and second, how EPA is ensuring that no data is lost or becomes unavailable to the public."
Despite assurances from EPA that everything was fine, I discovered and days later reported to Ms. Johnson and the FOIA Advisory Committee that seventy-one (71) of my two hundred sixty-two (262) Navy FOIA cases from 2017 forward have been deleted from FOIAonline or I have been denied access to them.
Having received no reply as to what happened, I notified my 1,200 plus FOIA distribution list of media, Chief FOIA Officers, FOIA professionals, FOIA/Open records Advocacy groups and interested parties of the unresolved debacle.
There is a thirst among the FOIA community to know exactly what happened.
Note that EPA's FOIA regulation, 40 CFR Subpart A—Procedures for Disclosure of Records Under the Freedom of Information Act § 2.106 Preservation of records is in violation of law citing General Records Schedule 14, which was superseded by NARA Transmittal 29 of December 2017. This alone is of great public interest.
Additionally, I am an individual/organization primarily engaged in the dissemination of information who can prove the information is urgently needed to inform the public concerning some actual or alleged government activity. My primary activity is informing the public, which I do through a variety of means, such as open meeting public comments, blogs, etc., and I may from time to time collaborate on articles. There is extraordinary, off the charts interest in this matter. I make oral public comments at every open FOIA meeting. I have an active email distribution list of over 1,200 Chief FOIA Officers, FOIA professionals, FOIA advocacy groups media and interested parties via various email accounts including but not limited to foiacomplaince@ Ex. 6 Personal Privacy (PP) dod.foia.pa@ Ex. 6 Personal Privacy (PP) and others. I also communicate regularly with members of Congress.
• See examples below.

- Public Comments Submitted to the Chief FOIA Officers Council https://www.archives.gov/ogis/about-ogis/chief-foia-officers-council

- Public Comments Submitted to the FOIA Advisory Committee | National Archives https://www.archives.gov/ogis/foia-advisory-committee/public-comments

- OGIS Annual Open Meeting Public comments https://www.archives.gov/ogis/outreach-events/annual-open-meeting

- Document Cloud. Org https://www.documentcloud.org/app?q=%2Buser%3Arobert-hammond-106693%20 (e.g., "Sample FOIA Template With Recent Developments to Combat Agency Misconduct.")
EPA must evaluate all my public comments along with my methods of dissemination and state that it has done so in any denial of expedited processing.
• The subject of the requested records concerns government operations and activities
• The disclosure is likely to contribute to understanding of these operations or activities
• Disclosure will likely result in public understanding of the subject
• The contribution to public understanding of government operations or activities will be significant
• The requester has no commercial interest
• The public interest in disclosure is great.
• I use "editorial skills to turn the raw materials into a distinct work."
• My work is distributed to an audience with active distribution of over 1,200 plus members of the media, Chief FOIA Officers, FOIA professionals, FOIA/Open records Advocacy groups and interested parties.

FEE WAIVER/ PUBLIC INTEREST/PUBLIC RELEASE. Notwithstanding my agreement to pay fees below if my fee waiver is denied, I am seeking a fee waiver due to significant public interest in this information. The subject of the requested records concerns "the operations or activities of the government." The disclosure is "likely to contribute" to an understanding of government operations or activities. There is no commercial interest. There is significant public interest. See below AGREEMENT TO PAY FEES and EXPEDITED PROCESSING for justification. Should EPA believe that further justification is needed, please advise me.

Should EPA believe that further justification is needed, please advise me.

- Expedited Processing Disposition Reason: Sent expedited processing determination to requester 6/29/2023

From: perseverance2013@Ex. 6 Personal Privacy (PP) <perseverance2013@Ex. 6 Personal Privacy (PP)>
Sent: Wednesday, June 28, 2023 9:02 PM
To: 'hq.foia@epa.gov' <hq.foia@epa.gov>; 'Michael.S.Regan@epa.gov' <Michael.S.Regan@epa.gov>; 'Michael.Regan@epa.gov' <Michael.Regan@epa.gov>; 'Janet.McCabe@epa.gov' <Janet.McCabe@epa.gov>; 'Thompson.BrianK@epa.gov' <Thompson.BrianK@epa.gov>; 'Johnson.Laura-S@epa.gov' <Johnson.Laura-S@epa.gov>; 'jira@cnsshelpdesk.atlassian.net' <jira@cnsshelpdesk.atlassian.net>; 'Edwards.Jeff@epa.gov' <Edwards.Jeff@epa.gov>; 'Joshua.Cooper@cherokee-federal.com' <Joshua.Cooper@cherokee-federal.com>; 'Mohammad.Shaikh@cherokee-federal.com' <Mohammad.Shaikh@cherokee-federal.com>; 'James.Horner@cherokee-federal.com' <James.Horner@cherokee-federal.com>; 'keenan.mitchell@cherokee-federal.com' <keenan.mitchell@cherokee-federal.com>; 'larry.c.johnson@epa.gov' <larry.c.johnson@epa.gov>; 'larry.johnson@epa.gov' <larry.johnson@epa.gov>; 'roberta.l.white@epa.gov' <roberta.l.white@epa.gov>; 'roberta.white@epa.gov' <roberta.white@epa.gov>
Cc: 'perseverance2013@Ex. 6 Personal Privacy (PP) <perseverance2013@Ex. 6 Personal Privacy (PP)
Subject: FW: FOIA Request EPA-2023-005096 Submitted. EPA 23-C FOIA case processing records of FOIA Request EPA-2023-004302

All,

For information. Please see the attached FOIA request submitted via FOIAonline and assigned EPA case number "FOIA Request EPA-2023-005096."

Please perform responsive searches and release all records, which are of great public interest and interest to the FOIA community.

Please preserve all responsive or potential responsive records along with complete records of your searches for judicial review, should that become necessary.

Thank you.

With my deep respect,

Robert Hammond

From: foia_hq@epa.gov <foia_hq@epa.gov>
Sent: Wednesday, June 28, 2023 8:35 PM
To: perseverance2013@[redacted]
Subject: FOIA Request EPA-2023-005096 Submitted

This message is to confirm your request submission to the FOIAonline application: View Request. Request information is as follows:

- Tracking Number: EPA-2023-005096
- Requester Name: Mr. robert hammond
- Date Submitted: 06/28/2023
- Request Status: Submitted
- Description: EPA 23-C FOIA case processing records of FOIA Request EPA-2023-004302

See Format. See PDF for full request.

I am respectfully seeking:
1. All records of any kind in the possession of EPA from May 14, 2023 to present related to the processing of my FOIA request with Agency Assigned case number EPA-2023-004302, excluding records already released within the FOIAonline "EPA-2023-004302 Request Details, Released Records tab.

2. Records would include, but not be limited to:
i. All records in Agency FOIA case files (which should contain all records related to my Request).
ii. All records of any searches performed.
iii. All emails.
iv. All internal EPA records.
v. All records in the FOIAonline database.
vi. All reports that are available within FOIAonline Agency User Guide.
vii. Screen shots of FOIAonline tabs: Request Details, Correspondence, Financing, Released Records with all supporting records.
viii. Records supporting the fee determination of $143.00, including the identity and grade of persons performing searches, the time and manner of searching and

3. I am also seeking a copy of this FOIA Request, which is an Agency record subject to FOIA that exists and is in the Agency's possession at the time of my FOIA request. This record is a responsive record integral to my Request. Release of the Agency's copy is not optional.

4. Preemptively. The searches to locate records are extremely simple and can be performed well withing my two hours of free search time as an "all other requester." Records are located in the FOIA case file, FOIAonline and simple email searches. Similarly, since I am requesting electronic records, there should not be any fees for copying.

REQUESTED FORMAT.

I am also seeking records in their native format (MS. Outlook, PowerPoint, Excel, ADA accessible PDF files or other mutually agreed by return email with: (1) a signed and dated cover letter (citing my personally assigned requester control number); (2) with record page count for all records released records (3) a copy of this request in your reply. I seek records via email in PDF format with an imbedded copy of my requests to (1) impede the agency from not addressing the FOIA Request; (2) impede the Agency from not providing the documents stated in the Agency's letter reply, and (3) make it obvious in any subsequent review what the Agency has or has not done.

Further, I request that these records be sent in any digital formats in which they exist (such as PDF and Excel). Under the terms of the E-FOIA Amendments of 1996, Section 5, if a document exists in electronic format, it must be released in that format upon request.

Each record must be provided as a distinct record in their native format. Emails should be provided as MS Outlook files, if not encrypted or otherwise unable to be opened by me. Only if this is not possible, emails should be produced with their embedded hyperlinked attachments by using the "File => Save as Adobe PDF" command within Outlook or by other software that produces the same result.

I am also seeking the "Description Available to the Public" field I FOIAonline be set to yes and that all records be released to and viewable in the application by the general Public. The release type must be set to "Unredacted – Releasable to the General Public: Will be available to the general public," or to "Redacted – Releasable to the General Public: Will be available to the general public."

This request is distinctly separate from any other. Please do not combine this request with any other request in your reply. I am requesting that each element of the records sought be specifically addressed in the reply.

In all correspondence, return a copy of my FOIA request, cite my personal request number, and cite records sought.

Message

From: Johnson, Laura-S [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=DEA46EDADAA04F2C847D3245F8F5847C-LJOHNS06]
Sent: 6/29/2023 8:08:54 PM
To: Waits, Matthew [Waits.Matthew@epa.gov]
Subject: Hammond 6/28 Communications
Attachments: FW: FOIA Request EPA-2023-005096 Submitted. EPA 23-C FOIA case processing records of FOIA Request EPA-2023-004302 ; Perseverance20132aol.com 71 missing Navy FOIA cases. What happened?? ; FW: FOIA Request EPA-2023-005081 Submitted. Expedited FOIA Request EPA 23-B. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@aol.com]; Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@aol.com]

Good afternoon Matthew,
Attached are all the Robert Hammond emails I received yesterday.

Thanks again.
Laura

Message

From: Johnson, Laura-S [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=DEA46EDADAA04F2C847D3245F8F5847C-LJOHNS06]
Sent: 7/5/2023 4:44:25 PM
To: Shenefiel, Pam [shenefiel.pam@epa.gov]
Subject: FW: Recent FOIA
Attachments: FW: FOIA Request EPA-2023-005096 Submitted. EPA 23-C FOIA case processing records of FOIA Request EPA-2023-004302 ; Perseverance20132aol.com 71 missing Navy FOIA cases. What happened?? ; FW: FOIA Request EPA-2023-005081 Submitted. Expedited FOIA Request EPA 23-B. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@aol.com]; Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@aol.com]; FW: FOIA Advisory Committee March 2, 2023 Meeting + FOIAonline Update; FOIA-Advisory Committee. FW: Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@aol.com]; FOIA Expedited Processing Disposition Reached for EPA-2023-005081. EPA 23-C FOIA case processing records of FOIA Request EPA-2023-004302

From: Johnson, Laura-S
Sent: Wednesday, July 5, 2023 10:28 AM
To: Wells, Jeffrey <Wells.jeffrey@epa.gov>
Cc: Thompson, BrianK <Thompson.BrianK@epa.gov>
Subject: Recent FOIA

Jeff,
FYSA, per my earlier email.

Message

From: Johnson, Laura-S [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=DEA46EDADAA04F2C847D3245F8F5847C-LJOHNS06]
Sent: 6/13/2023 7:31:26 PM
To: Wells, Jeffrey [Wells.jeffrey@epa.gov]; Grimm, Patrick [Grimm.Patrick@epa.gov]; Shenefiel, Pam [shenefiel.pam@epa.gov]
CC: Thompson, BrianK [Thompson.BrianK@epa.gov]
Subject: ACTION -- for REVIEW: Informal Production FOIA response: ED_014485_R. Hammond FOIA 004302_Review
Attachments: ED_014485_00000020_Informal_RIF.pdf; ED_014485_00000019_Informal_RIF.pdf; ED_014485A_00000005_Informal_RWR.pdf; ED_014485A_00000003_Informal_RWR.pdf; ED_014485A_00000001_Informal_RWR.pdf; ED_014485_00000107_Informal_RWR.pdf; ED_014485_00000106_Informal_RWR.pdf; ED_014485_00000094_Informal_RWR.pdf; ED_014485_00000077_Informal_RWR.pdf; ED_014485_00000064_Informal_RWR.pdf; ED_014485_00000051_Informal_RWR.pdf; ED_014485_00000050_Informal_RWR.pdf; ED_014485_00000038_Informal_RWR.pdf; ED_014485_00000037_Informal_RWR.pdf; ED_014485_00000025_Informal_RWR.pdf; ED_014485_00000024_Informal_RWR.pdf; ED_014485_00000023_Informal_RWR.pdf; ED_014485_00000010_Informal_RWR.pdf; ED_014485_00000009_Informal_RWR.pdf; ED_014485_00000008_Informal_RWR.pdf; ED_014485_00000007_Informal_RWR.pdf; ED_014485_00000006_Informal_RWR.pdf; ED_014485_00000005_Informal_RWR.pdf; ED_014485_00000004_Informal_RWR.pdf; ED_014485_00000003_Informal_RWR.pdf; ED_014485_00000002_Informal_RWR.pdf; ED_014485_00000001_Informal_RWR.pdf; #FOOS-4556 Associate Public FOIA Cases with Registered User's Account.pdf; #FOOSHD-1404 Escalated Record FOH-123563 Cases missing from his account.pdf

Importance: High

Good afternoon Brian,
Hot off the presses, below is a link to the informal production for the responsive documents we will provide in our FOIA response that would either be released in full or released with redactions. There are a total of 29 documents for your review, and unfortunately they have been saved as individual PDFs rather than a single pdf document (lesson learned to request a single pdf next time). Per you request, I'm cc'ing Jeff Wells, Pat, and Pam for their review, after which we can submit a request for a formal production.

When reviewing the attached documents please keep the following in mind: The majority (if not all) are communications between a government entity (EPA or Navy) and Mr. Robert Hammond (the public). As such, the deliberative process exemption cannot be applied. Therefore the documents are either released in full, or with redactions that apply exemption #6 (personal private information) to conceal Mr. Hammond's personal email address, residential address, and/or personal telephone number.

Please let Brian and me know when you've completed your review so we can continue to process this response in a timely manner.

From: relativitysupport <relativitysupport@epa.gov>
Sent: Tuesday, June 13, 2023 12:24 PM
To: Johnson, Laura-S <Johnson.Laura-S@epa.gov>
Subject: RE: Informal Production Request: ED_014485_R. Hammond FOIA 004302_Review

Hi Laura,

Your Informal Production is complete and ready for review.

Deliverable Location:	\\	**Ex. 6 Personal Privacy (PP)**

Total Document Count:	27

Please let us know if you have any questions or if you need any additional assistance.

Thank you
Mujadded Karimullah
Deloitte – eDiscovery Contractor
U.S. Environmental Protection Agency
Office of Information Collection
1301 Constitution Avenue NW 6146-F
Washington, DC 20229
Office Phone: 202-564-3043

Please email relativitysupport@epa.gov for all Relativity inquiries and requests.
Please email eDAT@epa.gov for questions or help on search requests.
Please visit the Relativity Resource Center to access Relativity training videos and support documentation.

From: Johnson, Laura-S <Johnson.Laura-S@epa.gov>
Sent: Thursday, June 8, 2023 2:46 PM
To: relativitysupport <relativitysupport@epa.gov>
Cc: Thompson, BrianK <Thompson.BrianK@epa.gov>
Subject: Informal Production Request: ED_014485_R. Hammond FOIA 004302_Review

Good afternoon,
Please see the attached informal production request for FOIA workspace ED_014485_R. Hammond FOIA 004302_Review.

Message

From: Shenefiel, Pam [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5DFA0717290C473983ECD22C0E16066E-SHENEFIEL, PAM]
Sent: 6/13/2023 11:47:54 AM
To: Waits, Matthew [Waits.Matthew@epa.gov]
Subject: FW: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

FYI –

I will share our response with you.

From: Epp, Timothy <Epp.Timothy@epa.gov>
Sent: Tuesday, June 13, 2023 7:35 AM
To: Edwards, Jeff <Edwards.Jeff@epa.gov>; Thompson, BrianK <Thompson.BrianK@epa.gov>; Bossard, Justin <bossard.justin@epa.gov>; Shenefiel, Pam <shenefiel.pam@epa.gov>
Cc: Weth, Patricia <Weth.Patricia@epa.gov>; Hill, Kevin W. <hill.kevinw@epa.gov>
Subject: RE: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Hi Jeff, Brian, Justin, and Pam,

Can you provide any updates on the processing status of 2023-004302?

After going silent for the last three weeks, Mr. Hammond has finally sent an email this morning and I'd like to know what you think the processing time will be on this one.

Thanks much,
Tim

Timothy R. Epp
Associate General Counsel | National FOIA Office
U.S. Environmental Protection Agency | Office of General Counsel
1200 Pennsylvania Avenue, N.W. (MC 2310A)
Washington, D.C. 20460 | WJCN 7309B
Phone (202) 564-2830 | epp.timothy@epa.gov

National FOIA Office
EPA Office of General Counsel

From: Epp, Timothy
Sent: Wednesday, May 24, 2023 6:47 AM
To: Edwards, Jeff <Edwards.Jeff@epa.gov>; Thompson, BrianK <Thompson.BrianK@epa.gov>; Bossard, Justin <bossard.justin@epa.gov>
Cc: Weth, Patricia <Weth.Patricia@epa.gov>; Hill, Kevin W. <hill.kevinw@epa.gov>
Subject: FW: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Hi Jeff, Justin and Brian,

Mr. Robert Hammond submitted a FOIA request to EPA for records pertaining to FOIAonline and help desk engagement with respect to an alleged loss of Mr. Hammond's FOIA requests submitted to the Department of the Navy. He also requested expedited processing of his request, which the NFO denied, and he has now reached out seeking FOIA Public Liaison assistance pertaining to his disputes concerning the denial of expedited processing. Below is a copy of my initial response to him in which I seek to schedule a meeting next week to talk with him.

I'd welcome any information that you can provide regarding the processing of his FOIA request, such as likely length of time it will take your office and regarding how a grant of expedited processing would impact OMS' ability to equitably process other FOIA requests that were submitted ahead of Mr. Hammond's request.

I'm hoping to schedule a meeting with Mr. Hammond mid-week next week. So your reply this week or by COB Tuesday next week would be greatly appreciated. Please let me know if we should schedule a meeting to talk about this engagement, rather than communicate solely by email.

Thanks,
Tim

Timothy R. Epp
Associate General Counsel | National FOIA Office
U.S. Environmental Protection Agency | Office of General Counsel
1200 Pennsylvania Avenue, N.W. (MC 2310A)
Washington, D.C. 20460 | WJCN 7309B
Phone (202) 564-2830 | epp.timothy@epa.gov

National FOIA Office
EPA Office of General Counsel

From: Epp, Timothy
Sent: Wednesday, May 24, 2023 6:27 AM
To: perseverance2013@ Ex. 6 Personal Privacy (PP)
Cc: FOIA HQ <FOIA_HQ@epa.gov>
Subject: FW: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Dear Mr. Hammond,

Thank you for reaching out and seeking assistance from EPA's FOIA Public Liaison. As you know, the FOIA Public Liaison was created by the statute to serve as "a listening ear" for FOIA requesters, and to work to resolve FOIA disputes. We appreciate your reaching out to raise your concern and seek a resolution outside of litigation.

As I understand, your concern centers on EPA's denial of your request for expedited processing of request number EPA-2023-004302. I would like to schedule a time to talk with you in order to better understand your concerns and to begin searching for ways to resolve the disputes. Before meeting with you, I plan to meet with EPA's FOIA processors who issue the expedited processing decisions as well as to reach out to the office that has been assigned the responsibility to respond to your FOIA request. In talking with them, I will seek to identify any new or updated status information that I can report to you during our first conversation as well as to make sure that I fully understand the rationale for denying your expedited processing request. Gathering this background information is also intended to help me listen to your concerns with a more informed ear for identifying possible gaps in communication or misunderstandings, to be able to focus my attention better on the key disputes, and to help us look for options for resolution in our first conversation.

Could you provide me several dates and times when you would be available next week to talk on the phone or have a Teams meeting?

In addition, please consider providing any additional information you have that might support your assertion that release of the records you seek should be expedited. And, help ensure that I am gathering the most relevant information, am I correct that you have not requested expedited processing based on a claim that lack of expedited treatment could reasonably be expected to pose a threat to someone's life or physical safety? Instead, your application for expedited processing is based on a claim of an urgency to inform the public about an actual or alleged Federal Government activity where the request is made by a person who is primarily engaged in disseminating information, correct? While considering whether you want to provide any additional information to support your expedited processing request, you may want to review the Department of Justice's long-standing guidance on expedited processing, which may be found here: https://www.justice.gov/oip/blog/foia-update-oip-guidance-when-expedite-foia-requests As you will see from the guidance and as you may already know, the Department of Justice's guidance recognizes that in considering granting expedited processing, agencies must consider the interests of FOIA requesters who submitted requests earlier than the requester seeking expedited processing. DOJ states: "Because a decision to take a FOIA request out of turn necessarily entails further delay for other requesters waiting patiently in line, simple fairness demands that it be made only upon careful scrutiny of truly exceptional circumstances." So, I would welcome hearing any information you have that would help inform whether the circumstances you have identified are truly exceptional to warrant taking your request ahead of other requests for EPA records.

Best regards,
Tim

Timothy R. Epp
Associate General Counsel | National FOIA Office
U.S. Environmental Protection Agency | Office of General Counsel
1200 Pennsylvania Avenue, N.W. (MC 2310A)
Washington, D.C. 20460 | WJCN 7309B
Phone (202) 564-2830 | epp.timothy@epa.gov

National FOIA Office
EPA Office of General Counsel

From: perseverance2013@[redacted] <perseverance2013@[redacted]>
Sent: Monday, May 22, 2023 5:57 PM
To: FOIA HQ <FOIA_HQ@epa.gov>
Cc: perseverance2013@[redacted]
Subject: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

I am seeking immediate FPL Dispute Resolution regarding the insufficient expedited processing denial.

Your basis for denial is legally insufficient:

- Expedited Processing Disposition Reason: Request does not meet criteria

In that this is an expedited FOIA request, immediate response is required.

Robert Hammond

From: admin@foiaonline.gov <admin@foiaonline.gov>
Sent: Friday, May 19, 2023 12:36 PM

To: perseverance2013@Ex. 6 Personal Privacy (PP)
Subject: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Your request for Expedited Processing for the FOIA request EPA-2023-004302 has been denied. Additional details for this request are as follows:

- Request Created on: 05/17/2023
- Request Description:

Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@Ex. 6 Personal Privacy (PP)

See PDF.

1. All records from March 5, 2023 to present related to FOIAonline Help Deck Ticket "FOH-123563" Cases missing from his account [perseverance2013@Ex. 6 Personal Privacy (PP) including but not limited to:
2. All internal help desk case records conducting analysis and communicating with any party by email, text, or other means. One such email is FOIA Online HD jira@cnsshelpdesk.atlassian.net which provides the email construct for other helpdesk personnel (@cnsshelpdesk.atlassian.net).
3. All records of communications with and documents provided by Robert Hammond, perseverance2013@Ex. 6 Personal Privacy (PP)
4. All records of communications with - and documents provided by - Robert Hammond, foiacompliance@Ex. 6 Personal Privacy (PP) FOIAcomplaince@Ex. 6 Personal Privacy (PP) DOD.FOIA.PA@Ex. 6 Personal Privacy (PP), confirmed receipts, forwarding of emails and responses to them.
5. All records of communications by and with Johnson, Laura-S Johnson.Laura-S@epa.gov, including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
a. Some Department of Navy addressees may have been 'christopher.a.julka@navy.mil'; DONFOIA-PA@navy.mil
6. All records of communications by and with Thompson, BrianK , including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
7. All records of communications by and with 'Edwards, Jeff' Edwards.Jeff@epa.gov including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
8. All records of communications with any FOIAonline participating partner regarding Help Deck Ticket FOH-12356 or nay records missing from their accounts.
9. Closeout records of case Help Deck Ticket FOH-12356.
10. I am also seeking a copy of this FOIA Request, which is an Agency record subject to FOIA that exists and is in the Agency's possession at the time of my FOIA request. This record is a responsive record integral to my Request. Release of the Agency's copy is not optional.

REQUESTED FORMAT.

I am also seeking records in their native format (MS. Outlook, PowerPoint, Excel, ADA accessible PDF files or other mutually agreed by return email with: (1) a signed and dated cover letter (citing my personally assigned requester control number); (2) with record page count for all records released records (3) a copy of this request in your reply. I seek records via email in PDF format with an imbedded copy of my requests to (1) impede the agency from not addressing the FOIA Request; (2) impede the Agency from not providing the documents stated in the Agency's letter reply, and (3) make it obvious in any subsequent review what the Agency has or has not done.

Further, I request that these records be sent in any digital formats in which they exist (such as PDF and Excel). Under the terms of the E-FOIA Amendments of 1996, Section 5, if a document exists in electronic format, it must be released in that format upon request.

Each record must be provided as a distinct record in their native format. Emails should be provided as MS Outlook files, if not encrypted or otherwise unable to be open ed by me. Only if this is not possible, emails should be produced with their embedded hyperlinked attachments by using the "File => Save as Adobe PDF" command within Outlook or by other

software that produces the same result.

I am also seeking the "Description Available to the Public" field I FOIAonline be set to yes and that all records be released to and viewable in the application by the general Public. The release type must be set to "Unredacted – Releasable to the General Public: Will be available to the general public," or to "Redacted – Releasable to the General Public: Will be available to the general public."

This request is distinctly separate from any other. Please do not combine this request with any other request in your reply. I am requesting that each element of the records sought be specifically addressed in the reply.

In all correspondence, return a copy of my FOIA request, cite my personal request number, and cite records sought.

- Expedited Processing Original Justification: EXPEDITED PROCESSING.

I am seeking expedited processing due to:
"an urgency to inform the public about an actual or alleged Federal government activity, if the information is requested by a person primarily engaged in disseminating information to the public."
The subject is of widespread and exceptional interest and the information sought involves possible questions about the government's integrity that affect public confidence.
Between January 2, 2023 and February 3, 2023 (one month) seventy-one (71) of my two hundred sixty-two (262) Navy FOIA cases from 2017 forward have been deleted from FOIAonline or I have been denied access to them. This is extremely serious. EPA must determine who did this, how it happened, and if this is unique to me. See "FOIAonline Compare January 2, 2023 to February 3, 2023 Missing Cases Navy" provided by email.
Either there was intentional misconduct (possibly involving Navy) or gross malfeasance in the disappearance of or removal of access to my FOIAonline records and whether this issue is widespread among other participating agencies.
There is intense interest/angst in matters surrounding FOIAonline and its decommissioning, so much so that Laura Johnson was added last minute to brief the FOIA Advisory Committee on March 2, 2023. At that meeting:
"Mr. Howard asked two questions: first, how records are being transferred, and second, how EPA is ensuring that no data is lost or becomes unavailable to the public."
Despite assurances from EPA that everything was fine, I discovered and days later reported to Ms. Johnson and the FOIA Advisory Committee that seventy-one (71) of my two hundred sixty-two (262) Navy FOIA cases from 2017 forward have been deleted from FOIAonline or I have been denied access to them.
Having received no reply as to what happened, I notified my 1,200 plus FOIA distribution list of media, Chief FOIA Officers, FOIA professionals, FOIA/Open records Advocacy groups and interested parties of the unresolved debacle.
There is a thirst among the FOIA community to know exactly what happened.
Note that EPA's FOIA regulation, 40 CFR Subpart A—Procedures for Disclosure of Records Under the Freedom of Information Act § 2.106 Preservation of records is in violation of law citing General Records Schedule 14, which was superseded by NARA Transmittal 29 of December 2017. This alone is of great public interest.
Additionally, I am an individual/organization primarily engaged in the dissemination of information who can prove the information is urgently needed to inform the public concerning some actual or alleged government activity. My primary activity is informing the public, which I do through a variety of means, such as open meeting public comments, blogs, etc., and I may from time to time collaborate on articles. There is extraordinary, off the charts interest in this matter. I make oral public comments at every open FOAI meeting. I have an active email distribution list of Chief FOIA Officers, FOIA professionals, FOIA advocacy groups media and interested parties. I also communicate regularly with members of Congress.

- See examples below.

- Public Comments Submitted to the Chief FOIA Officers Council https://www.archives.gov/ogis/about-ogis/chief-foia-officers-council

- Public Comments Submitted to the FOIA Advisory Committee | National Archives https://www.archives.gov/ogis/foia-advisory-committee/public-comments

- OGIS Annual Open Meeting Public comments https://www.archives.gov/ogis/outreach-events/annual-open-meeting

- Document Cloud. Org https://www.documentcloud.org/app?q=%2Buser%3Arobert-hammond-106693%20 (e.g., "Sample FOIA Template With Recent Developments to Combat Agency Misconduct.")

EPA must evaluate all my public comments along with my methods of dissemination and state that it has done so in any denial of expedited processing.

- The subject of the requested records concerns government operations and activities
- The disclosure is likely to contribute to understanding of these operations or activities
- Disclosure will likely result in public understanding of the subject
- The contribution to public understanding of government operations or activities will be significant
- The requester has no commercial interest
- The public interest in disclosure is great.
- I use "editorial skills to turn the raw materials into a distinct work."
- My work is distributed to an audience with active distribution.
- Expedited Processing Disposition Reason: Request does not meet criteria

Message

From: Shenefiel, Pam [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5DFA0717290C473983ECD22C0E16066E-SHENEFIEL, PAM]
Sent: 6/13/2023 2:40:24 PM
To: Thompson, BrianK [Thompson.BrianK@epa.gov]
Subject: RE: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Brian,

I am assuming that you are directing these comments to Tim Epp even though the email was addressed to me. If indeed your comments were to me, please let me know and I will set up a time to discuss.

The awareness review is indicated by the listing of someone in NFO as a reviewer – their process not mine.

It was also a little awkward for this request because you and Tim had some back and forth before I got involved.

From: Thompson, BrianK <Thompson.BrianK@epa.gov>
Sent: Tuesday, June 13, 2023 10:26 AM
To: Shenefiel, Pam <shenefiel.pam@epa.gov>
Cc: Bossard, Justin <bossard.justin@epa.gov>; Hill, Kevin W. <hill.kevinw@epa.gov>; Waits, Matthew <Waits.Matthew@epa.gov>; Grimm, Patrick <Grimm.Patrick@epa.gov>; Wells, Jeffrey <Wells.jeffrey@epa.gov>; Epp, Timothy <Epp.Timothy@epa.gov>; Johnson, Laura-S <Johnson.Laura-S@epa.gov>
Subject: RE: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

All,

A deadline of 6/23 for a final response is reasonable. I was not aware that this request had to go through Awareness Review. Therefore, we had planned to get the final response out by the end of this week, which would have hit our 20-business day mark. Awareness Review will delay our final response.

As a side note, is there any way we can work together to improve the workflow here and increase the time we provide review teams to conduct their collection, search and review? To me, it seems that 20-business days is not enough time to conduct the electronic searches that are often required for these types of FOIAs. What can we do to help support an effort to extend that time frame, or is that even possible? For example, in this case we were notified of the FOIA or the FOIA was assigned to us on May 24th. That gave us 16 business days to conduct the collection, search and review. However, with a 3-day awareness review we would be down to 13 business days. That does not, to me, appear to be enough time for an electronic search and review. How can we work to better this for our office and others – to allow for a reasonable amount of time to respond to these requests?

Again, we had all intentions of hitting the 20-day mark by prioritizing our review of this FOIA over other work, but it appears we will fall a bit short of that goal.

-Brian

PS: Taking Jeff Edwards off this chain and adding in Laura Johnson who has led our effort on this and ensured we turned this around as quickly as we did. Jeff has other things on his plate and doesn't need to be looped in here.

Brian Thompson | Director
eDiscovery Division

Office of Enterprise Information Programs (OEIP)
Office of Mission Support (OMS)
U.S. Environmental Protection Agency
phone: (202) 564-4256

From: Shenefiel, Pam <shenefiel.pam@epa.gov>
Sent: Tuesday, June 13, 2023 9:52 AM
To: Thompson, BrianK <Thompson.BrianK@epa.gov>
Cc: Bossard, Justin <bossard.justin@epa.gov>; Hill, Kevin W. <hill.kevinw@epa.gov>; Waits, Matthew <Waits.Matthew@epa.gov>; Edwards, Jeff <Edwards.Jeff@epa.gov>; Grimm, Patrick <Grimm.Patrick@epa.gov>; Wells, Jeffrey <Wells.jeffrey@epa.gov>; Epp, Timothy <Epp.Timothy@epa.gov>
Subject: RE: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Brian,

Please reply all to Tim's question below regarding 6/23 for our response to the requestor for this FOIA. Thanks.

Pam Shenefiel | Senior Adviser | Office of Enterprise Information Programs
Office of Mission Support – Environmental Information | USEPA
202-566-0303

From: Epp, Timothy <Epp.Timothy@epa.gov>
Sent: Tuesday, June 13, 2023 9:49 AM
To: Shenefiel, Pam <shenefiel.pam@epa.gov>
Cc: Bossard, Justin <bossard.justin@epa.gov>; Hill, Kevin W. <hill.kevinw@epa.gov>; Waits, Matthew <Waits.Matthew@epa.gov>; Edwards, Jeff <Edwards.Jeff@epa.gov>; Thompson, BrianK <Thompson.BrianK@epa.gov>; Grimm, Patrick <Grimm.Patrick@epa.gov>; Wells, Jeffrey <Wells.jeffrey@epa.gov>
Subject: RE: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Thanks Pam,

I really appreciate your speed in processing on this. Thanks for that update.

Here is my screen shot of the "Submission Details" tab, under the field for "Request Handling," you will see on the right side that there is a "yes" next to "unusual circumstances"; and below that for "extension justification" it states "multiple offices and multiple agencies." This information tells us that someone identified this request as entitled to treatment as unusual circumstances. We also see that the current due date of July 3 is more than 20 working days after the "perfection date" of the request, which was May 18.

Unfortunately, I do not have the ability to reconstruct who changed this field – but it is clear that there is no record of correspondence on the file giving the requester notice of the due date extension.

Based on your current processing plan, would it be ok for me to tell the requester that EPA currently expects to be able to issue its final response on this request by the end of next week (i.e., on 6/23)?

Tim

EPA-2023-004302 Request Details Case Phase: Processing Case Status: Processing Tasks Due Date: 07/03/2023 Clock Days: 17

Submission Details | Case File | Admin Costs | Assigned Tasks (0) | Comments (4) | Review

Requester Information Expand +

Request Handling Collapse −

Requester Info Available to the Public	Yes	Request Type	FOIA
Request Track	Simple	Request Perfected	Yes
Fee Category	Other	* Perfected Date	05/18/2023
Fee Waiver Requested	Yes	Acknowledgement Sent Date	05/18/2023
Fee Waiver Status	Deny	Unusual Circumstances	Yes
Expedited Processing Requested	Yes	Extension Justification	multiple offices and multiple agencies
Expedited Processing Status	Deny	Litigation	No
		5 Day Notifications	

Timothy R. Epp
Associate General Counsel | National FOIA Office
U.S. Environmental Protection Agency | Office of General Counsel
1200 Pennsylvania Avenue, N.W. (MC 2310A)
Washington, D.C. 20460 | WJCN 7309B
Phone (202) 564-2830 | epp.timothy@epa.gov

National FOIA Office
EPA Office of General Counsel

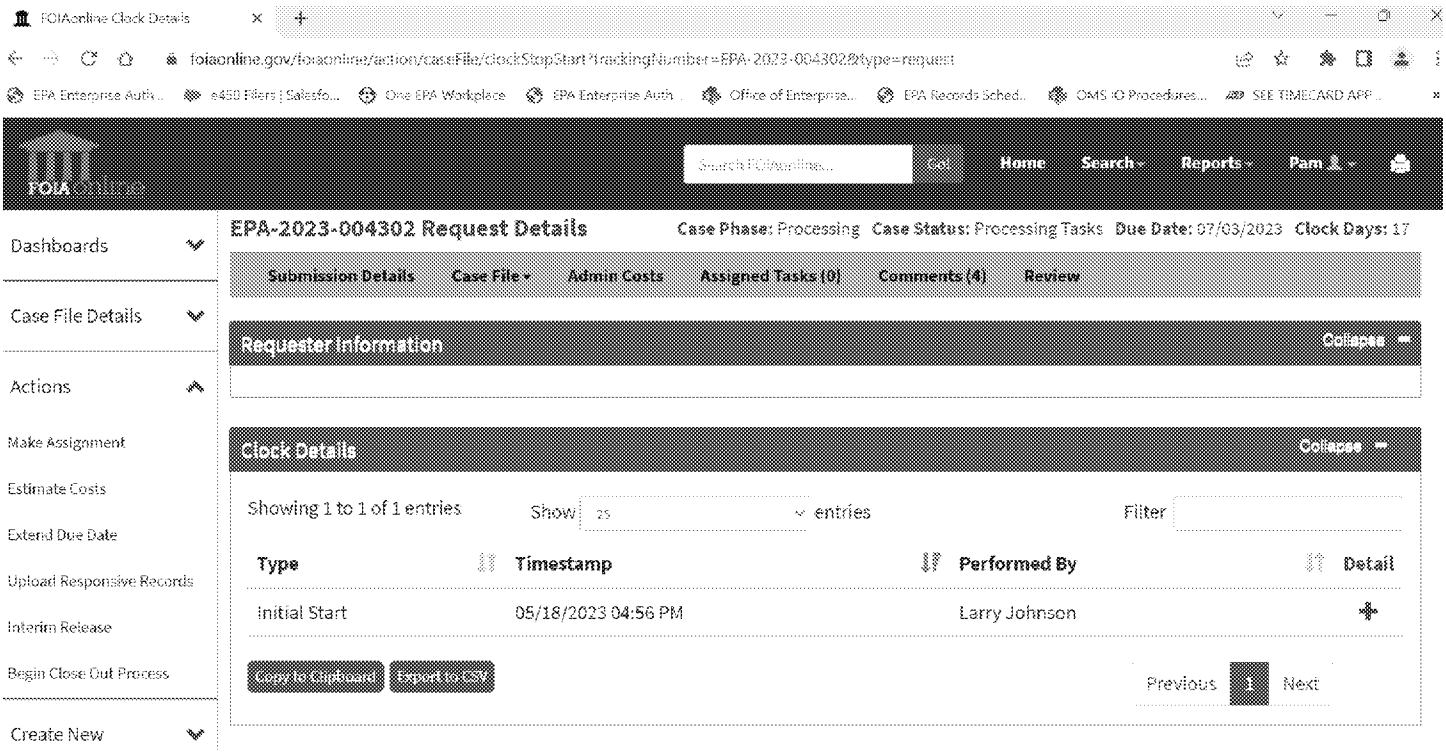
From: Shenefiel, Pam <shenefiel.pam@epa.gov>
Sent: Tuesday, June 13, 2023 9:25 AM
To: Epp, Timothy <Epp.Timothy@epa.gov>
Cc: Bossard, Justin <bossard.justin@epa.gov>; Hill, Kevin W. <hill.kevinw@epa.gov>; Waits, Matthew <Waits.Matthew@epa.gov>; Edwards, Jeff <Edwards.Jeff@epa.gov>; Thompson, BrianK <Thompson.BrianK@epa.gov>; Grimm, Patrick <Grimm.Patrick@epa.gov>; Wells, Jeffrey <Wells.jeffrey@epa.gov>
Subject: RE: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Tim,

I reached out to Matthew Waits to discuss this and we reviewed the Request in FOIAonline and we don't see that an extension was asserted for unusual circumstances. See screenshot below. Are we missing something? Please advise.

Brian has indicated that his team plans on having the responsive documents for OEIP review today, and pending that review we should be able to provide the full response by the end of the week. It would then need to go thru the 3 day awareness review.

Please let us know if we can provide any additional information or if you have any questions. Thanks.



From: Epp, Timothy <Epp.Timothy@epa.gov>
Sent: Tuesday, June 13, 2023 7:55 AM
To: Shenefiel, Pam <shenefiel.pam@epa.gov>; Bossard, Justin <bossard.justin@epa.gov>; Waits, Matthew <Waits.Matthew@epa.gov>; Hill, Kevin W. <hill.kevinw@epa.gov>
Subject: FW: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302
Importance: High

Hi Justin, Matthew, Pam, and Kev,

The file for the FOIA request at issue in the below emails (2023-004302) shows that unusual circumstances was selected for a due date extension. However, the file contains no correspondence to the requester giving the statutorily required notice. Is it possible to reconstruct who entered the due date extension? And, is it possible that there was an email communication to the requester that has not been uploaded into FOIAonline? (Kev, I included you because I cannot tell whether the extension was made in intake.)

By my count, we are still within the original 20 working days – so, we could still get a letter out to this requester telling him that we've extended the due date, the reasons for it, and giving the opportunity to negotiate a narrower request scope.

Tim

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Washington, D.C. 20460 | WJCN 7309B
Phone (202) 564-2830| epp.timothy@epa.gov

National FOIA Office
EPA Office of General Counsel

From: Epp, Timothy
Sent: Tuesday, June 13, 2023 7:35 AM
To: Edwards, Jeff <Edwards.Jeff@epa.gov>; Thompson, BrianK <Thompson.BrianK@epa.gov>; Bossard, Justin <bossard.justin@epa.gov>; Shenefiel, Pam <shenefiel.pam@epa.gov>
Cc: Weth, Patricia <Weth.Patricia@epa.gov>; Hill, Kevin W. <hill.kevinw@epa.gov>
Subject: RE: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Hi Jeff, Brian, Justin, and Pam,

Can you provide any updates on the processing status of 2023-004302?

After going silent for the last three weeks, Mr. Hammond has finally sent an email this morning and I'd like to know what you think the processing time will be on this one.

Thanks much,
Tim

Timothy R. Epp
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Phone (202) 564-2830| epp.timothy@epa.gov

National FOIA Office
EPA Office of General Counsel

From: Epp, Timothy
Sent: Wednesday, May 24, 2023 6:47 AM
To: Edwards, Jeff <Edwards.Jeff@epa.gov>; Thompson, BrianK <Thompson.BrianK@epa.gov>; Bossard, Justin <bossard.justin@epa.gov>
Cc: Weth, Patricia <Weth.Patricia@epa.gov>; Hill, Kevin W. <hill.kevinw@epa.gov>
Subject: FW: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Hi Jeff, Justin and Brian,

Mr. Robert Hammond submitted a FOIA request to EPA for records pertaining to FOIAonline and help desk engagement with respect to an alleged loss of Mr. Hammond's FOIA requests submitted to the Department of the Navy. He also requested expedited processing of his request, which the NFO denied, and he has now reached out seeking FOIA Public

Liaison assistance pertaining to his disputes concerning the denial of expedited processing. Below is a copy of my initial response to him in which I seek to schedule a meeting next week to talk with him.

I'd welcome any information that you can provide regarding the processing of his FOIA request, such as likely length of time it will take your office and regarding how a grant of expedited processing would impact OMS' ability to equitably process other FOIA requests that were submitted ahead of Mr. Hammond's request.

I'm hoping to schedule a meeting with Mr. Hammond mid-week next week. So your reply this week or by COB Tuesday next week would be greatly appreciated. Please let me know if we should schedule a meeting to talk about this engagement, rather than communicate solely by email.

Thanks,
Tim

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Washington, D.C. 20460 | WJCN 7309B
Phone (202) 564-2830 | epp.timothy@epa.gov

National FOIA Office
EPA Office of General Counsel

From: Epp, Timothy
Sent: Wednesday, May 24, 2023 6:27 AM
To: perseverance2013@[redacted]
Cc: FOIA HQ <FOIA_HQ@epa.gov>
Subject: FW: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Dear Mr. Hammond,

Thank you for reaching out and seeking assistance from EPA's FOIA Public Liaison. As you know, the FOIA Public Liaison was created by the statute to serve as "a listening ear" for FOIA requesters, and to work to resolve FOIA disputes. We appreciate your reaching out to raise your concern and seek a resolution outside of litigation.

As I understand, your concern centers on EPA's denial of your request for expedited processing of request number EPA-2023-004302. I would like to schedule a time to talk with you in order to better understand your concerns and to begin searching for ways to resolve the disputes. Before meeting with you, I plan to meet with EPA's FOIA processors who issue the expedited processing decisions as well as to reach out to the office that has been assigned the responsibility to respond to your FOIA request. In talking with them, I will seek to identify any new or updated status information that I can report to you during our first conversation as well as to make sure that I fully understand the rationale for denying your expedited processing request. Gathering this background information is also intended to help me listen to your concerns with a more informed ear for identifying possible gaps in communication or misunderstandings, to be able to focus my attention better on the key disputes, and to help us look for options for resolution in our first conversation.

Could you provide me several dates and times when you would be available next week to talk on the phone or have a Teams meeting?

In addition, please consider providing any additional information you have that might support your assertion that release of the records you seek should be expedited. And, help ensure that I am gathering the most relevant information, am I correct that you have not requested expedited processing based on a claim that lack of expedited treatment could reasonably be expected to pose a threat to someone's life or physical safety? Instead, your application for expedited processing is based on a claim of an urgency to inform the public about an actual or alleged Federal Government activity where the request is made by a person who is primarily engaged in disseminating information, correct? While considering whether you want to provide any additional information to support your expedited processing request, you may want to review the Department of Justice's long-standing guidance on expedited processing, which may be found here: https://www.justice.gov/oip/blog/foia-update-oip-guidance-when-expedite-foia-requests As you will see from the guidance and as you may already know, the Department of Justice's guidance recognizes that in considering granting expedited processing, agencies must consider the interests of FOIA requesters who submitted requests earlier than the requester seeking expedited processing. DOJ states: "Because a decision to take a FOIA request out of turn necessarily entails further delay for other requesters waiting patiently in line, simple fairness demands that it be made only upon careful scrutiny of truly exceptional circumstances." So, I would welcome hearing any information you have that would help inform whether the circumstances you have identified are truly exceptional to warrant taking your request ahead of other requests for EPA records.

Best regards,
Tim

Timothy R. Epp
Associate General Counsel | National FOIA Office
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Washington, D.C. 20460 | WJCN 7309B
Phone (202) 564-2830 | epp.timothy@epa.gov

National FOIA Office
EPA Office of General Counsel

From: perseverance2013@[redacted] <perseverance2013@[redacted]
Sent: Monday, May 22, 2023 5:57 PM
To: FOIA HQ <FOIA_HQ@epa.gov>
Cc: perseverance2013@[redacted]
Subject: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

I am seeking immediate FPL Dispute Resolution regarding the insufficient expedited processing denial.

Your basis for denial is legally insufficient:

- Expedited Processing Disposition Reason: Request does not meet criteria

In that this is an expedited FOIA request, immediate response is required.

Robert Hammond

From: admin@foiaonline.gov <admin@foiaonline.gov>
Sent: Friday, May 19, 2023 12:36 PM
To: perseverance2013@[redacted]
Subject: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Your request for Expedited Processing for the FOIA request EPA-2023-004302 has been denied. Additional details for this request are as follows:

- Request Created on: 05/17/2023
- Request Description:

Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@ Ex. 6 Personal Privacy (PP)

See PDF.

1. All records from March 5, 2023 to present related to FOIAonline Help Deck Ticket "FOH-123563" Cases missing from his account [perseverance2013@ Ex. 6 Personal Privacy (PP) including but not limited to:
2. All internal help desk case records conducting analysis and communicating with any party by email, text, or other means. One such email is FOIA Online HD jira@cnsshelpdesk.atlassian.net which provides the email construct for other helpdesk personnel (@cnsshelpdesk.atlassian.net).
3. All records of communications with and documents provided by Robert Hammond, perseverance2013@ Ex. 6 Personal Privacy (PP)
4. All records of communications with - and documents provided by - Robert Hammond, foiacompliance@ Ex. 6 Personal Privacy (PP) FOIAcomplaince@ Ex. 6 Personal Privacy (PP) DOD.FOIA.PA@ Ex. 6 Personal Privacy (PP) confirmed receipts, forwarding of emails and responses to them.
5. All records of communications by and with Johnson, Laura-S Johnson.Laura-S@epa.gov, including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
a. Some Department of Navy addressees may have been 'christopher.a.julka@navy.mil'; DONFOIA-PA@navy.mil
6. All records of communications by and with Thompson, BrianK , including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
7. All records of communications by and with 'Edwards, Jeff' Edwards.Jeff@epa.gov including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
8. All records of communications with any FOIAonline participating partner regarding Help Deck Ticket FOH-12356 or nay records missing from their accounts.
9. Closeout records of case Help Deck Ticket FOH-12356.
10. I am also seeking a copy of this FOIA Request, which is an Agency record subject to FOIA that exists and is in the Agency's possession at the time of my FOIA request. This record is a responsive record integral to my Request. Release of the Agency's copy is not optional.

REQUESTED FORMAT.

I am also seeking records in their native format (MS. Outlook, PowerPoint, Excel, ADA accessible PDF files or other mutually agreed by return email with: (1) a signed and dated cover letter (citing my personally assigned requester control number); (2) with record page count for all records released records (3) a copy of this request in your reply. I seek records via email in PDF format with an imbedded copy of my requests to (1) impede the agency from not addressing the FOIA Request; (2) impede the Agency from not providing the documents stated in the Agency's letter reply, and (3) make it obvious in any subsequent review what the Agency has or has not done.

Further, I request that these records be sent in any digital formats in which they exist (such as PDF and Excel). Under the terms of the E-FOIA Amendments of 1996, Section 5, if a document exists in electronic format, it must be released in that format upon request.

Each record must be provided as a distinct record in their native format. Emails should be provided as MS Outlook files, if not encrypted or otherwise unable to be open ed by me. Only if this is not possible, emails should be produced with their embedded hyperlinked attachments by using the "File => Save as Adobe PDF" command within Outlook or by other software that produces the same result.

I am also seeking the "Description Available to the Public" field I FOIAonline be set to yes and that all records be released

to and viewable in the application by the general Public. The release type must be set to "Unredacted – Releasable to the General Public: Will be available to the general public," or to "Redacted – Releasable to the General Public: Will be available to the general public."

This request is distinctly separate from any other. Please do not combine this request with any other request in your reply. I am requesting that each element of the records sought be specifically addressed in the reply.

In all correspondence, return a copy of my FOIA request, cite my personal request number, and cite records sought.

- Expedited Processing Original Justification: EXPEDITED PROCESSING.

I am seeking expedited processing due to:
"an urgency to inform the public about an actual or alleged Federal government activity, if the information is requested by a person primarily engaged in disseminating information to the public."
The subject is of widespread and exceptional interest and the information sought involves possible questions about the government's integrity that affect public confidence.
Between January 2, 2023 and February 3, 2023 (one month) seventy-one (71) of my two hundred sixty-two (262) Navy FOIA cases from 2017 forward have been deleted from FOIAonline or I have been denied access to them. This is extremely serious. EPA must determine who did this, how it happened, and if this is unique to me. See "FOIAonline Compare January 2, 2023 to February 3, 2023 Missing Cases Navy" provided by email.
Either there was intentional misconduct (possibly involving Navy) or gross malfeasance in the disappearance of or removal of access to my FOIAonline records and whether this issue is widespread among other participating agencies.
There is intense interest/angst in matters surrounding FOIAonline and its decommissioning, so much so that Laura Johnson was added last minute to brief the FOIA Advisory Committee on March 2, 2023. At that meeting:
"Mr. Howard asked two questions: first, how records are being transferred, and second, how EPA is ensuring that no data is lost or becomes unavailable to the public."
Despite assurances from EPA that everything was fine, I discovered and days later reported to Ms. Johnson and the FOIA Advisory Committee that seventy-one (71) of my two hundred sixty-two (262) Navy FOIA cases from 2017 forward have been deleted from FOIAonline or I have been denied access to them.
Having received no reply as to what happened, I notified my 1,200 plus FOIA distribution list of media, Chief FOIA Officers, FOIA professionals, FOIA/Open records Advocacy groups and interested parties of the unresolved debacle.
There is a thirst among the FOIA community to know exactly what happened.
Note that EPA's FOIA regulation, 40 CFR Subpart A—Procedures for Disclosure of Records Under the Freedom of Information Act § 2.106 Preservation of records is in violation of law citing General Records Schedule 14, which was superseded by NARA Transmittal 29 of December 2017. This alone is of great public interest.
Additionally, I am an individual/organization primarily engaged in the dissemination of information who can prove the information is urgently needed to inform the public concerning some actual or alleged government activity. My primary activity is informing the public, which I do through a variety of means, such as open meeting public comments, blogs, etc., and I may from time to time collaborate on articles. There is extraordinary, off the charts interest in this matter. I make oral public comments at every open FOAI meeting. I have an active email distribution list of Chief FOIA Officers, FOIA professionals, FOIA advocacy groups media and interested parties. I also communicate regularly with members of Congress.

- See examples below.

- Public Comments Submitted to the Chief FOIA Officers Council https://www.archives.gov/ogis/about-ogis/chief-foia-officers-council

- Public Comments Submitted to the FOIA Advisory Committee | National Archives https://www.archives.gov/ogis/foia-advisory-committee/public-comments

- OGIS Annual Open Meeting Public comments https://www.archives.gov/ogis/outreach-events/annual-open-meeting

- Document Cloud. Org https://www.documentcloud.org/app?q=%2Buser%3Arobert-hammond-106693%20 (e.g., "Sample FOIA Template With Recent Developments to Combat Agency Misconduct.")

EPA must evaluate all my public comments along with my methods of dissemination and state that it has done so in any

denial of expedited processing.

- The subject of the requested records concerns government operations and activities
- The disclosure is likely to contribute to understanding of these operations or activities
- Disclosure will likely result in public understanding of the subject
- The contribution to public understanding of government operations or activities will be significant
- The requester has no commercial interest
- The public interest in disclosure is great.
- I use "editorial skills to turn the raw materials into a distinct work."
- My work is distributed to an audience with active distribution.
- Expedited Processing Disposition Reason: Request does not meet criteria

Message

From: Shenefiel, Pam [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5DFA0717290C473983ECD22C0E16066E-SHENEFIEL, PAM]
Sent: 6/21/2023 10:09:11 PM
To: Waits, Matthew [Waits.Matthew@epa.gov]
Subject: FW: Awareness Notification EPA-2023-003720 - Help Desk Ticket FOH-123563
Attachments: #FOOSHD-1404 Escalated Record FOH-123563 Cases missing from his account.pdf; #FOOS-4556 Associate Public FOIA Cases with Registered User's Account.pdf; ED_014485_00000019_Formal_RIF.pdf; ED_014485_00000020_Formal_RIF.pdf; ED_014485_00000001_Formal_RWR.pdf; ED_014485_00000002_Formal_RWR.pdf; ED_014485_00000003_Formal_RWR.pdf; ED_014485_00000004_Formal_RWR.pdf; ED_014485_00000005_Formal_RWR.pdf; ED_014485_00000006_Formal_RWR.pdf; ED_014485_00000007_Formal_RWR.pdf; ED_014485_00000008_Formal_RWR.pdf; ED_014485_00000009_Formal_RWR.pdf; ED_014485_00000010_Formal_RWR.pdf; ED_014485_00000023_Formal_RWR.pdf; ED_014485_00000024_Formal_RWR.pdf; ED_014485_00000025_Formal_RWR.pdf; ED_014485_00000037_Formal_RWR.pdf; ED_014485_00000038_Formal_RWR.pdf; ED_014485_00000050_Formal_RWR.pdf; ED_014485_00000051_Formal_RWR.pdf; ED_014485_00000064_Formal_RWR.pdf; ED_014485_00000077_Formal_RWR.pdf; ED_014485_00000094_Formal_RWR.pdf; ED_014485_00000106_Formal_RWR.pdf; ED_014485_00000107_Formal_RWR.pdf; ED_014485A_00000001_Formal_RWR.pdf; ED_014485A_00000003_Formal_RWR.pdf; ED_014485A_00000005_Formal_RWR.pdf

Is this good to close out?

From: Waits, Matthew <Waits.Matthew@epa.gov>
Sent: Friday, June 16, 2023 12:53 PM
To: OGC Awareness Notification Process <OGC_Awareness_Notification_Process@usepa.onmicrosoft.com>; FOIA Awareness Notification Email Recipients <FOIA_Awareness_Notification_Email_Recipients@epa.gov>
Cc: Patrick, Kimberly (she/her/hers) <Patrick.Kimberly@epa.gov>; Coogan, Daniel <Coogan.Daniel@epa.gov>; Jablonski, Janice <jablonski.janice@epa.gov>; Armstrong, Marilyn <Armstrong.Marilyn@epa.gov>; Judd, Jennifer (she/her/hers) <Judd.Jennifer@epa.gov>; OMS_FOIA_Team <OMS_FOIA_Team@epa.gov>; Schreyer, Andrew (he/him/his) <Schreyer.Andrew@epa.gov>; Shenefiel, Pam <shenefiel.pam@epa.gov>; Thompson, BrianK <Thompson.BrianK@epa.gov>; Johnson, Laura-S <Johnson.Laura-S@epa.gov>
Subject: Awareness Notification EPA-2023-003720 - Help Desk Ticket FOH-123563

To whom it may concern,

The Office of Mission Support, Office of Enterprise Information Programs is responding to the above-referenced FOIA request. We are providing this awareness notification email pursuant to the Chief of Staff's November 16, 2018 memorandum "Awareness Notification Process for Select Freedom of Information Act Releases." Recipients of this email have up to three business days following transmission of this email to review the documents to be released.

There is no requirement for you to respond to this email or otherwise take action. The Action Office has completed review and obtained management approval consistent with the agency's FOIA policy and procedures.

After 4 p.m. on the third business day after transmission of this email, the Action Office will issue the Agency's FOIA determination to the requester. The determination will be issued promptly, but in no event later than one business day following completion of the three-day awareness notification period.

The information provided below is consistent with Paragraph 4 of the above-referenced November 16, 2018 memorandum.

Office of Mission Support – Office of Enterprise Information Programs							
FOIA Tracking Number	Requester	Requester Organization	Date FOIA Request Perfected	Date sent for Awareness Notification	Brief description of request as clarified	Interim or Final Response	Number of Records and/or pages
EPA-2023-004302	Robert Hammond	N/A	5/18/23	6/16/23	Records concerning FOIAonline Help Desk Ticket FOH-123563 regarding potentially missing case files	Final Response	29 Records

The following offices have equities in these records and have reviewed the relevant records:
Office of Enterprise Information Programs
Office of Resources and Business Operations

The manager who approved this release is: Brian K. Thompson

The records are attached.

Matthew Waits
U.S. Environmental Protection Agency - OMS
Office of Resources and Business Operations
FOIA | CI
Waits.Matthew@epa.gov

Message

From: Shenefiel, Pam [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5DFA0717290C473983ECD22C0E16066E-SHENEFIEL, PAM]
Sent: 5/24/2023 3:09:55 PM
To: Wells, Jeffrey [Wells.jeffrey@epa.gov]; Grimm, Patrick [Grimm.Patrick@epa.gov]
CC: Thompson, BrianK [Thompson.BrianK@epa.gov]
Subject: FW: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Hi Jeff and Pat,

Just wanted to keep you in the loop on the FOIA we just received – I mentioned it in the mgrs meeting this morning. Tim Epp seems to be working directly with Brian on the processing of this request.

Brian,

We need to be sure to give Jeff and Pat the opportunity to review any documents that are going to be released. Thanks.

From: Epp, Timothy <Epp.Timothy@epa.gov>
Sent: Wednesday, May 24, 2023 6:47 AM
To: Edwards, Jeff <Edwards.Jeff@epa.gov>; Thompson, BrianK <Thompson.BrianK@epa.gov>; Bossard, Justin <bossard.justin@epa.gov>
Cc: Weth, Patricia <Weth.Patricia@epa.gov>; Hill, Kevin W. <hill.kevinw@epa.gov>
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I'd welcome any information that you can provide regarding the processing of his FOIA request, such as likely length of time it will take your office and regarding how a grant of expedited processing would impact OMS' ability to equitably process other FOIA requests that were submitted ahead of Mr. Hammond's request.

I'm hoping to schedule a meeting with Mr. Hammond mid-week next week. So your reply this week or by COB Tuesday next week would be greatly appreciated. Please let me know if we should schedule a meeting to talk about this engagement, rather than communicate solely by email.

Thanks,
Tim

Timothy R. Epp
Associate General Counsel | National FOIA Office
U.S. Environmental Protection Agency | Office of General Counsel
1200 Pennsylvania Avenue, N.W. (MC 2310A)
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Phone (202) 564-2830 | epp.timothy@epa.gov

National FOIA Office
EPA Office of General Counsel

From: Epp, Timothy
Sent: Wednesday, May 24, 2023 6:27 AM
To: perseverance2013@[redacted]
Cc: FOIA HQ <FOIA_HQ@epa.gov>
Subject: FW: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Dear Mr. Hammond,

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As I understand, your concern centers on EPA's denial of your request for expedited processing of request number EPA-2023-004302. I would like to schedule a time to talk with you in order to better understand your concerns and to begin searching for ways to resolve the disputes. Before meeting with you, I plan to meet with EPA's FOIA processors who issue the expedited processing decisions as well as to reach out to the office that has been assigned the responsibility to respond to your FOIA request. In talking with them, I will seek to identify any new or updated status information that I can report to you during our first conversation as well as to make sure that I fully understand the rationale for denying your expedited processing request. Gathering this background information is also intended to help me listen to your concerns with a more informed ear for identifying possible gaps in communication or misunderstandings, to be able to focus my attention better on the key disputes, and to help us look for options for resolution in our first conversation.

Could you provide me several dates and times when you would be available next week to talk on the phone or have a Teams meeting?

In addition, please consider providing any additional information you have that might support your assertion that release of the records you seek should be expedited. And, help ensure that I am gathering the most relevant information, am I correct that you have not requested expedited processing based on a claim that lack of expedited treatment could reasonably be expected to pose a threat to someone's life or physical safety? Instead, your application for expedited processing is based on a claim of an urgency to inform the public about an actual or alleged Federal Government activity where the request is made by a person who is primarily engaged in disseminating information, correct? While considering whether you want to provide any additional information to support your expedited processing request, you may want to review the Department of Justice's long-standing guidance on expedited processing, which may be found here: https://www.justice.gov/oip/blog/foia-update-oip-guidance-when-expedite-foia-requests As you will see from the guidance and as you may already know, the Department of Justice's guidance recognizes that in considering granting expedited processing, agencies must consider the interests of FOIA requesters who submitted requests earlier than the requester seeking expedited processing. DOJ states: "Because a decision to take a FOIA request out of turn necessarily entails further delay for other requesters waiting patiently in line, simple fairness demands that it be made only upon careful scrutiny of truly exceptional circumstances." So, I would welcome hearing any information you have that would help inform whether the circumstances you have identified are truly exceptional to warrant taking your request ahead of other requests for EPA records.

Best regards,
Tim

Timothy R. Epp
Associate General Counsel | National FOIA Office
U.S. Environmental Protection Agency | Office of General Counsel
1200 Pennsylvania Avenue, N.W. (MC 2310A)
Washington, D.C. 20460 | WJCN 7309B
Phone (202) 564-2830 | epp.timothy@epa.gov

National FOIA Office
EPA Office of General Counsel

From: perseverance2013@[redacted] <perseverance2013@[redacted]>
Sent: Monday, May 22, 2023 5:57 PM
To: FOIA HQ <FOIA_HQ@epa.gov>
Cc: perseverance2013@[redacted]
Subject: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

I am seeking immediate FPL Dispute Resolution regarding the insufficient expedited processing denial.

Your basis for denial is legally insufficient:

- Expedited Processing Disposition Reason: Request does not meet criteria

In that this is an expedited FOIA request, immediate response is required.

Robert Hammond

From: admin@foiaonline.gov <admin@foiaonline.gov>
Sent: Friday, May 19, 2023 12:36 PM
To: perseverance2013@[redacted]
Subject: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Your request for Expedited Processing for the FOIA request EPA-2023-004302 has been denied. Additional details for this request are as follows:

- Request Created on: 05/17/2023
- Request Description:

Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@[redacted]

See PDF.

1. All records from March 5, 2023 to present related to FOIAonline Help Deck Ticket "FOH-123563" Cases missing from his account [perseverance2013@[redacted] including but not limited to:
2. All internal help desk case records conducting analysis and communicating with any party by email, text, or other means. One such email is FOIA Online HD jira@cnsshelpdesk.atlassian.net which provides the email construct for other helpdesk personnel (@cnsshelpdesk.atlassian.net).
3. All records of communications with and documents provided by Robert Hammond, perseverance2013@[redacted]
4. All records of communications with - and documents provided by - Robert Hammond, foiacompliance@[redacted], FOIAcomplaince@[redacted], DOD.FOIA.PA@[redacted] confirmed receipts, forwarding of emails and responses to them.
5. All records of communications by and with Johnson, Laura-S Johnson.Laura-S@epa.gov, including communications

with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
a. Some Department of Navy addressees may have been 'christopher.a.julka@navy.mil'; DONFOIA-PA@navy.mil
6. All records of communications by and with Thompson, BrianK , including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
7. All records of communications by and with 'Edwards, Jeff' Edwards.Jeff@epa.gov including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
8. All records of communications with any FOIAonline participating partner regarding Help Deck Ticket FOH-12356 or nay records missing from their accounts.
9. Closeout records of case Help Deck Ticket FOH-12356.
10. I am also seeking a copy of this FOIA Request, which is an Agency record subject to FOIA that exists and is in the Agency's possession at the time of my FOIA request. This record is a responsive record integral to my Request. Release of the Agency's copy is not optional.

REQUESTED FORMAT.

I am also seeking records in their native format (MS. Outlook, PowerPoint, Excel, ADA accessible PDF files or other mutually agreed by return email with: (1) a signed and dated cover letter (citing my personally assigned requester control number); (2) with record page count for all records released records (3) a copy of this request in your reply. I seek records via email in PDF format with an imbedded copy of my requests to (1) impede the agency from not addressing the FOIA Request; (2) impede the Agency from not providing the documents stated in the Agency's letter reply, and (3) make it obvious in any subsequent review what the Agency has or has not done.

Further, I request that these records be sent in any digital formats in which they exist (such as PDF and Excel). Under the terms of the E-FOIA Amendments of 1996, Section 5, if a document exists in electronic format, it must be released in that format upon request.

Each record must be provided as a distinct record in their native format. Emails should be provided as MS Outlook files, if not encrypted or otherwise unable to be open ed by me. Only if this is not possible, emails should be produced with their embedded hyperlinked attachments by using the "File => Save as Adobe PDF" command within Outlook or by other software that produces the same result.

I am also seeking the "Description Available to the Public" field I FOIAonline be set to yes and that all records be released to and viewable in the application by the general Public. The release type must be set to "Unredacted – Releasable to the General Public: Will be available to the general public," or to "Redacted – Releasable to the General Public: Will be available to the general public."

This request is distinctly separate from any other. Please do not combine this request with any other request in your reply. I am requesting that each element of the records sought be specifically addressed in the reply.

In all correspondence, return a copy of my FOIA request, cite my personal request number, and cite records sought.

- Expedited Processing Original Justification: EXPEDITED PROCESSING.

I am seeking expedited processing due to:
"an urgency to inform the public about an actual or alleged Federal government activity, if the information is requested by a person primarily engaged in disseminating information to the public."
The subject is of widespread and exceptional interest and the information sought involves possible questions about the government's integrity that affect public confidence.
Between January 2, 2023 and February 3, 2023 (one month) seventy-one (71) of my two hundred sixty-two (262) Navy FOIA cases from 2017 forward have been deleted from FOIAonline or I have been denied access to them. This is extremely serious. EPA must determine who did this, how it happened, and if this is unique to me. See "FOIAonline Compare January 2, 2023 to February 3, 2023 Missing Cases Navy" provided by email.
Either there was intentional misconduct (possibly involving Navy) or gross malfeasance in the disappearance of or removal of access to my FOIAonline records and whether this issue is widespread among other participating agencies.

There is intense interest/angst in matters surrounding FOIAonline and its decommissioning, so much so that Laura Johnson was added last minute to brief the FOIA Advisory Committee on March 2, 2023. At that meeting:
"Mr. Howard asked two questions: first, how records are being transferred, and second, how EPA is ensuring that no data is lost or becomes unavailable to the public."
Despite assurances from EPA that everything was fine, I discovered and days later reported to Ms. Johnson and the FOIA Advisory Committee that seventy-one (71) of my two hundred sixty-two (262) Navy FOIA cases from 2017 forward have been deleted from FOIAonline or I have been denied access to them.
Having received no reply as to what happened, I notified my 1,200 plus FOIA distribution list of media, Chief FOIA Officers, FOIA professionals, FOIA/Open records Advocacy groups and interested parties of the unresolved debacle. There is a thirst among the FOIA community to know exactly what happened.
Note that EPA's FOIA regulation, 40 CFR Subpart A—Procedures for Disclosure of Records Under the Freedom of Information Act § 2.106 Preservation of records is in violation of law citing General Records Schedule 14, which was superseded by NARA Transmittal 29 of December 2017. This alone is of great public interest.
Additionally, I am an individual/organization primarily engaged in the dissemination of information who can prove the information is urgently needed to inform the public concerning some actual or alleged government activity. My primary activity is informing the public, which I do through a variety of means, such as open meeting public comments, blogs, etc., and I may from time to time collaborate on articles. There is extraordinary, off the charts interest in this matter. I make oral public comments at every open FOAI meeting. I have an active email distribution list of Chief FOIA Officers, FOIA professionals, FOIA advocacy groups media and interested parties. I also communicate regularly with members of Congress.
• See examples below.

- Public Comments Submitted to the Chief FOIA Officers Council https://www.archives.gov/ogis/about-ogis/chief-foia-officers-council

- Public Comments Submitted to the FOIA Advisory Committee | National Archives https://www.archives.gov/ogis/foia-advisory-committee/public-comments

- OGIS Annual Open Meeting Public comments https://www.archives.gov/ogis/outreach-events/annual-open-meeting

- Document Cloud. Org https://www.documentcloud.org/app?q=%2Buser%3Arobert-hammond-106693%20 (e.g., "Sample FOIA Template With Recent Developments to Combat Agency Misconduct.")
EPA must evaluate all my public comments along with my methods of dissemination and state that it has done so in any denial of expedited processing.
• The subject of the requested records concerns government operations and activities
• The disclosure is likely to contribute to understanding of these operations or activities
• Disclosure will likely result in public understanding of the subject
• The contribution to public understanding of government operations or activities will be significant
• The requester has no commercial interest
• The public interest in disclosure is great.
• I use "editorial skills to turn the raw materials into a distinct work."
• My work is distributed to an audience with active distribution.

- Expedited Processing Disposition Reason: Request does not meet criteria

Message

From: Shenefiel, Pam [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5DFA0717290C473983ECD22C0E16066E-SHENEFIEL, PAM]
Sent: 5/24/2023 3:11:09 PM
To: Waits, Matthew [Waits.Matthew@epa.gov]
Subject: RE: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Thanks.

From: Waits, Matthew <Waits.Matthew@epa.gov>
Sent: Wednesday, May 24, 2023 11:07 AM
To: Shenefiel, Pam <shenefiel.pam@epa.gov>
Subject: FW: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

-

From: Epp, Timothy <Epp.Timothy@epa.gov>
Sent: Wednesday, May 24, 2023 6:47 AM
To: Edwards, Jeff <Edwards.Jeff@epa.gov>; Thompson, BrianK <Thompson.BrianK@epa.gov>; Bossard, Justin <bossard.justin@epa.gov>
Cc: Weth, Patricia <Weth.Patricia@epa.gov>; Hill, Kevin W. <hill.kevinw@epa.gov>
Subject: FW: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Hi Jeff, Justin and Brian,

Mr. Robert Hammond submitted a FOIA request to EPA for records pertaining to FOIAonline and help desk engagement with respect to an alleged loss of Mr. Hammond's FOIA requests submitted to the Department of the Navy. He also requested expedited processing of his request, which the NFO denied, and he has now reached out seeking FOIA Public Liaison assistance pertaining to his disputes concerning the denial of expedited processing. Below is a copy of my initial response to him in which I seek to schedule a meeting next week to talk with him.

I'd welcome any information that you can provide regarding the processing of his FOIA request, such as likely length of time it will take your office and regarding how a grant of expedited processing would impact OMS' ability to equitably process other FOIA requests that were submitted ahead of Mr. Hammond's request.

I'm hoping to schedule a meeting with Mr. Hammond mid-week next week. So your reply this week or by COB Tuesday next week would be greatly appreciated. Please let me know if we should schedule a meeting to talk about this engagement, rather than communicate solely by email.

Thanks,
Tim

Timothy R. Epp
Associate General Counsel | National FOIA Office
U.S. Environmental Protection Agency | Office of General Counsel
1200 Pennsylvania Avenue, N.W. (MC 2310A)
Washington, D.C. 20460 | WJCN 7309B
Phone (202) 564-2830 | epp.timothy@epa.gov

National FOIA Office
EPA Office of General Counsel

From: Epp, Timothy
Sent: Wednesday, May 24, 2023 6:27 AM
To: perseverance2013@[redacted]
Cc: FOIA HQ <FOIA_HQ@epa.gov>
Subject: FW: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Dear Mr. Hammond,

Thank you for reaching out and seeking assistance from EPA's FOIA Public Liaison. As you know, the FOIA Public Liaison was created by the statute to serve as "a listening ear" for FOIA requesters, and to work to resolve FOIA disputes. We appreciate your reaching out to raise your concern and seek a resolution outside of litigation.

As I understand, your concern centers on EPA's denial of your request for expedited processing of request number EPA-2023-004302. I would like to schedule a time to talk with you in order to better understand your concerns and to begin searching for ways to resolve the disputes. Before meeting with you, I plan to meet with EPA's FOIA processors who issue the expedited processing decisions as well as to reach out to the office that has been assigned the responsibility to respond to your FOIA request. In talking with them, I will seek to identify any new or updated status information that I can report to you during our first conversation as well as to make sure that I fully understand the rationale for denying your expedited processing request. Gathering this background information is also intended to help me listen to your concerns with a more informed ear for identifying possible gaps in communication or misunderstandings, to be able to focus my attention better on the key disputes, and to help us look for options for resolution in our first conversation.

Could you provide me several dates and times when you would be available next week to talk on the phone or have a Teams meeting?

In addition, please consider providing any additional information you have that might support your assertion that release of the records you seek should be expedited. And, help ensure that I am gathering the most relevant information, am I correct that you have not requested expedited processing based on a claim that lack of expedited treatment could reasonably be expected to pose a threat to someone's life or physical safety? Instead, your application for expedited processing is based on a claim of an urgency to inform the public about an actual or alleged Federal Government activity where the request is made by a person who is primarily engaged in disseminating information, correct? While considering whether you want to provide any additional information to support your expedited processing request, you may want to review the Department of Justice's long-standing guidance on expedited processing, which may be found here: https://www.justice.gov/oip/blog/foia-update-oip-guidance-when-expedite-foia-requests As you will see from the guidance and as you may already know, the Department of Justice's guidance recognizes that in considering granting expedited processing, agencies must consider the interests of FOIA requesters who submitted requests earlier than the requester seeking expedited processing. DOJ states: "Because a decision to take a FOIA request out of turn necessarily entails further delay for other requesters waiting patiently in line, simple fairness demands that it be made only upon careful scrutiny of truly exceptional circumstances." So, I would welcome hearing any information you have that would help inform whether the circumstances you have identified are truly exceptional to warrant taking your request ahead of other requests for EPA records.

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National FOIA Office
EPA Office of General Counsel

From: perseverance2013@[redacted] <perseverance2013@[redacted]
Sent: Monday, May 22, 2023 5:57 PM
To: FOIA HQ <FOIA_HQ@epa.gov>
Cc: perseverance2013@[redacted]
Subject: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

I am seeking immediate FPL Dispute Resolution regarding the insufficient expedited processing denial.

Your basis for denial is legally insufficient:

- Expedited Processing Disposition Reason: Request does not meet criteria

In that this is an expedited FOIA request, immediate response is required.

Robert Hammond

From: admin@foiaonline.gov <admin@foiaonline.gov>
Sent: Friday, May 19, 2023 12:36 PM
To: perseverance2013@[redacted]
Subject: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

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- Request Description:

Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@[redacted]

See PDF.

1. All records from March 5, 2023 to present related to FOIAonline Help Deck Ticket "FOH-123563" Cases missing from his account [perseverance2013@[redacted] including but not limited to:
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3. All records of communications with and documents provided by Robert Hammond, perseverance2013@[redacted]
4. All records of communications with - and documents provided by - Robert Hammond, foiacompliance@[redacted], FOIAcomplaince@[redacted], DOD.FOIA.PA@[redacted], confirmed receipts, forwarding of emails and responses to them.
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a. Some Department of Navy addressees may have been 'christopher.a.julka@navy.mil'; DONFOIA-PA@navy.mil
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REQUESTED FORMAT.

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In all correspondence, return a copy of my FOIA request, cite my personal request number, and cite records sought.

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Between January 2, 2023 and February 3, 2023 (one month) seventy-one (71) of my two hundred sixty-two (262) Navy FOIA cases from 2017 forward have been deleted from FOIAonline or I have been denied access to them. This is extremely serious. EPA must determine who did this, how it happened, and if this is unique to me. See "FOIAonline Compare January 2, 2023 to February 3, 2023 Missing Cases Navy" provided by email.
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Despite assurances from EPA that everything was fine, I discovered and days later reported to Ms. Johnson and the FOIA Advisory Committee that seventy-one (71) of my two hundred sixty-two (262) Navy FOIA cases from 2017 forward have been deleted from FOIAonline or I have been denied access to them.
Having received no reply as to what happened, I notified my 1,200 plus FOIA distribution list of media, Chief FOIA Officers, FOIA professionals, FOIA/Open records Advocacy groups and interested parties of the unresolved debacle. There is a thirst among the FOIA community to know exactly what happened.
Note that EPA's FOIA regulation, 40 CFR Subpart A—Procedures for Disclosure of Records Under the Freedom of Information Act § 2.106 Preservation of records is in violation of law citing General Records Schedule 14, which was superseded by NARA Transmittal 29 of December 2017. This alone is of great public interest.
Additionally, I am an individual/organization primarily engaged in the dissemination of information who can prove the information is urgently needed to inform the public concerning some actual or alleged government activity. My primary activity is informing the public, which I do through a variety of means, such as open meeting public comments, blogs, etc., and I may from time to time collaborate on articles. There is extraordinary, off the charts interest in this matter. I make oral public comments at every open FOAI meeting. I have an active email distribution list of Chief FOIA Officers, FOIA professionals, FOIA advocacy groups media and interested parties. I also communicate regularly with members of Congress.
• See examples below.

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- Public Comments Submitted to the FOIA Advisory Committee | National Archives https://www.archives.gov/ogis/foia-advisory-committee/public-comments

- OGIS Annual Open Meeting Public comments https://www.archives.gov/ogis/outreach-events/annual-open-meeting

- Document Cloud. Org https://www.documentcloud.org/app?q=%2Buser%3Arobert-hammond-106693%20 (e.g., "Sample FOIA Template With Recent Developments to Combat Agency Misconduct.")
EPA must evaluate all my public comments along with my methods of dissemination and state that it has done so in any denial of expedited processing.
• The subject of the requested records concerns government operations and activities
• The disclosure is likely to contribute to understanding of these operations or activities
• Disclosure will likely result in public understanding of the subject
• The contribution to public understanding of government operations or activities will be significant
• The requester has no commercial interest
• The public interest in disclosure is great.
• I use "editorial skills to turn the raw materials into a distinct work."
• My work is distributed to an audience with active distribution.

- Expedited Processing Disposition Reason: Request does not meet criteria

Message

From: Thompson, BrianK [Thompson.BrianK@epa.gov]
Sent: 6/13/2023 12:10:34 PM
To: Shenefiel, Pam [shenefiel.pam@epa.gov]; Waits, Matthew [Waits.Matthew@epa.gov]
Subject: RE: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Pam,

I do not know anything about an extension for this, one was not requested by me or the Division. We plan on having the documents for OEIP review today, and pending that review we should be able to provide the full response by the end of the week. I am not sure what the due date for this matter is, but we've been working expeditiously on it.

-Brian

Brian Thompson | Director
eDiscovery Division
Office of Enterprise Information Programs (OEIP)
Office of Mission Support (OMS)
U.S. Environmental Protection Agency
phone: (202) 564-4256

From: Shenefiel, Pam <shenefiel.pam@epa.gov>
Sent: Tuesday, June 13, 2023 8:08 AM
To: Waits, Matthew <Waits.Matthew@epa.gov>; Thompson, BrianK <Thompson.BrianK@epa.gov>
Subject: FW: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302
Importance: High

Brian and Matthew –

Do you know anything about this request for an extension. See below for details.

From: Epp, Timothy <Epp.Timothy@epa.gov>
Sent: Tuesday, June 13, 2023 7:55 AM
To: Shenefiel, Pam <shenefiel.pam@epa.gov>; Bossard, Justin <bossard.justin@epa.gov>; Waits, Matthew <Waits.Matthew@epa.gov>; Hill, Kevin W. <hill.kevinw@epa.gov>
Subject: FW: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302
Importance: High

Hi Justin, Matthew, Pam, and Kev,

The file for the FOIA request at issue in the below emails (2023-004302) shows that unusual circumstances was selected for a due date extension. However, the file contains no correspondence to the requester giving the statutorily required notice. Is it possible to reconstruct who entered the due date extension? And, is it possible that there was an email communication to the requester that has not been uploaded into FOIAonline? (Kev, I included you because I cannot tell whether the extension was made in intake.)

By my count, we are still within the original 20 working days – so, we could still get a letter out to this requester telling him that we've extended the due date, the reasons for it, and giving the opportunity to negotiate a narrower request scope.

Tim

Timothy R. Epp
Associate General Counsel | National FOIA Office
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1200 Pennsylvania Avenue, N.W. (MC 2310A)
Washington, D.C. 20460 | WJCN 7309B
Phone (202) 564-2830 | epp.timothy@epa.gov

National FOIA Office
EPA Office of General Counsel

From: Epp, Timothy
Sent: Tuesday, June 13, 2023 7:35 AM
To: Edwards, Jeff <Edwards.Jeff@epa.gov>; Thompson, BrianK <Thompson.BrianK@epa.gov>; Bossard, Justin <bossard.justin@epa.gov>; Shenefiel, Pam <shenefiel.pam@epa.gov>
Cc: Weth, Patricia <Weth.Patricia@epa.gov>; Hill, Kevin W. <hill.kevinw@epa.gov>
Subject: RE: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Hi Jeff, Brian, Justin, and Pam,

Can you provide any updates on the processing status of 2023-004302?

After going silent for the last three weeks, Mr. Hammond has finally sent an email this morning and I'd like to know what you think the processing time will be on this one.

Thanks much,
Tim

Timothy R. Epp
Associate General Counsel | National FOIA Office
U.S. Environmental Protection Agency | Office of General Counsel
1200 Pennsylvania Avenue, N.W. (MC 2310A)
Washington, D.C. 20460 | WJCN 7309B
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National FOIA Office
EPA Office of General Counsel

From: Epp, Timothy
Sent: Wednesday, May 24, 2023 6:47 AM
To: Edwards, Jeff <Edwards.Jeff@epa.gov>; Thompson, BrianK <Thompson.BrianK@epa.gov>; Bossard, Justin <bossard.justin@epa.gov>
Cc: Weth, Patricia <Weth.Patricia@epa.gov>; Hill, Kevin W. <hill.kevinw@epa.gov>
Subject: FW: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Hi Jeff, Justin and Brian,

Mr. Robert Hammond submitted a FOIA request to EPA for records pertaining to FOIAonline and help desk engagement with respect to an alleged loss of Mr. Hammond's FOIA requests submitted to the Department of the Navy. He also requested expedited processing of his request, which the NFO denied, and he has now reached out seeking FOIA Public Liaison assistance pertaining to his disputes concerning the denial of expedited processing. Below is a copy of my initial response to him in which I seek to schedule a meeting next week to talk with him.

I'd welcome any information that you can provide regarding the processing of his FOIA request, such as likely length of time it will take your office and regarding how a grant of expedited processing would impact OMS' ability to equitably process other FOIA requests that were submitted ahead of Mr. Hammond's request.

I'm hoping to schedule a meeting with Mr. Hammond mid-week next week. So your reply this week or by COB Tuesday next week would be greatly appreciated. Please let me know if we should schedule a meeting to talk about this engagement, rather than communicate solely by email.

Thanks,
Tim

Timothy R. Epp
Associate General Counsel | National FOIA Office
U.S. Environmental Protection Agency | Office of General Counsel
1200 Pennsylvania Avenue, N.W. (MC 2310A)
Washington, D.C. 20460 | WJCN 7309B
Phone (202) 564-2830 | epp.timothy@epa.gov

National FOIA Office
EPA Office of General Counsel

From: Epp, Timothy
Sent: Wednesday, May 24, 2023 6:27 AM
To: perseverance2013@ Ex. 6 Personal Privacy (PP)
Cc: FOIA HQ <FOIA_HQ@epa.gov>
Subject: FW: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Dear Mr. Hammond,

Thank you for reaching out and seeking assistance from EPA's FOIA Public Liaison. As you know, the FOIA Public Liaison was created by the statute to serve as "a listening ear" for FOIA requesters, and to work to resolve FOIA disputes. We appreciate your reaching out to raise your concern and seek a resolution outside of litigation.

As I understand, your concern centers on EPA's denial of your request for expedited processing of request number EPA-2023-004302. I would like to schedule a time to talk with you in order to better understand your concerns and to begin searching for ways to resolve the disputes. Before meeting with you, I plan to meet with EPA's FOIA processors who issue the expedited processing decisions as well as to reach out to the office that has been assigned the responsibility to respond to your FOIA request. In talking with them, I will seek to identify any new or updated status information that I can report to you during our first conversation as well as to make sure that I fully understand the rationale for denying your expedited processing request. Gathering this background information is also intended to help me listen to your concerns with a more informed ear for identifying possible gaps in communication or misunderstandings, to be able to focus my attention better on the key disputes, and to help us look for options for resolution in our first conversation.

Could you provide me several dates and times when you would be available next week to talk on the phone or have a Teams meeting?

In addition, please consider providing any additional information you have that might support your assertion that release of the records you seek should be expedited. And, help ensure that I am gathering the most relevant information, am I correct that you have not requested expedited processing based on a claim that lack of expedited treatment could reasonably be expected to pose a threat to someone's life or physical safety? Instead, your application for expedited processing is based on a claim of an urgency to inform the public about an actual or alleged Federal Government activity where the request is made by a person who is primarily engaged in disseminating information, correct? While considering whether you want to provide any additional information to support your expedited processing request, you may want to review the Department of Justice's long-standing guidance on expedited processing, which may be found here: https://www.justice.gov/oip/blog/foia-update-oip-guidance-when-expedite-foia-requests As you will see from the guidance and as you may already know, the Department of Justice's guidance recognizes that in considering granting expedited processing, agencies must consider the interests of FOIA requesters who submitted requests earlier than the requester seeking expedited processing. DOJ states: "Because a decision to take a FOIA request out of turn necessarily entails further delay for other requesters waiting patiently in line, simple fairness demands that it be made only upon careful scrutiny of truly exceptional circumstances." So, I would welcome hearing any information you have that would help inform whether the circumstances you have identified are truly exceptional to warrant taking your request ahead of other requests for EPA records.

Best regards,
Tim

Timothy R. Epp
Associate General Counsel | National FOIA Office
U.S. Environmental Protection Agency | Office of General Counsel
1200 Pennsylvania Avenue, N.W. (MC 2310A)
Washington, D.C. 20460 | WJCN 7309B
Phone (202) 564-2830 | epp.timothy@epa.gov

National FOIA Office
EPA Office of General Counsel

From: perseverance2013@[Ex. 6 Personal Privacy (PP)] <perseverance2013@[Ex. 6 Personal Privacy (PP)]>
Sent: Monday, May 22, 2023 5:57 PM
To: FOIA HQ <FOIA_HQ@epa.gov>
Cc: perseverance2013@[Ex. 6 Personal Privacy (PP)]
Subject: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

I am seeking immediate FPL Dispute Resolution regarding the insufficient expedited processing denial.

Your basis for denial is legally insufficient:

- Expedited Processing Disposition Reason: Request does not meet criteria

In that this is an expedited FOIA request, immediate response is required.

Robert Hammond

From: admin@foiaonline.gov <admin@foiaonline.gov>
Sent: Friday, May 19, 2023 12:36 PM

To: perseverance2013@Ex. 6 Personal Privacy (PP)
Subject: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Your request for Expedited Processing for the FOIA request EPA-2023-004302 has been denied. Additional details for this request are as follows:

- Request Created on: 05/17/2023
- Request Description:

Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@Ex. 6 Personal Privacy (PP)

See PDF.

1. All records from March 5, 2023 to present related to FOIAonline Help Deck Ticket "FOH-123563" Cases missing from his account [perseverance2013@Ex. 6 Personal Privacy (PP) including but not limited to:
2. All internal help desk case records conducting analysis and communicating with any party by email, text, or other means. One such email is FOIA Online HD jira@cnsshelpdesk.atlassian.net which provides the email construct for other helpdesk personnel (@cnsshelpdesk.atlassian.net).
3. All records of communications with and documents provided by Robert Hammond, perseverance2013@Ex. 6 Personal Privacy (PP)
4. All records of communications with - and documents provided by - Robert Hammond, foiacompliance@Ex. 6 Personal Privacy (PP) FOIAcomplaince@Ex. 6 Personal Privacy (PP), DOD.FOIA.PA@Ex. 6 Personal Privacy (PP); confirmed receipts, forwarding of emails and responses to them.
5. All records of communications by and with Johnson, Laura-S Johnson.Laura-S@epa.gov, including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
a. Some Department of Navy addressees may have been 'christopher.a.julka@navy.mil'; DONFOIA-PA@navy.mil
6. All records of communications by and with Thompson, BrianK , including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
7. All records of communications by and with 'Edwards, Jeff' Edwards.Jeff@epa.gov including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
8. All records of communications with any FOIAonline participating partner regarding Help Deck Ticket FOH-12356 or nay records missing from their accounts.
9. Closeout records of case Help Deck Ticket FOH-12356.
10. I am also seeking a copy of this FOIA Request, which is an Agency record subject to FOIA that exists and is in the Agency's possession at the time of my FOIA request. This record is a responsive record integral to my Request. Release of the Agency's copy is not optional.

REQUESTED FORMAT.

I am also seeking records in their native format (MS. Outlook, PowerPoint, Excel, ADA accessible PDF files or other mutually agreed by return email with: (1) a signed and dated cover letter (citing my personally assigned requester control number); (2) with record page count for all records released records (3) a copy of this request in your reply. I seek records via email in PDF format with an imbedded copy of my requests to (1) impede the agency from not addressing the FOIA Request; (2) impede the Agency from not providing the documents stated in the Agency's letter reply, and (3) make it obvious in any subsequent review what the Agency has or has not done.

Further, I request that these records be sent in any digital formats in which they exist (such as PDF and Excel). Under the terms of the E-FOIA Amendments of 1996, Section 5, if a document exists in electronic format, it must be released in that format upon request.

Each record must be provided as a distinct record in their native format. Emails should be provided as MS Outlook files, if not encrypted or otherwise unable to be open ed by me. Only if this is not possible, emails should be produced with their embedded hyperlinked attachments by using the "File => Save as Adobe PDF" command within Outlook or by other

software that produces the same result.

I am also seeking the "Description Available to the Public" field I FOIAonline be set to yes and that all records be released to and viewable in the application by the general Public. The release type must be set to "Unredacted – Releasable to the General Public: Will be available to the general public," or to "Redacted – Releasable to the General Public: Will be available to the general public."

This request is distinctly separate from any other. Please do not combine this request with any other request in your reply. I am requesting that each element of the records sought be specifically addressed in the reply.

In all correspondence, return a copy of my FOIA request, cite my personal request number, and cite records sought.

- Expedited Processing Original Justification: EXPEDITED PROCESSING.

I am seeking expedited processing due to:
"an urgency to inform the public about an actual or alleged Federal government activity, if the information is requested by a person primarily engaged in disseminating information to the public."
The subject is of widespread and exceptional interest and the information sought involves possible questions about the government's integrity that affect public confidence.
Between January 2, 2023 and February 3, 2023 (one month) seventy-one (71) of my two hundred sixty-two (262) Navy FOIA cases from 2017 forward have been deleted from FOIAonline or I have been denied access to them. This is extremely serious. EPA must determine who did this, how it happened, and if this is unique to me. See "FOIAonline Compare January 2, 2023 to February 3, 2023 Missing Cases Navy" provided by email.
Either there was intentional misconduct (possibly involving Navy) or gross malfeasance in the disappearance of or removal of access to my FOIAonline records and whether this issue is widespread among other participating agencies.
There is intense interest/angst in matters surrounding FOIAonline and its decommissioning, so much so that Laura Johnson was added last minute to brief the FOIA Advisory Committee on March 2, 2023. At that meeting:
"Mr. Howard asked two questions: first, how records are being transferred, and second, how EPA is ensuring that no data is lost or becomes unavailable to the public."
Despite assurances from EPA that everything was fine, I discovered and days later reported to Ms. Johnson and the FOIA Advisory Committee that seventy-one (71) of my two hundred sixty-two (262) Navy FOIA cases from 2017 forward have been deleted from FOIAonline or I have been denied access to them.
Having received no reply as to what happened, I notified my 1,200 plus FOIA distribution list of media, Chief FOIA Officers, FOIA professionals, FOIA/Open records Advocacy groups and interested parties of the unresolved debacle.
There is a thirst among the FOIA community to know exactly what happened.
Note that EPA's FOIA regulation, 40 CFR Subpart A—Procedures for Disclosure of Records Under the Freedom of Information Act § 2.106 Preservation of records is in violation of law citing General Records Schedule 14, which was superseded by NARA Transmittal 29 of December 2017. This alone is of great public interest.
Additionally, I am an individual/organization primarily engaged in the dissemination of information who can prove the information is urgently needed to inform the public concerning some actual or alleged government activity. My primary activity is informing the public, which I do through a variety of means, such as open meeting public comments, blogs, etc., and I may from time to time collaborate on articles. There is extraordinary, off the charts interest in this matter. I make oral public comments at every open FOAI meeting. I have an active email distribution list of Chief FOIA Officers, FOIA professionals, FOIA advocacy groups media and interested parties. I also communicate regularly with members of Congress.

- See examples below.

- Public Comments Submitted to the Chief FOIA Officers Council https://www.archives.gov/ogis/about-ogis/chief-foia-officers-council

- Public Comments Submitted to the FOIA Advisory Committee | National Archives https://www.archives.gov/ogis/foia-advisory-committee/public-comments

- OGIS Annual Open Meeting Public comments https://www.archives.gov/ogis/outreach-events/annual-open-meeting

- Document Cloud. Org https://www.documentcloud.org/app?q=%2Buser%3Arobert-hammond-106693%20 (e.g., "Sample FOIA Template With Recent Developments to Combat Agency Misconduct.")

EPA must evaluate all my public comments along with my methods of dissemination and state that it has done so in any denial of expedited processing.

- The subject of the requested records concerns government operations and activities
- The disclosure is likely to contribute to understanding of these operations or activities
- Disclosure will likely result in public understanding of the subject
- The contribution to public understanding of government operations or activities will be significant
- The requester has no commercial interest
- The public interest in disclosure is great.
- I use "editorial skills to turn the raw materials into a distinct work."
- My work is distributed to an audience with active distribution.
- Expedited Processing Disposition Reason: Request does not meet criteria

Message

From: Thompson, BrianK [Thompson.BrianK@epa.gov]
Sent: 5/31/2023 1:26:12 PM
To: Shenefiel, Pam [shenefiel.pam@epa.gov]
Subject: FW: FOIA Assignment for EPA-2023-004302

Brian Thompson | Director
eDiscovery Division
Office of Enterprise Information Programs (OEIP)
Office of Mission Support (OMS)
U.S. Environmental Protection Agency
phone: (202) 564-4256

From: Waits, Matthew <Waits.Matthew@epa.gov>
Sent: Wednesday, May 24, 2023 8:37 AM
To: Thompson, BrianK <Thompson.BrianK@epa.gov>; Shenefiel, Pam <shenefiel.pam@epa.gov>
Cc: Bossard, Justin <bossard.justin@epa.gov>; Elkassabany, Sara <Elkassabany.Sara@epa.gov>
Subject: RE: FOIA Assignment for EPA-2023-004302

Good morning,

Forgive me, it slipped me yesterday that I must assign this request to our OEIP FOIA contact, Pam Shenefiel, Who I am looping in here.

This request is not selected for awareness review at the moment.

Please let me know if there any administrative processes you will need help with.

Matthew Waits
U.S. Environmental Protection Agency - OMS
Office of Resources and Business Operations
FOIA | CI
Office: 202-564-2488
Waits.Matthew@epa.gov

From: Thompson, BrianK <Thompson.BrianK@epa.gov>
Sent: Wednesday, May 24, 2023 8:12 AM
To: Waits, Matthew <Waits.Matthew@epa.gov>
Cc: Bossard, Justin <bossard.justin@epa.gov>; Elkassabany, Sara <Elkassabany.Sara@epa.gov>
Subject: RE: FOIA Assignment for EPA-2023-004302

Matthew –

You can assign it to me or Laura Johnson within OEIP-EDD.

Also, can you tell me if this FOIA has been flagged for awareness review or expedited processing?

Thanks
Brian

Brian Thompson | Director
eDiscovery Division
Office of Enterprise Information Programs (OEIP)
Office of Mission Support (OMS)
U.S. Environmental Protection Agency
phone: (202) 564-4256

From: Waits, Matthew <Waits.Matthew@epa.gov>
Sent: Tuesday, May 23, 2023 9:23 AM
To: Thompson, BrianK <Thompson.BrianK@epa.gov>
Cc: Bossard, Justin <bossard.justin@epa.gov>; Elkassabany, Sara <Elkassabany.Sara@epa.gov>
Subject: RE: FOIA Assignment for EPA-2023-004302

Yes, that sounds good.

I cannot assign the request specifically to OEIP in FOIAonline. Is there an individual who has access to the system I can assign this request to?

From: Thompson, BrianK <Thompson.BrianK@epa.gov>
Sent: Tuesday, May 23, 2023 7:40 AM
To: Waits, Matthew <Waits.Matthew@epa.gov>
Cc: Bossard, Justin <bossard.justin@epa.gov>; Elkassabany, Sara <Elkassabany.Sara@epa.gov>
Subject: RE: FOIA Assignment for EPA-2023-004302

Matthew –

Are you assigning this case to OEIP-EDD? If so, we can take it from here.

-Brian

Brian Thompson | Director
eDiscovery Division
Office of Enterprise Information Programs (OEIP)
Office of Mission Support (OMS)
U.S. Environmental Protection Agency
phone: (202) 564-4256

From: Waits, Matthew <Waits.Matthew@epa.gov>
Sent: Monday, May 22, 2023 5:12 PM
To: Thompson, BrianK <Thompson.BrianK@epa.gov>
Cc: Bossard, Justin <bossard.justin@epa.gov>; Elkassabany, Sara <Elkassabany.Sara@epa.gov>
Subject: FW: FOIA Assignment for EPA-2023-004302

Good afternoon Brian,

I am Matthew Waits, a member of the OMS FOIA team. We have received the following request. I have made some adjustments to improve readability here.

I am emailing to ask about the capabilities of OMS processing this request. Are we able to respond to each of the points in this request?

Thank you,

Matthew Waits
U.S. Environmental Protection Agency - OMS
Office of Resources and Business Operations
FOIA | CI
Office: 202-564-2488
Waits.Matthew@epa.gov

From: admin@foiaonline.gov <admin@foiaonline.gov>
Sent: Thursday, May 18, 2023 4:58 PM
To: OMS_FOIA_Team <OMS_FOIA_Team@epa.gov>
Subject: FOIA Assignment for EPA-2023-004302

Your office has been assigned to the FOIA request - EPA-2023-004302. Once logged into FOIAonline, you can navigate to this case by following this link: View. Additional details for this item are as follows:

- Tracking Number: EPA-2023-004302
- Requester: Mr. robert hammond
- Request Track: Simple
- Submitted Date: 05/17/2023
- Due Date: 07/03/2023
- Description:
- Short Description: N/A
- Description:

Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@ Ex. 6 Personal Privacy (PP)

- All records from March 5, 2023 to present related to FOIAonline Help Deck Ticket "FOH-123563" Cases missing from his account [perseverance2013@ Ex. 6 Personal Privacy (PP) including but not limited to:

○ All internal help desk case records conducting analysis and communicating with any party by email, text, or other means. One such email is FOIA Online HD jira@cnsshelpdesk.atlassian.net which provides the email construct for other helpdesk personnel (@cnsshelpdesk.atlassian.net).

○ All records of communications with and documents provided by Robert Hammond, perseverance2013@ Ex. 6 Personal Privacy (PP)

○ All records of communications with - and documents provided by - Robert Hammond, foiacompliance@ Ex. 6 Personal Privacy (PP), FOIAcomplaince@ Ex. 6 Personal Privacy (PP) DOD.FOIA.PA@ Ex. 6 Personal Privacy (PP) confirmed receipts, forwarding of emails and responses to them.

○ All records of communications by and with Johnson, Laura-S Johnson.Laura-S@epa.gov, including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.

▪ Some Department of Navy addressees may have been 'christopher.a.julka@navy.mil'; DONFOIA-PA@navy.mil

○ All records of communications by and with Thompson, BrianK , including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.

○ All records of communications by and with 'Edwards, Jeff' Edwards.Jeff@epa.gov including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.

○ All records of communications with any FOIAonline participating partner regarding Help Deck Ticket FOH-12356 or nay records missing from their accounts.

- Closeout records of case Help Deck Ticket FOH-12356.
- I am also seeking a copy of this FOIA Request, which is an Agency record subject to FOIA that exists and is in the Agency's possession at the time of my FOIA request. This record is a responsive record integral to my Request. Release of the Agency's copy is not optional.

REQUESTED FORMAT.

I am also seeking records in their native format (MS. Outlook, PowerPoint, Excel, ADA accessible PDF files or other mutually agreed by return email with: (1) a signed and dated cover letter (citing my personally assigned requester control number); (2) with record page count for all records released records (3) a copy of this request in your reply. I seek records via email in PDF format with an imbedded copy of my requests to (1) impede the agency from not addressing the FOIA Request; (2) impede the Agency from not providing the documents stated in the Agency's letter reply, and (3) make it obvious in any subsequent review what the Agency has or has not done.

Further, I request that these records be sent in any digital formats in which they exist (such as PDF and Excel). Under the terms of the E-FOIA Amendments of 1996, Section 5, if a document exists in electronic format, it must be released in that format upon request.

Each record must be provided as a distinct record in their native format. Emails should be provided as MS Outlook files, if not encrypted or otherwise unable to be open ed by me. Only if this is not possible, emails should be produced with their embedded hyperlinked attachments by using the "File => Save as Adobe PDF" command within Outlook or by other software that produces the same result.

I am also seeking the "Description Available to the Public" field I FOIAonline be set to yes and that all records be released to and viewable in the application by the general Public. The release type must be set to "Unredacted – Releasable to the General Public: Will be available to the general public," or to "Redacted – Releasable to the General Public: Will be available to the general public."

This request is distinctly separate from any other. Please do not combine this request with any other request in your reply. I am requesting that each element of the records sought be specifically addressed in the reply.

In all correspondence, return a copy of my FOIA request, cite my personal request number, and cite records sought.

- Assigned Comments: Assigned to OMS

Message

From: admin@foiaonline.gov [admin@foiaonline.gov]
Sent: 5/24/2023 4:09:42 PM
To: Shenefiel, Pam [shenefiel.pam@epa.gov]
Subject: FOIA Task Completed for Fee Waiver

The FOIA Task - Fee Waiver was completed. Additional details for this task are as follows:

Task Details:

- Tracking Number: EPA-2023-004302
- Task Type: Fee Waiver
- Task Description:

Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@ Ex. 6 Personal Privacy (PP)

See PDF.

1. All records from March 5, 2023 to present related to FOIAonline Help Deck Ticket "FOH-123563" Cases missing from his account [perseverance2013@ Ex. 6 Personal Privacy (PP) including but not limited to:
2. All internal help desk case records conducting analysis and communicating with any party by email, text, or other means. One such email is FOIA Online HD jira@cnsshelpdesk.atlassian.net which provides the email construct for other helpdesk personnel (@cnsshelpdesk.atlassian.net).
3. All records of communications with and documents provided by Robert Hammond, perseverance2013@ Ex. 6 Personal Privacy (PP)
4. All records of communications with - and documents provided by - Robert Hammond, foiacompliance@ Ex. 6 Personal Privacy (PP), FOIAcomplaince@ Ex. 6 Personal Privacy (PP) DOD.FOIA.PA@ Ex. 6 Personal Privacy (PP), confirmed receipts, forwarding of emails and responses to them.
5. All records of communications by and with Johnson, Laura-S Johnson.Laura-S@epa.gov, including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
a. Some Department of Navy addressees may have been 'christopher.a.julka@navy.mil'; DONFOIA-PA@navy.mil
6. All records of communications by and with Thompson, BrianK , including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
7. All records of communications by and with 'Edwards, Jeff' Edwards.Jeff@epa.gov including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
8. All records of communications with any FOIAonline participating partner regarding Help Deck Ticket FOH-12356 or nay records missing from their accounts.
9. Closeout records of case Help Deck Ticket FOH-12356.
10. I am also seeking a copy of this FOIA Request, which is an Agency record subject to FOIA that exists and is in the Agency's possession at the time of my FOIA request. This record is a responsive record integral to my Request. Release of the Agency's copy is not optional.

REQUESTED FORMAT.

I am also seeking records in their native format (MS. Outlook, PowerPoint, Excel, ADA accessible PDF files or other mutually agreed by return email with: (1) a signed and dated cover letter (citing my personally assigned requester control number); (2) with record page count for all records released records (3) a copy of this request in your reply. I seek records via email in PDF format with an imbedded copy of my requests to (1) impede the

agency from not addressing the FOIA Request; (2) impede the Agency from not providing the documents stated in the Agency's letter reply, and (3) make it obvious in any subsequent review what the Agency has or has not done.

Further, I request that these records be sent in any digital formats in which they exist (such as PDF and Excel). Under the terms of the E-FOIA Amendments of 1996, Section 5, if a document exists in electronic format, it must be released in that format upon request.

Each record must be provided as a distinct record in their native format. Emails should be provided as MS Outlook files, if not encrypted or otherwise unable to be open ed by me. Only if this is not possible, emails should be produced with their embedded hyperlinked attachments by using the "File => Save as Adobe PDF" command within Outlook or by other software that produces the same result.

I am also seeking the "Description Available to the Public" field I FOIAonline be set to yes and that all records be released to and viewable in the application by the general Public. The release type must be set to "Unredacted – Releasable to the General Public: Will be available to the general public," or to "Redacted – Releasable to the General Public: Will be available to the general public."

This request is distinctly separate from any other. Please do not combine this request with any other request in your reply. I am requesting that each element of the records sought be specifically addressed in the reply.

In all correspondence, return a copy of my FOIA request, cite my personal request number, and cite records sought.

- Assigned To: Roberta L White
- Assigned By: Kevin W Hill
- Created Date: 05/17/2023
- Due Date: 05/17/2023
- Closed Date: 05/24/2023
- Outcome: Deny
- Fee Waiver Disposition Reason: Sent fee waiver determination letter to requester 5/24/2023
- Expedited Processing Disposition Reason: N/A

Message

From: Waits, Matthew [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1DF843EE4F3D4E10A0DE44CE9CDD417F-WAITS, MATT]
Sent: 6/28/2023 8:11:29 PM
To: Johnson, Laura-S [Johnson.Laura-S@epa.gov]
CC: Wells, Jeffrey [Wells.jeffrey@epa.gov]; Perkins, Shannon [perkins.shannon@epa.gov]; Thompson, BrianK [Thompson.BrianK@epa.gov]; Edwards, Jeff [Edwards.Jeff@epa.gov]; Shenefiel, Pam [shenefiel.pam@epa.gov]; Bossard, Justin [bossard.justin@epa.gov]; Armstrong, Marilyn [Armstrong.Marilyn@epa.gov]; Jablonski, Janice [jablonski.janice@epa.gov]; OMS_FOIA_Team [OMS_FOIA_Team@epa.gov]
Subject: RE: FOIA-Advisory Committee. FW: Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@ Ex. 6 Personal Privacy (PP)

Thank you very much for the clarification here. Excuse my confusion.

From: Johnson, Laura-S <Johnson.Laura-S@epa.gov>
Sent: Wednesday, June 28, 2023 3:54 PM
To: Waits, Matthew <Waits.Matthew@epa.gov>
Cc: Wells, Jeffrey <Wells.jeffrey@epa.gov>; Perkins, Shannon <perkins.shannon@epa.gov>; Thompson, BrianK <Thompson.BrianK@epa.gov>; Edwards, Jeff <Edwards.Jeff@epa.gov>; Shenefiel, Pam <shenefiel.pam@epa.gov>; Bossard, Justin <bossard.justin@epa.gov>; Armstrong, Marilyn <Armstrong.Marilyn@epa.gov>; Jablonski, Janice <jablonski.janice@epa.gov>; OMS_FOIA_Team <OMS_FOIA_Team@epa.gov>
Subject: RE: FOIA-Advisory Committee. FW: Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@ Ex. 6 Personal Privacy (PP)

The request we just closed pertains to his "missing records." So the request we closed last week is the one I am referring to. And you answered my question, which is that we sent him a response and the case has since been closed.

Thanks for the reminder not to communicate directly with the requester and that we should allow for it to go through the proper processes. The FOIAonline team is aware of that and we have not communicated directly with him since the onset of his FOIA requests.

Thanks so much for your diligence with this. We appreciate it.

From: Waits, Matthew <Waits.Matthew@epa.gov>
Sent: Wednesday, June 28, 2023 2:21 PM
To: Johnson, Laura-S <Johnson.Laura-S@epa.gov>
Cc: Wells, Jeffrey <Wells.jeffrey@epa.gov>; Perkins, Shannon <perkins.shannon@epa.gov>; Thompson, BrianK <Thompson.BrianK@epa.gov>; Edwards, Jeff <Edwards.Jeff@epa.gov>; Shenefiel, Pam <shenefiel.pam@epa.gov>; Bossard, Justin <bossard.justin@epa.gov>; Armstrong, Marilyn <Armstrong.Marilyn@epa.gov>; Jablonski, Janice <jablonski.janice@epa.gov>; OMS_FOIA_Team <OMS_FOIA_Team@epa.gov>
Subject: RE: FOIA-Advisory Committee. FW: Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@ Ex. 6 Personal Privacy (PP)

Good afternoon Laura,

This request has been closed for about a week at this point. This request was sent for awareness notification (attached. mistakenly subjected as 003720, should be 004302) as we had spoken on June 16, and closed at this time last week.

This seems to be a case where we need to remind the requester of their appeal rights, and going through the proper appeal process. I will consult with NFO in this case for us to have a response for the requester. Because of this, we recommend not responding to the requester.

With regards to his 71 Navy FOIA case records, I am unfamiliar with that request. As far as I am aware, OMS has not processed a FOIA request like that. Perhaps that is with another office? I will need a tracking number to confirm.

Thank you for keeping me in the loop, and we will work on a response as soon as possible.

Matthew Waits
U.S. Environmental Protection Agency - OMS
Office of Resources and Business Operations
FOIA | CI
Waits.Matthew@epa.gov

From: Johnson, Laura-S <Johnson.Laura-S@epa.gov>
Sent: Wednesday, June 28, 2023 1:53 PM
To: Waits, Matthew <Waits.Matthew@epa.gov>
Cc: Wells, Jeffrey <Wells.jeffrey@epa.gov>; Perkins, Shannon <perkins.shannon@epa.gov>; Thompson, BrianK <Thompson.BrianK@epa.gov>; Edwards, Jeff <Edwards.Jeff@epa.gov>; Shenefiel, Pam <shenefiel.pam@epa.gov>
Subject: FW: FOIA-Advisory Committee. FW: Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@ Ex. 6 Personal Privacy (PP)
Importance: High

For the record, I did send out my earlier email to you before Robert Hammond sent this next one! What's interesting is that he used a different email account/address for this recent message. I bring this up because we were wondering if that could have been part of the cause of his "missing cases" issue... that he had more than one email address associated with his FOIAonline account, or that he had multiple windows opened and that he inadvertently could have deleted items... Regardless, he chooses to go the FOIA route for any information from us, which limits our ability to freely communicate with him about the possible causes. The FOIAonline team is ready to assist in any way needed. Please reach out.

From: foiacompliance@ Ex. 6 Personal Privacy (PP) <foiacompliance@ Ex. 6 Personal Privacy (PP) >
Sent: Wednesday, June 28, 2023 1:13 PM
To: 'FOIA Advisory Committee Mailbox' <foia-advisory-committee@nara.gov>
Cc: perseverance2013@ Ex. 6 Personal Privacy (PP); FOIA HQ <FOIA_HQ@epa.gov>; Michael.S.Regan@epa.gov; Michael.Regan@epa.gov; Janet.McCabe@epa.gov; Thompson, BrianK <Thompson.BrianK@epa.gov>; Johnson, Laura-S <Johnson.Laura-S@epa.gov>; jira@cnsshelpdesk.atlassian.net; Edwards, Jeff <Edwards.Jeff@epa.gov>; Joshua.Cooper@cherokee-federal.com; Mohammad.Shaikh@cherokee-federal.com; James.Horner@cherokee-federal.com; keenan.mitchell@cherokee-federal.com; larry.c.johnson@epa.gov; larry.johnson@epa.gov; roberta.l.white@epa.gov; roberta.white@epa.gov
Subject: FOIA-Advisory Committee. FW: Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@ Ex. 6 Personal Privacy (PP)
Importance: High

FOIA Advisory Committee,

After several months EPA has still not provided me any response whatsoever as to what caused the disappearance of 71 of my Navy FOIA case records from FOIAonline, who is responsible, and whether this issue applies to other agencies and requesters; nor has EPA released all records responsive to my related FOIA request.

So, we still do not know how widespread the issue is or what the technical issues are that caused the records disappearance. This may have been an anomaly related only to me – I don't know. I will advise the Committee regarding my findings either way to provide closure to this important issue as FOIAonline decommissions with the potential loss of records.

I am a huge fan of FOIAonline – sorry to see it going away. The decommissioning must be executed properly to ensure that no records are lost.

As to EPA impermissibly charging me fees ($147 for simple electronic records searches) to discourage my subject FOIA request and any future FOIA requests related to this matter, I contend that information regarding the 71 Navy cases that were deleted from my account is of great public interest and interest to the FOIA community at large.

More to follow.

Thank you.

With my great respect,

Robert Hammond

From: perseverance2013@Ex. 6 Personal Privacy (PP) <perseverance2013@Ex. 6 Personal Privacy (PP)>
Sent: Wednesday, June 28, 2023 12:52 PM
To: 'hq.foia@epa.gov' <hq.foia@epa.gov>; 'Michael.S.Regan@epa.gov' <Michael.S.Regan@epa.gov>; 'Michael.Regan@epa.gov' <Michael.Regan@epa.gov>; 'Janet.McCabe@epa.gov' <Janet.McCabe@epa.gov>; 'Thompson.BrianK@epa.gov' <Thompson.BrianK@epa.gov>; 'Johnson.Laura-S@epa.gov' <Johnson.Laura-S@epa.gov>; 'jira@cnsshelpdesk.atlassian.net' <jira@cnsshelpdesk.atlassian.net>; 'Edwards.Jeff@epa.gov' <Edwards.Jeff@epa.gov>; 'Joshua.Cooper@cherokee-federal.com' <Joshua.Cooper@cherokee-federal.com>; 'Mohammad.Shaikh@cherokee-federal.com' <Mohammad.Shaikh@cherokee-federal.com>; 'James.Horner@cherokee-federal.com' <James.Horner@cherokee-federal.com>; 'keenan.mitchell@cherokee-federal.com' <keenan.mitchell@cherokee-federal.com>; 'larry.c.johnson@epa.gov' <larry.c.johnson@epa.gov>; 'larry.johnson@epa.gov' <larry.johnson@epa.gov>; 'roberta.l.white@epa.gov' <roberta.l.white@epa.gov>; 'roberta.white@epa.gov' <roberta.white@epa.gov>
Cc: 'perseverance2013@Ex. 6 Personal Privacy (PP) <perseverance2013@Ex. 6 Personal Privacy (PP)>
Subject: Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@Ex. 6 Personal Privacy (PP)]
Importance: High

Dear Mr. Regan, Ms. Johnson, et. al:

I prefer to work cooperatively with EPA regarding FOIAonline and my FOIA requests; however, EPA is currently pursuing a different course.

Regarding my FOIA request EPA-2023-004302, it appears that EPA is attempting to use fees to discourage FOIA requests of great public interest that are an embarrassment to EPA regarding FOIAonline. I have a passion for FOIA compliance and integrity – this will not rest.

Appeal is pending regarding impermissible fee charges and other matters, including adequacy of search and impermissible withholding records.

EPA failed to meet the statutory time for processing my FOIA request and is therefore not entitled to any fees. Final determination letter and records were not released nor posted to FOIA online until June 23, 2023 (despite the June 14, 2023 date of the determination letter), which is outside the twenty working-day requirement:

"(i) determine within 20 days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any such request whether to comply with such request and shall **immediately** notify the person …"

"(4)(A) (viii) (I) Except as provided in subclause (II), an agency shall not assess any search fees (or in the case of a requester described under clause (ii)(II) of this subparagraph, duplication fees) under this subparagraph if the agency has failed to comply with any time limit under paragraph (6)."

Further EPA states that I have not demonstrated "how your work using FOIA material will specifically be distributed to a reasonably broad audience of persons interested in the subject."

I am an individual/organization primarily engaged in the dissemination of information who can prove the information is urgently needed to inform the public concerning some actual or alleged government activity. My primary activity is informing the public, which I do through a variety of means, such as open meeting public comments, blogs, etc., and I may from time to time collaborate on articles. There is extraordinary, off the charts interest in this matter. I make oral public comments at every open FOIA meeting. I have an active email distribution list of over **1,200 Chief FOIA Officers, FOIA professionals, FOIA advocacy groups media and interested parties**. I also communicate regularly with members of Congress.

EPA gets my emails and sees my public comments postings, including the attached.

Shall I distribute EPA case records and this correspondence, which is of great public interest and interest to the FOIA community?

With my deep respect,

Robert Hammond
Private citizen FOIA advocate and whistleblower.

Message

From: Waits, Matthew [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1DF843EE4F3D4E10A0DE44CE9CDD417F-WAITS, MATT]
Sent: 7/14/2023 6:37:10 PM
To: 'perseverance2013@[redacted] [perseverance2013@[redacted]
Subject: Fee Waiver Appeal: EPA-2023-004302
Attachments: EPA-2023-004302 Fee Waiver Denial Letter.pdf

Mr. Hammond,

Thank you for contacting us in regard to FOIA request (**EPA-2023-004302**). The Agency received this request May 17, 2023 and closed your request on June 28, 2023. Attached to your FOIA request, you submitted a request for a fee waiver. On May 24, 2023, the Agency issued a final determination in regards to your fee waiver request and sent it to you using the email address on file: "perseverance2013@[redacted]" A copy of the final determination letter is attached for your convenience.

You may appeal this fee waiver determination by email at hq.foia@epa.gov, or by mail to the EPA's National FOIA Office, U.S. EPA, 1200 Pennsylvania Avenue, N.W. (2310A), Washington, DC 20460 or through FOIAonline if you are an account holder. If you are submitting your appeal by hand delivery, courier service, or overnight delivery, you must address your correspondence to 1200 Pennsylvania Avenue, N.W., WJC-N Building, Room 7309C, Washington, DC 20460. Your appeal must be in writing, and it must be received no later than 90 calendar days from the date of this letter. The Agency will not consider appeals ***received*** after the 90-calendar-day limit. Appeals received after 5:00 p.m. EST will be considered received the next business day. The appeal letter should include the FOIA tracking number listed above. For quickest possible handling, the subject line of your email, the appeal letter, and its envelope, if applicable, should be marked "Freedom of Information Act Appeal".

If you intend to exercise your right to appeal the disposition in Request No. **EPA-2023-004302**, please follow EPA's appeal procedures. Specifically, you may appeal the determination by email at hq.foia@epa.gov, or by mail to the EPA's National FOIA Office, U.S. EPA, 1200 Pennsylvania Avenue, N.W. (2310A), Washington, DC 20460 or through FOIAonline if you are an account holder. If you are submitting your appeal by hand delivery, courier service, or overnight delivery, you must address your correspondence to 1200 Pennsylvania Avenue, N.W., WJC-N Building, Room 7309C, Washington, DC 20460.

Correspondence in FOIAonline
It has come to our attention that you may be uploading text into FOIAonline via the correspondence section of FOIAonline. Please note that EPA staff are not notified when you take these actions and these messages are not directed other recipients. If you would like to communicate in writing with the Agency about this request or other requests, please email the EPA staff person assigned to the request and cc FOIA_HQ@epa.gov. Please be sure to include the FOIA tracking ID in the subject line of your email.

The Agency has not received an appeal related to the above-mentioned FOIA request to date. To appeal the Agency's determination related to your FOIA request, please follow the procedures laid in the final determination letter or described above.

Ongoing Email Exchanges
We appreciate your participation in EPA's FOIA program. However, please understand that the FOIA does not require Agency staff to respond to your numerous questions about EPA decision-making.

EPA receives many FOIA requests each week. While we are happy to process and respond to your properly submitted information requests, please understand that our staff cannot engage in ongoing email exchanges with you to respond to questions about EPA's decision-making rationale. If you are unsatisfied with the FOIA process, you are free to contact the Office of Government Information Services (OGIS), contact the EPA Public Liaison, or in certain circumstances you may file an administrative appeal or litigation.

This concludes our response pertaining to Request No. EPA-2023-004302. If you seek further assistance related to this FOIA request, you may contact EPA's FOIA Public Liaison at hq.foia@epa.gov or call (202) 566-1667. You may also seek assistance from(OGIS) . You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001; email: ogis@nara.gov; telephone: (202) 741-5770 or (877)684-6448; or fax: (202) 741-5769.

Matthew Waits
U.S. Environmental Protection Agency - OMS
Office of Resources and Business Operations
FOIA | CI
Waits.Matthew@epa.gov

Message

From: Waits, Matthew [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1DF843EE4F3D4E10A0DE44CE9CDD417F-WAITS, MATT]
Sent: 6/28/2023 5:27:27 PM
To: Bossard, Justin [bossard.justin@epa.gov]; Armstrong, Marilyn [Armstrong.Marilyn@epa.gov]; Jablonski, Janice [jablonski.janice@epa.gov]
Subject: FW: Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@Ex. 6 Personal Privacy (PP)]
Attachments: FOIA Advisory Committee Meeting March 2, 2023. Hammond Comments.pdf; ED_014485_00000024_Formal_RWR.pdf; Other-20230616121353-EPA-2023-004302 Ex. 6 Partial Denial.pdf

FYI

From: Johnson, Laura-S <Johnson.Laura-S@epa.gov>
Sent: Wednesday, June 28, 2023 1:11 PM
To: Waits, Matthew <Waits.Matthew@epa.gov>
Cc: Wells, Jeffrey <Wells.jeffrey@epa.gov>; Perkins, Shannon <perkins.shannon@epa.gov>; Thompson, BrianK <Thompson.BrianK@epa.gov>; Edwards, Jeff <Edwards.Jeff@epa.gov>; Shenefiel, Pam <shenefiel.pam@epa.gov>
Subject: FW: Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@Ex. 6 Personal Privacy (PP)]

Hi Matthew,
Just wanted to reach out with regard to our recent FOIA request and the status of our response to Robert Hammond. Do we know if the response has been sent to him yet? He just reached out regarding it… To be honest, I think he will continue to pursue this (even if we did already send him our response) until he hears what he wants to hear… he feels that he was targeted and his Navy FOIA requests cases housed in his FOIAonline public registered user account were purposefully deleted. This was not what happened. We've tried to explain to him that we haven't been able to exactly identify how or why his cases no longer appear in his account (and we restored those cases so that he now has them), other than the FOIAonline application is extremely buggy and glitchy (hence why we are decommissioning it).

I guess this is a heads up that Robert Hammond will likely have more messages and actions under FOIA regarding the abovementioned issue.

From: perseverance2013@Ex. 6 Personal Privacy (PP) <perseverance2013@Ex. 6 Personal Privacy (PP)>
Sent: Wednesday, June 28, 2023 12:52 PM
To: FOIA HQ <FOIA_HQ@epa.gov>; Michael.S.Regan@epa.gov; Michael.Regan@epa.gov; Janet.McCabe@epa.gov; Thompson, BrianK <Thompson.BrianK@epa.gov>; Johnson, Laura-S <Johnson.Laura-S@epa.gov>; jira@cnsshelpdesk.atlassian.net; Edwards, Jeff <Edwards.Jeff@epa.gov>; Joshua.Cooper@cherokee-federal.com; Mohammad.Shaikh@cherokee-federal.com; James.Horner@cherokee-federal.com; keenan.mitchell@cherokee-federal.com; larry.c.johnson@epa.gov; larry.johnson@epa.gov; roberta.l.white@epa.gov; roberta.white@epa.gov
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Subject: Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@Ex. 6 Personal Privacy (PP)]
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I prefer to work cooperatively with EPA regarding FOIAonline and my FOIA requests; however, EPA is currently pursuing a different course.

Regarding my FOIA request EPA-2023-004302, it appears that EPA is attempting to use fees to discourage FOIA requests of great public interest that are an embarrassment to EPA regarding FOIAonline. I have a passion for FOIA compliance and integrity – this will not rest.

Appeal is pending regarding impermissible fee charges and other matters, including adequacy of search and impermissible withholding records.

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With my deep respect,

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Private citizen FOIA advocate and whistleblower.

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Sent: 7/20/2023 8:37:23 PM
To: Jablonski, Janice [jablonski.janice@epa.gov]
CC: Armstrong, Marilyn [Armstrong.Marilyn@epa.gov]
Subject: Communications 6/28 +1
Attachments: FW: FOIA Request EPA-2023-005096 Submitted. EPA 23-C FOIA case processing records of FOIA Request EPA-2023-004302 ; Perseverance20132aol.com 71 missing Navy FOIA cases. What happened?? ; FW: FOIA Request EPA-2023-005081 Submitted. Expedited FOIA Request EPA 23-B. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@aol.com]; Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@aol.com]; REVIEW: Draft email re Robert Hammond FOIA Cases

Here are the communications from the requester.

Also attached is a draft email created last Friday, 7/14, that was to be sent to the requester explaining the situation. I do not believe this email was sent, however.

Matthew Waits
U.S. Environmental Protection Agency - OMS
Office of Resources and Business Operations
FOIA | CI
Waits.Matthew@epa.gov

Message

From: Waits, Matthew [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1DF843EE4F3D4E10A0DE44CE9CDD417F-WAITS, MATT]
Sent: 6/28/2023 6:21:06 PM
To: Johnson, Laura-S [Johnson.Laura-S@epa.gov]
CC: Wells, Jeffrey [Wells.jeffrey@epa.gov]; Perkins, Shannon [perkins.shannon@epa.gov]; Thompson, BrianK [Thompson.BrianK@epa.gov]; Edwards, Jeff [Edwards.Jeff@epa.gov]; Shenefiel, Pam [shenefiel.pam@epa.gov]; Bossard, Justin [bossard.justin@epa.gov]; Armstrong, Marilyn [Armstrong.Marilyn@epa.gov]; Jablonski, Janice [jablonski.janice@epa.gov]; OMS_FOIA_Team [OMS_FOIA_Team@epa.gov]
Subject: RE: FOIA-Advisory Committee. FW: Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@Ex. 6 Personal Privacy (PP)
Attachments: Awareness Notification EPA-2023-003720 - Help Desk Ticket FOH-123563

Good afternoon Laura,

This request has been closed for about a week at this point. This request was sent for awareness notification (attached. mistakenly subjected as 003720, should be 004302) as we had spoken on June 16, and closed at this time last week.

This seems to be a case where we need to remind the requester of their appeal rights, and going through the proper appeal process. I will consult with NFO in this case for us to have a response for the requester. Because of this, we recommend not responding to the requester.

With regards to his 71 Navy FOIA case records, I am unfamiliar with that request. As far as I am aware, OMS has not processed a FOIA request like that. Perhaps that is with another office? I will need a tracking number to confirm.

Thank you for keeping me in the loop, and we will work on a response as soon as possible.

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Subject: FOIA-Advisory Committee. FW: Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@[redacted]
Importance: High

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<roberta.white@epa.gov>
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Importance: High

Dear Mr. Regan, Ms. Johnson, et. al:

I prefer to work cooperatively with EPA regarding FOIAonline and my FOIA requests; however, EPA is currently pursuing a different course.

Regarding my FOIA request EPA-2023-004302, it appears that EPA is attempting to use fees to discourage FOIA requests of great public interest that are an embarrassment to EPA regarding FOIAonline. I have a passion for FOIA compliance and integrity – this will not rest.

Appeal is pending regarding impermissible fee charges and other matters, including adequacy of search and impermissible withholding records.

EPA failed to meet the statutory time for processing my FOIA request and is therefore not entitled to any fees. Final determination letter and records were not released nor posted to FOIA online until June 23, 2023 (despite the June 14, 2023 date of the determination letter), which is outside the twenty working-day requirement:

"(i) determine within 20 days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any such request whether to comply with such request and shall **immediately** notify the person …"

"(4)(A) (viii) (I) Except as provided in subclause (II), an agency shall not assess any search fees (or in the case of a requester described under clause (ii)(II) of this subparagraph, duplication fees) under this subparagraph if the agency has failed to comply with any time limit under paragraph (6)."

Further EPA states that I have not demonstrated "how your work using FOIA material will specifically be distributed to a reasonably broad audience of persons interested in the subject."

I am an individual/organization primarily engaged in the dissemination of information who can prove the information is urgently needed to inform the public concerning some actual or alleged government activity. My primary activity is informing the public, which I do through a variety of means, such as open meeting public comments, blogs, etc., and I may from time to time collaborate on articles. There is extraordinary, off the charts interest in this matter. I make oral public comments at every open FOIA meeting. I have an active email distribution list of over **1,200 Chief FOIA Officers, FOIA professionals, FOIA advocacy groups media and interested parties**. I also communicate regularly with members of Congress.

EPA gets my emails and sees my public comments postings, including the attached.

Shall I distribute EPA case records and this correspondence, which is of great public interest and interest to the FOIA community?

With my deep respect,

Robert Hammond
Private citizen FOIA advocate and whistleblower.

Message

From: Person, Linda [Person.Linda@epa.gov]
Sent: 5/26/2023 10:58:35 AM
To: Patrick, Kimberly (she/her/hers) [Patrick.Kimberly@epa.gov]; Bossard, Justin [bossard.justin@epa.gov]; Judd, Jennifer (she/her/hers) [Judd.Jennifer@epa.gov]; Armstrong, Marilyn [Armstrong.Marilyn@epa.gov]; Coogan, Daniel [Coogan.Daniel@epa.gov]; Schreyer, Andrew (he/him/his) [Schreyer.Andrew@epa.gov]; Waits, Matthew [Waits.Matthew@epa.gov]; Elkassabany, Sara [Elkassabany.Sara@epa.gov]
Subject: Notice of Selection for Awareness Notification

Dear Ms. Patrick:

The following FOIA requests, assigned to your office, have been selected for the Awareness Notification Process (ANP), which is a process designed to ensure advance notice to EPA's Office of Public Affairs (OPA) and Office of Congressional and Intergovernmental Relations (OCIR) and others in the Administrator's Office when EPA records are being released under the FOIA. Selection of FOIA requests for ANP is made soon after the Agency received the requests, and this notice to you and others on copy in your office is to help them plan the FOIA response knowing that awareness notification will need to be provided to OCIR, OPA and OEX in the Administrator's Office before records are released. The full Awareness Notification Process is described in the former Chief of Staff's November 16, 2018 Memorandum. If you have any questions regarding this process, please feel free to reach out to Timothy R. Epp, Associate General Counsel for the National FOIA Office (epp.timothy@epa.gov and 202-564-2830).

The FOIAonline tracking number(s) for the selected FOIA requests is/are:

OFFICE	FOIA NUMBER	SUBJECT
OMS	EPA-2023-004222	The number of employees at each EPA regional office each year from 2014 through 2022.
OMS	EPA-2023-004302	**1**. All records from March 5, 2023 to present related to FOIAonline Help Deck Ticket "FOH-123563" Cases missing from his account [perseverance2013@Ex. 6 Personal Privacy (PP) including but not limited to: **2**. All internal help desk case records conducting analysis and communicating with any party by email, text, or other means. One such email is FOIA Online HD jira@cnsshelpdesk.atlassian.net which provides the email construct for other helpdesk personnel (@cnsshelpdesk.atlassian.net). **3**. All records of communications with and documents provided by Robert Hammond, perseverance2013@Ex. 6 Personal Privacy (PP) **4**. All records of communications with - and documents provided by - Robert Hammond, foiacompliance@Ex. 6 Personal Privacy (PP) FOIAcomplaince@Ex. 6 Personal Privacy (PP) DOD.FOIA.PA@Ex. 6 Personal Privacy (PP) confirmed receipts, forwarding of emails and responses to them. **5**. All records of communications by and with Johnson, Laura-S Johnson.Laura-S@epa.gov, including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them. a. Some Department of Navy addressees may have been 'christopher.a.julka@navy.mil'; DONFOIA-PA@navy.mil **6**. All records of communications by and with Thompson, BrianK <Thompson.BrianK@epa.gov>, including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.

		7. All records of communications by and with 'Edwards, Jeff' Edwards.Jeff@epa.gov including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them. **8**. All records of communications with any FOIAonline participating partner regarding Help Deck Ticket FOH-12356 or nay records missing from their accounts. **9**. Closeout records of case Help Deck Ticket FOH-12356. **10**. I am also seeking a copy of this FOIA Request, which is an Agency record subject to FOIA that exists and is in the Agency's possession at the time of my FOIA request. This record is a responsive record integral to my Request. Release of the Agency's copy is not optional.

For these FOIA requests, please follow the procedures set out in the attached Chief of Staff's Memorandum. For steps 4 and 5, an email template is attached for your use. A link to the template is also being provided for your use, Awareness Notification Email Template 04.27.22.pdf (epa.gov).

Please contact Kevin Hill at 202-564-1652 if you have any questions.

Linda F. Person
Office of General Counsel
National FOIA Office
202-566-1661 (Direct)
202-566-1667 (Main)
Person.linda@epa.gov

National FOIA Office
EPA Office of General Counsel

"May your day be filled with overwhelming peace."

Message

From: Davis, Gail [Davis.Gail@epa.gov]
Sent: 6/22/2023 8:10:44 PM
To: Waits, Matthew [Waits.Matthew@epa.gov]
Subject: FW: Awareness Notification EPA-2023-003720 - Help Desk Ticket FOH-123563
Attachments: #FOOSHD-1404 Escalated Record FOH-123563 Cases missing from his account.pdf; #FOOS-4556 Associate Public FOIA Cases with Registered User's Account.pdf; ED_014485_00000019_Formal_RIF.pdf; ED_014485_00000020_Formal_RIF.pdf; ED_014485_00000001_Formal_RWR.pdf; ED_014485_00000002_Formal_RWR.pdf; ED_014485_00000003_Formal_RWR.pdf; ED_014485_00000004_Formal_RWR.pdf; ED_014485_00000005_Formal_RWR.pdf; ED_014485_00000006_Formal_RWR.pdf; ED_014485_00000007_Formal_RWR.pdf; ED_014485_00000008_Formal_RWR.pdf; ED_014485_00000009_Formal_RWR.pdf; ED_014485_00000010_Formal_RWR.pdf; ED_014485_00000023_Formal_RWR.pdf; ED_014485_00000024_Formal_RWR.pdf; ED_014485_00000025_Formal_RWR.pdf; ED_014485_00000037_Formal_RWR.pdf; ED_014485_00000038_Formal_RWR.pdf; ED_014485_00000050_Formal_RWR.pdf; ED_014485_00000051_Formal_RWR.pdf; ED_014485_00000064_Formal_RWR.pdf; ED_014485_00000077_Formal_RWR.pdf; ED_014485_00000094_Formal_RWR.pdf; ED_014485_00000106_Formal_RWR.pdf; ED_014485_00000107_Formal_RWR.pdf; ED_014485A_00000001_Formal_RWR.pdf; ED_014485A_00000003_Formal_RWR.pdf; ED_014485A_00000005_Formal_RWR.pdf

Hello which tracking number is correct? Is it 2023-003730 or 2023-004302 which is stated in the chart? Please be careful with these tracking numbers, please advise which one we are talking about, thank you.

Gail Davis
Government Information Specialist
National FOIA Office
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Rm. WJCN 6402C
Washington, D.C. 20460
Office: (202) 564-1444| davis.gail@epa.gov

National FOIA Office
EPA Office of General Counsel

For WH Consultations or Awareness Notification Info: https://work.epa.gov/foia
This is the new FOIA Awareness Notification distribution list. FOIA_Awareness_Notification_Email_Recipients@epa.gov

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From: Waits, Matthew <Waits.Matthew@epa.gov>
Sent: Friday, June 16, 2023 12:53 PM
To: OGC Awareness Notification Process <OGC_Awareness_Notification_Process@usepa.onmicrosoft.com>; FOIA Awareness Notification Email Recipients <FOIA_Awareness_Notification_Email_Recipients@epa.gov>
Cc: Patrick, Kimberly (she/her/hers) <Patrick.Kimberly@epa.gov>; Coogan, Daniel <Coogan.Daniel@epa.gov>; Jablonski, Janice <jablonski.janice@epa.gov>; Armstrong, Marilyn <Armstrong.Marilyn@epa.gov>; Judd, Jennifer (she/her/hers) <Judd.Jennifer@epa.gov>; OMS_FOIA_Team <OMS_FOIA_Team@epa.gov>; Schreyer, Andrew (he/him/his) <Schreyer.Andrew@epa.gov>; Shenefiel, Pam <shenefiel.pam@epa.gov>; Thompson, BrianK <Thompson.BrianK@epa.gov>; Johnson, Laura-S <Johnson.Laura-S@epa.gov>
Subject: Awareness Notification EPA-2023-003720 - Help Desk Ticket FOH-123563

To whom it may concern,

The Office of Mission Support, Office of Enterprise Information Programs is responding to the above-referenced FOIA request. We are providing this awareness notification email pursuant to the Chief of Staff's November 16, 2018 memorandum "Awareness Notification Process for Select Freedom of Information Act Releases." Recipients of this email have up to three business days following transmission of this email to review the documents to be released.

There is no requirement for you to respond to this email or otherwise take action. The Action Office has completed review and obtained management approval consistent with the agency's FOIA policy and procedures.

After 4 p.m. on the third business day after transmission of this email, the Action Office will issue the Agency's FOIA determination to the requester. The determination will be issued promptly, but in no event later than one business day following completion of the three-day awareness notification period.

The information provided below is consistent with Paragraph 4 of the above-referenced November 16, 2018 memorandum.

Office of Mission Support – Office of Enterprise Information Programs							
FOIA Tracking Number	Requester	Requester Organization	Date FOIA Request Perfected	Date sent for Awareness Notification	Brief description of request as clarified	Interim or Final Response	Number of Records and/or pages
EPA-2023-004302	Robert Hammond	N/A	5/18/23	6/16/23	Records concerning FOIAonline Help Desk Ticket FOH-123563 regarding potentially missing case files	Final Response	29 Records

The following offices have equities in these records and have reviewed the relevant records:
Office of Enterprise Information Programs
Office of Resources and Business Operations

The manager who approved this release is: Brian K. Thompson

The records are attached.

Matthew Waits
U.S. Environmental Protection Agency - OMS
Office of Resources and Business Operations
FOIA | CI
Waits.Matthew@epa.gov

Message

From: Bossard, Justin [bossard.justin@epa.gov]
Sent: 5/24/2023 12:53:35 PM
To: Waits, Matthew [Waits.Matthew@epa.gov]
CC: Elkassabany, Sara [Elkassabany.Sara@epa.gov]
Subject: FW: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Good morning Mathew,

I am forwarding this email from the NFO regarding FOIA request EPA-2023-004302.

We can discuss it later this morning.

Justin

From: Epp, Timothy <Epp.Timothy@epa.gov>
Sent: Wednesday, May 24, 2023 6:47 AM
To: Edwards, Jeff <Edwards.Jeff@epa.gov>; Thompson, BrianK <Thompson.BrianK@epa.gov>; Bossard, Justin <bossard.justin@epa.gov>
Cc: Weth, Patricia <Weth.Patricia@epa.gov>; Hill, Kevin W. <hill.kevinw@epa.gov>
Subject: FW: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Hi Jeff, Justin and Brian,

Mr. Robert Hammond submitted a FOIA request to EPA for records pertaining to FOIAonline and help desk engagement with respect to an alleged loss of Mr. Hammond's FOIA requests submitted to the Department of the Navy. He also requested expedited processing of his request, which the NFO denied, and he has now reached out seeking FOIA Public Liaison assistance pertaining to his disputes concerning the denial of expedited processing. Below is a copy of my initial response to him in which I seek to schedule a meeting next week to talk with him.

I'd welcome any information that you can provide regarding the processing of his FOIA request, such as likely length of time it will take your office and regarding how a grant of expedited processing would impact OMS' ability to equitably process other FOIA requests that were submitted ahead of Mr. Hammond's request.

I'm hoping to schedule a meeting with Mr. Hammond mid-week next week. So your reply this week or by COB Tuesday next week would be greatly appreciated. Please let me know if we should schedule a meeting to talk about this engagement, rather than communicate solely by email.

Thanks,
Tim

Timothy R. Epp
Associate General Counsel | National FOIA Office
U.S. Environmental Protection Agency | Office of General Counsel
1200 Pennsylvania Avenue, N.W. (MC 2310A)
Washington, D.C. 20460 | WJCN 7309B
Phone (202) 564-2830 | epp.timothy@epa.gov

National FOIA Office
EPA Office of General Counsel

From: Epp, Timothy
Sent: Wednesday, May 24, 2023 6:27 AM
To: perseverance2013@ Ex. 6 Personal Privacy (PP)
Cc: FOIA HQ <FOIA_HQ@epa.gov>
Subject: FW: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Dear Mr. Hammond,

Thank you for reaching out and seeking assistance from EPA's FOIA Public Liaison. As you know, the FOIA Public Liaison was created by the statute to serve as "a listening ear" for FOIA requesters, and to work to resolve FOIA disputes. We appreciate your reaching out to raise your concern and seek a resolution outside of litigation.

As I understand, your concern centers on EPA's denial of your request for expedited processing of request number EPA-2023-004302. I would like to schedule a time to talk with you in order to better understand your concerns and to begin searching for ways to resolve the disputes. Before meeting with you, I plan to meet with EPA's FOIA processors who issue the expedited processing decisions as well as to reach out to the office that has been assigned the responsibility to respond to your FOIA request. In talking with them, I will seek to identify any new or updated status information that I can report to you during our first conversation as well as to make sure that I fully understand the rationale for denying your expedited processing request. Gathering this background information is also intended to help me listen to your concerns with a more informed ear for identifying possible gaps in communication or misunderstandings, to be able to focus my attention better on the key disputes, and to help us look for options for resolution in our first conversation.

Could you provide me several dates and times when you would be available next week to talk on the phone or have a Teams meeting?

In addition, please consider providing any additional information you have that might support your assertion that release of the records you seek should be expedited. And, help ensure that I am gathering the most relevant information, am I correct that you have not requested expedited processing based on a claim that lack of expedited treatment could reasonably be expected to pose a threat to someone's life or physical safety? Instead, your application for expedited processing is based on a claim of an urgency to inform the public about an actual or alleged Federal Government activity where the request is made by a person who is primarily engaged in disseminating information, correct? While considering whether you want to provide any additional information to support your expedited processing request, you may want to review the Department of Justice's long-standing guidance on expedited processing, which may be found here: https://www.justice.gov/oip/blog/foia-update-oip-guidance-when-expedite-foia-requests As you will see from the guidance and as you may already know, the Department of Justice's guidance recognizes that in considering granting expedited processing, agencies must consider the interests of FOIA requesters who submitted requests earlier than the requester seeking expedited processing. DOJ states: "Because a decision to take a FOIA request out of turn necessarily entails further delay for other requesters waiting patiently in line, simple fairness demands that it be made only upon careful scrutiny of truly exceptional circumstances." So, I would welcome hearing any information you have that would help inform whether the circumstances you have identified are truly exceptional to warrant taking your request ahead of other requests for EPA records.

Best regards,
Tim

Timothy R. Epp
Associate General Counsel | National FOIA Office
U.S. Environmental Protection Agency | Office of General Counsel
1200 Pennsylvania Avenue, N.W. (MC 2310A)
Washington, D.C. 20460 | WJCN 7309B
Phone (202) 564-2830 | epp.timothy@epa.gov

National FOIA Office
EPA Office of General Counsel

From: perseverance2013@[redacted] <perseverance2013@[redacted]>
Sent: Monday, May 22, 2023 5:57 PM
To: FOIA HQ <FOIA_HQ@epa.gov>
Cc: perseverance2013@[redacted]
Subject: exxpediteds FPL Dispute Resolution. FW: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

I am seeking immediate FPL Dispute Resolution regarding the insufficient expedited processing denial.

Your basis for denial is legally insufficient:

- Expedited Processing Disposition Reason: Request does not meet criteria

In that this is an expedited FOIA request, immediate response is required.

Robert Hammond

From: admin@foiaonline.gov <admin@foiaonline.gov>
Sent: Friday, May 19, 2023 12:36 PM
To: perseverance2013@[redacted]
Subject: FOIA Expedited Processing Disposition Reached for EPA-2023-004302

Your request for Expedited Processing for the FOIA request EPA-2023-004302 has been denied. Additional details for this request are as follows:

- Request Created on: 05/17/2023
- Request Description:

Expedited FOIA Request EPA 23-A. Records of FOIAonline Help Desk Ticket FOH-123563, Cases missing from his account [perseverance2013@[redacted]

See PDF.

1. All records from March 5, 2023 to present related to FOIAonline Help Deck Ticket "FOH-123563" Cases missing from his account [perseverance2013@[redacted] including but not limited to:
2. All internal help desk case records conducting analysis and communicating with any party by email, text, or other means. One such email is FOIA Online HD jira@cnsshelpdesk.atlassian.net which provides the email construct for other helpdesk personnel (@cnsshelpdesk.atlassian.net).
3. All records of communications with and documents provided by Robert Hammond, perseverance2013@[redacted]
4. All records of communications with - and documents provided by - Robert Hammond, foiacompliance@[redacted] FOIAcomplaince@[redacted], DOD.FOIA.PA@[redacted] confirmed receipts, forwarding of emails and responses to them.
5. All records of communications by and with Johnson, Laura-S Johnson.Laura-S@epa.gov, including communications

with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
a. Some Department of Navy addressees may have been 'christopher.a.julka@navy.mil'; DONFOIA-PA@navy.mil
6. All records of communications by and with Thompson, BrianK , including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
7. All records of communications by and with 'Edwards, Jeff' Edwards.Jeff@epa.gov including communications with the FOIA Advisory Committee, Department of Navy, confirmed receipts, forwarding of emails, and responses to them.
8. All records of communications with any FOIAonline participating partner regarding Help Deck Ticket FOH-12356 or nay records missing from their accounts.
9. Closeout records of case Help Deck Ticket FOH-12356.
10. I am also seeking a copy of this FOIA Request, which is an Agency record subject to FOIA that exists and is in the Agency's possession at the time of my FOIA request. This record is a responsive record integral to my Request. Release of the Agency's copy is not optional.

REQUESTED FORMAT.

I am also seeking records in their native format (MS. Outlook, PowerPoint, Excel, ADA accessible PDF files or other mutually agreed by return email with: (1) a signed and dated cover letter (citing my personally assigned requester control number); (2) with record page count for all records released records (3) a copy of this request in your reply. I seek records via email in PDF format with an imbedded copy of my requests to (1) impede the agency from not addressing the FOIA Request; (2) impede the Agency from not providing the documents stated in the Agency's letter reply, and (3) make it obvious in any subsequent review what the Agency has or has not done.

Further, I request that these records be sent in any digital formats in which they exist (such as PDF and Excel). Under the terms of the E-FOIA Amendments of 1996, Section 5, if a document exists in electronic format, it must be released in that format upon request.

Each record must be provided as a distinct record in their native format. Emails should be provided as MS Outlook files, if not encrypted or otherwise unable to be open ed by me. Only if this is not possible, emails should be produced with their embedded hyperlinked attachments by using the "File => Save as Adobe PDF" command within Outlook or by other software that produces the same result.

I am also seeking the "Description Available to the Public" field I FOIAonline be set to yes and that all records be released to and viewable in the application by the general Public. The release type must be set to "Unredacted – Releasable to the General Public: Will be available to the general public," or to "Redacted – Releasable to the General Public: Will be available to the general public."

This request is distinctly separate from any other. Please do not combine this request with any other request in your reply. I am requesting that each element of the records sought be specifically addressed in the reply.

In all correspondence, return a copy of my FOIA request, cite my personal request number, and cite records sought.

- Expedited Processing Original Justification: EXPEDITED PROCESSING.

I am seeking expedited processing due to:
"an urgency to inform the public about an actual or alleged Federal government activity, if the information is requested by a person primarily engaged in disseminating information to the public."
The subject is of widespread and exceptional interest and the information sought involves possible questions about the government's integrity that affect public confidence.
Between January 2, 2023 and February 3, 2023 (one month) seventy-one (71) of my two hundred sixty-two (262) Navy FOIA cases from 2017 forward have been deleted from FOIAonline or I have been denied access to them. This is extremely serious. EPA must determine who did this, how it happened, and if this is unique to me. See "FOIAonline Compare January 2, 2023 to February 3, 2023 Missing Cases Navy" provided by email.
Either there was intentional misconduct (possibly involving Navy) or gross malfeasance in the disappearance of or removal of access to my FOIAonline records and whether this issue is widespread among other participating agencies.

There is intense interest/angst in matters surrounding FOIAonline and its decommissioning, so much so that Laura Johnson was added last minute to brief the FOIA Advisory Committee on March 2, 2023. At that meeting:
"Mr. Howard asked two questions: first, how records are being transferred, and second, how EPA is ensuring that no data is lost or becomes unavailable to the public."
Despite assurances from EPA that everything was fine, I discovered and days later reported to Ms. Johnson and the FOIA Advisory Committee that seventy-one (71) of my two hundred sixty-two (262) Navy FOIA cases from 2017 forward have been deleted from FOIAonline or I have been denied access to them.
Having received no reply as to what happened, I notified my 1,200 plus FOIA distribution list of media, Chief FOIA Officers, FOIA professionals, FOIA/Open records Advocacy groups and interested parties of the unresolved debacle. There is a thirst among the FOIA community to know exactly what happened.
Note that EPA's FOIA regulation, 40 CFR Subpart A—Procedures for Disclosure of Records Under the Freedom of Information Act § 2.106 Preservation of records is in violation of law citing General Records Schedule 14, which was superseded by NARA Transmittal 29 of December 2017. This alone is of great public interest.
Additionally, I am an individual/organization primarily engaged in the dissemination of information who can prove the information is urgently needed to inform the public concerning some actual or alleged government activity. My primary activity is informing the public, which I do through a variety of means, such as open meeting public comments, blogs, etc., and I may from time to time collaborate on articles. There is extraordinary, off the charts interest in this matter. I make oral public comments at every open FOAI meeting. I have an active email distribution list of Chief FOIA Officers, FOIA professionals, FOIA advocacy groups media and interested parties. I also communicate regularly with members of Congress.
• See examples below.

- Public Comments Submitted to the Chief FOIA Officers Council https://www.archives.gov/ogis/about-ogis/chief-foia-officers-council

- Public Comments Submitted to the FOIA Advisory Committee | National Archives https://www.archives.gov/ogis/foia-advisory-committee/public-comments

- OGIS Annual Open Meeting Public comments https://www.archives.gov/ogis/outreach-events/annual-open-meeting

- Document Cloud. Org https://www.documentcloud.org/app?q=%2Buser%3Arobert-hammond-106693%20 (e.g., "Sample FOIA Template With Recent Developments to Combat Agency Misconduct.")
EPA must evaluate all my public comments along with my methods of dissemination and state that it has done so in any denial of expedited processing.
• The subject of the requested records concerns government operations and activities
• The disclosure is likely to contribute to understanding of these operations or activities
• Disclosure will likely result in public understanding of the subject
• The contribution to public understanding of government operations or activities will be significant
• The requester has no commercial interest
• The public interest in disclosure is great.
• I use "editorial skills to turn the raw materials into a distinct work."
• My work is distributed to an audience with active distribution.

- Expedited Processing Disposition Reason: Request does not meet criteria