# DEPARTMENT OF ENERGY

# FREEDOM OF INFORMATION ACT

# ANNUAL REPORT FOR CALENDAR YEAR ENDING

# DECEMBER 31, 1994

**FREEDOM OF INFORMATION ACT ANNUAL REPORT FOR 1994**

1. Total number of requests received during calendar year 1994: 2,949

2. Total number of determinations to provide all requested records: 1,538

3. Total number of initial determinations not to comply with a request for records made under subsection 552(a):

   **Total Full Denials** 115 **Total Partial Denials** 480

4. Authority relied upon for each such determination:

   a. **Exemptions in 552(b)**

| Exemption Invoked | Number of Times Invoked |
|---|---|
| 1 | 23 |
| 2 | 6 |
| 3 | 51 |
| 4 | 192 |
| 5 | 75 |
| 6 | 111 |
| 7 | 30 |
| 8 | 1 |
| 9 | 2 |

   Other authority (see section 2.c.) 816

   b. **Statute(s) invoked pursuant to Exemption No. 3:**

   The following statutes were used by the Department of Energy in the application of Exemption 3: the Atomic Energy Act of 1954, as amended (42 U.S.C. 2161-166); the Procurement Integrity Act of 1989 (41 U.S.C. Section 423); the Office of Federal Procurement Policy Act, (41 U.S.C. 401-424); the Patent Law of 1962 (35 U.S.C. Section 250); and the Privacy Act of 1974, as amended (5 U.S.C. 552a).[1]

[1] Denying Officials were subsequently advised that the Privacy Act is not an Exemption 3 statute.

| Statutory Citation | Number of Times Invoked |
|---|---|
| 42 U.S.C. 2161-2166 | 38 |
| 41 U.S.C. 401-424 | 4 |
| 41 U.S.C. 423 | 7 |
| 35 U.S.C. 250 | 1 |
| 5 U.S.C. 552a | 1 |

c. **Other Authority:**

| | |
|---|---|
| Withdrawn | 235 |
| Not reasonably described | 17 |
| Not a Freedom of Information Act request | 111 |
| No responsive records | 345 |
| Referred to another agency | 86 |
| No agreement to pay fees | 22 |

5. Names and titles or positions of individuals responsible for the initial denial of records requested and number of instances participated:

| | | |
|---|---|---|
| Eileen Adair | Labor Relations Specialist, Bonneville Power Administration | 1 |
| Donna Beeks | Contracts Specialist, Bonneville Power Administration | 1 |
| C. Beers | Deputy Assistant Secretary for Military Applications and Stock-pile Support | 1 |
| Thomas Bechtel | Director, Morgantown Energy Technology Center | 41 |
| Mary Bloxham | Bonneville Power Administration | 1 |
| E. S. Chaput | Acting Manager, Savannah River Operations Office | 18 |
| William H. Clagett | Administrator, Western Area Power Administration | 10 |
| Michael Conley | Deputy Inspector General for Inspections | 4 |
| J. S. Cote | Assistant Manager for Administration, Savannah River Operations Office | 8 |
| J. Culpepper | Deputy Manager, Albuquerque Operations Office | 1 |

| | | |
|---|---|---|
| Judith De Marie | Assistant Inspector General of Policy Planning and Management | 2 |
| Denise B. Diggin | Chief, FOI and Privacy Acts Branch, Reference and Information Management Division | 8 |
| Timothy Dirks | Director of Personnel | 4 |
| Louis V. Divonne | Acting Deputy Assistant Secretary for Building Technologies | 1 |
| Steven F. Durbin | Director, Office of Resource Management, Office of Policy | 1 |
| Daniel A. Dreyfus | Director, Office of Civilian Radioactive Waste Management | 1 |
| John Elizaide | Product Development Manager, Bonneville Power Administration | 1 |
| John J. Eston Jr. | Assistant Secretary of Energy, Office of Domestic and International Energy Policy | 1 |
| Mario P. Fiori | Manager, Savannah River Operations Office | 8 |
| William H. Garvie | Assistant H. Garvie, Assistant Inspector General for Investigations | 12 |
| John Geidl | Director, Office of Coal, Nuclear, Electronic and Alt rnate Fuels | 1 |
| Arnold A. Gjerstad | Acting Director, Operations Division "B", Office of Placement and Administration | 21 |
| William C. Gibson, Jr. | Project Manager, Strategic Petroleum Reserve Project Management Office | 23 |
| Ralph Goldenberg | Assistant General Counsel for for General Law | 1 |
| Jane Greenwalt | FOIA/Privacy Act Officer, Oak Ridge Operations Office | 2 |
| Johnnie Greenwood | Director, Contracts Division | 1 |
| Norton Haberman | Acting Director, Office of Uranium Programs | 1 |

| | | |
|---|---|---|
| Mary Hammick | FOIA/Privacy Act Officer, Rocky Flats Area Office | 1 |
| Phil Hamrick | Manager, Ohio Field Office | 1 |
| Gordon W. Harvey | Principal Deputy Inspector General | 1 |
| W. F. Hensley | Acting Director, Office of Engineering, Operations, Security and Transition Support | 1 |
| James S. Hirahara | Assistant Manager for Administration, San Francisco Operations Office | 25 |
| Gloria E. Inlow | Deputy Director, Office of Intergovernmental and External Affairs, Albuquerque Field Office | 36 |
| Paul K. Kearns, Ph.D. | Acting Manager, Golden Field Office | 1 |
| Joe La Grone | Manager, Oak Ridge Operations Office | 23 |
| Judith Johansen | Director, Generation Supply, Bonneville Power Administration | 2 |
| Cherri J. Langenfeld | Manager, Chicago Operations Office | 3 |
| Ann Lavin | Director, Office of the Executive Secretariat | 5 |
| John C. Layton | Inspector General Management and Administration | 27 |
| Kenneth N. Luongo | Director, Office of Arms Control and Nonproliferation | 1 |
| Darwin J. Morgan | Acting Director of the Office of External Affairs, Nevada Operations Office | 9 |
| Nancy Morgan | Manager, Purchasing and Materials Contracts, Bonneville Power Administration | 1 |
| John Nettles, Jr. | Director, Office of Emergency Management | 1 |
| Richard H. Nieman | Acting Director, Office of Departmental Accounting and Financial Development | 1 |

| | | |
|---|---|---|
| Ari Patrinos | Acting Director, Office of Health and Environmental Research, Office of Energy Research | 1 |
| Donald W. Pearman | Acting Deputy Secretary for Field Management | 2 |
| Richard Perlas | Manager, International Activities and Special Issues, Bonneville Power Administration | 1 |
| Karen Randolph | Director, Office of Communications, Richland Operations Office | 94 |
| Carol Reuter | Chief, Headquarters Operations Branch B-4, Office of Placement and Administration | 6 |
| Carl Robertson | Freedom of Information Officer, Idaho Operations Office | 39 |
| Jeffrey Rubenstein | Director, Operations Division "A, Office of Placement and Administration | 6 |
| Jo Ann Scott | Freedom of Information Act and Privacy Act Officer, Bonneville Power Administration | 1 |
| J. M. Shafer | Administrator, Southwestern Power Administration | 21 |
| A. Bryan Siebert | Director, Office of Declassification | 22 |
| William Siegal | Electric and Hybrid Propulsion Division | 1 |
| Anton A. Sinisgalli | Chief, Program Operations Branch | 1 |
| Leanne Smith | Acting Deputy Manager, Rocky Flats Field Office | 1 |
| Frank Stewart | Acting Manager, Golden Field Office | 9 |
| Linda Strand | Chief, Branch B-3, Office of Placement and Administration | 8 |
| Iran L. Thomas | Acting Associate Director for Basic Energy Sciences Office of Energy Research | 2 |

| | | |
|---|---|---|
| Herbert A. Tiedeman | Project Manager for Technology Transfer, Bartlesville Project Office | 4 |
| John Taves | Chief, Corporate Environmental Policy, Strategy and Analysis, Bonneville Power Administration | 1 |
| Notra Trulock | Director, Office of Energy Intelligence | 3 |
| Chris West | Director, Office of External Affairs, Nevada Operations Office | 28 |
| Robert Woytko | Acting Director, Operations Division "A", Office of Placement and Administration | 3 |

6. Total number of intra-agency appeals from adverse initial decisions made pursuant to subsection (a)(6): 95. Of that total, there were 92 appeals from denials of access to records and no record determinations (appeal decisions indicated below). There were 3 appeals from denials of waiver of fees. The appeals resulting from denial of fee waivers include 2 appeal that was denied in full and 1 that were denied in part.

   a. Overturned in full: 5

   b. Affirmed in full: 38

   c. Affirmed in part: 29

   d. Dismissed as moot or failed to state grounds upon which an appeal could be made: 23

7. Authority relied upon for total or partial denials of access on appeal:

   a. **Exemptions in 552(b)**

| **Exemption Invoked** | **Number of Times Invoked** |
|---|---|
| 1 | 0 |
| 2 | 0 |
| 3 | 1 |
| 4 | 8 |
| 5 | 9 |
| 6 | 10 |
| 7 | 1 |
| 8 | 0 |
| 9 | 0 |

b. **Statutes Invoked Pursuant to Exemption 552(b)(3):**

The Procurement Integrity Act of 1989, Public Law 96-517 (41 U.S.C. Section 423).

| Statutory Citation | Number of Times Invoked |
|---|---|
| 41 U.S.C. 423 | 1 |

8. Pursuant to Section 1004.8 of the Department's regulations, the Director of Office of Hearings and Appeals is the person responsible for all denials of appeals submitted to the Department. With respect to denial of access pursuant to Exemption 1, the Director, Office of Security Affairs, has been designated as the official responsible for the review of information at the appellate level. The adjudicatory aspects of such appeals are processed by the Department's Office of Hearings and Appeals.

9. There have been no proceedings instituted under the authority of subsection (a)(4)(F).

10. Department of Energy regulations implementing the Freedom of Information Act, issued on December 29, 1978, became effective on January 1, 1979, and were published on January 8, 1979, in Vol. 44, Federal Register, page 1908. A change to the regulations regarding the Freedom of Information Reading Room fee schedule was published on March 9, 1982, in Vol. 47, Federal Register, page 9995.

    To comply with the Freedom of Information Reform Act of 1986, the Department of Energy published a final rule on the Uniform Fee Schedule and Administrative Guidelines on May 3, 1988, in Vol. 53, No. 85, Federal Register, page 15660. The Department's proposed regulations revising its regulations on the procedures and principles to be applied in responding to requests for records under the Freedom of Information Act were published on October 23, 1991, in Vol. 56, Federal Register, page 55035.

11. **Fee schedule:** Photoduplication - $.05 per page for paper to paper copies and $.10 per page for microform to paper copies. Pursuant to Section 1004.9 of the final rule (see Section 8 above), fees for search and review will be charged to recoup the full allowable direct cost incurred, i.e., salary rate(s) of the employee(s) performing the search and/or review. Fees are not charged for a request or a series of related requests where they would amount, in the aggregate, to $15.00 or less. The approximate amount of fees collected by the Department of Energy was $31,562.48.

12. Additional report information:

a. **Availability of Records:** New categories or segregable portions of records are being released upon request. These include documents declassified after October 1, 1994, for Open-Net, human experimentation records, and draft documents. The Department continues to make information publicly available to the fullest extent permitted by law.

In 1994, the Department of Energy received 2,949 requests for information pursuant to subsection (a)(3). This number significantly differs from prior reports submitted by the Department, such as 1993, which identified 11,391 received, and 1992, which identified 8,247 received. This vast difference is a result of the Department's past calculation methods, which included requests for reading room material pursuant to subsection (a)(2). The Department's 1994 Annual Report figures reflect only the total number of Freedom of Information Act requests received pursuant to subsection (a)(3).

b. The Department of Energy incurred costs of approximately $4,909,552.86 in administering all Freedom of Information Act requests in 1994. This figure includes the cost of services of Departmental personnel including salary and fringe benefits, litigation proceedings, overhead costs of such services (i.e., training, travel, subscriptions, printing, duplicating, and mailing), and other associated expenses for all program areas and field operation activities related to administering the Freedom of Information Act.

c. There were 424 instances in which a formal 10-day extension of time was sought. The reasons for the extensions are as follow:

1) The need to search for and collect requested records from field facilities or other establishments that are separate from the office processing the request: 71

2) The need to search for, collect, and appropriately examine a voluminous number of separate and distinct records which are demanded in a single request: 269

3) The need for consultation with another agency having a substantial interest in the determination of the request or between two or more components of the agency having substantial subject-matter interest therein: 84

d. There were no instances in which a court appeal was taken on the basis of exhaustion of administrative procedures because the Department was unable to comply with the requests within the applicable time limits.

e. There were no instances in which a court ruled on the issue of additional time upon a showing of exceptional circumstances.