



Department of Energy  
Bonneville Power Administration  
P.O. Box 3621  
Portland, Oregon 97208-3621

RECEIVED

NOV 22 2004

JEFFERS, DANIELSON,  
SONN, & AYLWARD, P.S.

CORPORATE

November 18, 2004

In reply refer to: KDP-7

Jeffers, Danielson, Sonn & Aylward, P.S.  
Mr. David E. Sonn  
2600 Chester Kimm Road  
PO Box 1688  
Wenatchee, WA 98807-1688  
(509) 662-3685

Dear Mr. Sonn:

Thank you for your email letter of November 12, 2004, requesting information under the Freedom of Information Act. In order for your request to be processed, you must include the following information in your request letter:

- 1 Indicate that you are willing to pay any associated fees to process your request. As a commercial interest, any time required to complete your FOIA request is billed at the hourly salary rate of the searching and/or reviewing employee(s) plus 16 percent. In addition, requestors are charged \$.05 per page for copy expenses.

In order for your FOIA process to begin, please resend your request, including the above listed requirements. For additional information on how to submit a FOIA request, please see our website, [bpa.gov](http://bpa.gov); click on Public Involvement; click on Freedom of Information Act.

If you have any questions, please contact my associate, Debra Smiley, who can be reached by telephone at (503) 230-3084, or mail stop KDP-7.

Sincerely,

Annie Eissler  
Freedom of Information Officer

GARFIELD R. JEFFERS  
JAMES M. DANIELSON  
DAVID E. SONN  
J. PATRICK AYLWARD  
J. KIRK BROMILEY  
GREGORY A. LAIR  
DOUGLAS J. TAKASUGI  
PETER A. SPADONI  
ROBERT C. NELSON  
DONALD L. DIMMITT  
ROBERT R. SIDERIUS, JR.  
STANLEY A. BASTIAN  
MITCHELL P. DELABARRE  
THEODORE A. FINEGOLD  
TODD M. KIESZ  
KARI D. KUBE

**JEFFERS, DANIELSON, SONN & AYLWARD, P.S.**

ATTORNEYS AT LAW  
2600 CHESTER KIMM ROAD  
P.O. BOX 1688  
WENATCHEE, WASHINGTON 98807-1688  
TELEPHONE (509) 662-3685  
FACSIMILE (509) 662-2452

November 22, 2004

**BRIAN C. HUBER  
MICHAEL E. VANNIER**

**DARREN T. BURCHILL  
LISA C. LUI  
KYLE S. KARINEN**

Of Counsel  
WILLIAM F. BALDWIN  
JOSEPH L. HUGHES (1905-1982)  
RICHARD G. JEFFERS (1910-1976)  
**MOSES LAKE**  
515 N. STRATFORD ROAD  
MOSES LAKE, WASHINGTON 98837  
PHONE (509) 765-9705 FAX (509) 765-5060

1995-0141-0006

RECEIVED BY BPA FOIA OFFICE THIS DATE: 12/22/04
DUE DATE: 1-24-05
LOG # 05-002

Annie Eissler, FOIA Officer  
Mail Stop KDP-7  
Bonneville Power Administration  
P.O. Box 3621  
Portland, OR 97208

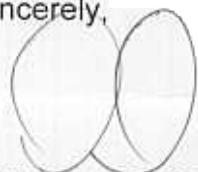
Re: FOIA REQUEST

Dear Annie:

This email responds to your November 18, 2004 letter regarding the Freedom of Information Act request listed in our email of November 12, 2004. Public Utility District No. 2 of Grant County (the District) is willing to pay fees associated with processing their request. I will appreciate your having the person conducting the records search call me to give an estimate of the billing.

If you need anything further, please advise.

Sincerely,



DAVID E. SONN

DES:dlt

cc: Ms. Debra Smiley (via regular mail)  
Ray Foianini (via email)  
Tim Culbertson (via email)  
Dee McGowan (via email)  
Leon Hoepner (via email)

**Department of Energy**

Official File

Bonneville Power Administration  
P.O. Box 3621  
Portland, Oregon 97208-3621

CORPORATE

November 29, 2004

In reply refer to: KDP-7

Jeffers, Danielson, Sonn & Aylward, P.S.  
Mr. David E. Sonn  
2600 Chester Kimm Road  
PO Box 1688  
Wenatchee, WA 98807-1688  
(509) 662-3685

RE: FOIA Request #05-002

Dear Mr. Sonn:

Thank you for your letter of November 12, 2004, requesting information under the Freedom of Information Act (FOIA) and your prompt response to our letter requesting agreement to pay fees to process your request. In your FOIA request you are asking for copies of all records of any aeronautical studies performed relating to any of the seven sets of transmission lines that cross the Columbia River upstream of the Vernita Bridge near the Midway Substation which are shown in the overhead photograph you included with your correspondence.

Your request is not yet perfected, but has been logged in as FOIA #05-002. You have agreed to pay costs, but would first like an estimate from BPA for approximate costs associated with this request before we proceed.

Alan Courts, Vice President, Engineering & Technical Services, has been designated as Authorizing Official for your request. A member of his staff will estimate costs for this request and we will contact you regarding the estimate before we proceed. Mr. Courts has 20 working days from the date of your agreement to pay estimated fees to provide a response. Should you have any questions Mr. Courts may be reached at Mail Stop TN-OPP-3 or by calling 360-619-6731.

Sincerely,

Annie Eissler  
Freedom of Information Officer

bcc:

A. Courts – TN-OPP-3

S. Baskerville – LT-7

J. Bennett -- LC-7

C. Jacobson -- LC-7

K. Kler – CT-1

Official File – KDP-7 (EX 13-13, 05-002)

Aeissler: dls: 3084/11/29/04 (KD-KDP:\FOIA\FOIA2005Letters\Open Letters\D Sonn Open 05-002 .doc)

Department of Energy

Official File

Bonneville Power Administration  
P.O. Box 3621  
Portland, Oregon 97208-3621

CORPORATE

December 17, 2004

In reply refer to: KDP-7

Jeffers, Danielson, Sonn & Aylward, P.S.  
Mr. David E. Sonn  
2600 Chester Kimm Road  
PO Box 1688  
Wenatchee, WA 98807-1688  
(509) 662-3685

RE: FOIA #05-002

Dear Mr. Sonn:

I am writing to provide you with an estimate for fees to complete FOIA request 05-002 as you requested in your letter dated November 22, 2004. Upon review of the request you submitted regarding records of aeronautical studies performed relating to any of the seven sets of transmission lines that cross the Columbia river upstream of the Vernita Bridge near the Midway Substation, we have determined that in order to conduct a reasonable search and review of the documents you are requesting, it will require time from 3 Bonneville staff members. Per Department of Energy FOIA policy, we charge commercial requestors the hourly salary rate of each searching/reviewing staff member + 16%. In addition, we charge \$.05 per copied page. In our estimation the cost for search and review for this request is approximately \$630.00.

In order for us to consider these requests perfected and begin the 20 working day response time allowed by FOIA, we require your signed agreement to pay the fee amount estimated above. Please provide your signature on the third page of this letter indicating your agreement to pay the estimated fees and return it to us. Upon receipt, our staff will promptly begin processing these requests in the 20 working day time frame provided under the FOIA.

Should you have any questions, you may contact me at Mail Stop KDP-7 or by calling 503-230-5110.

Sincerely,



Annie Eissler  
Freedom of Information Officer

RE: FOIA Request #05-002 – Fee Estimate Agreement

For BPA's official records, please sign in the space indicated below that you accept the estimation of fees contained in this letter dated December 16, 2004, regarding FOIA request #s 05-002 and send back to me by return fax (503) 230-4576 or mail.

---

David E. Sonn  
Jeffers, Danielson, Sonn & Aylward, P.S.  
Attorneys at Law

**Department of Energy**

Official File

Bonneville Power Administration  
P.O. Box 3621  
Portland, Oregon 97208-3621

CORPORATE

December 17, 2004

In reply refer to: KDP-7

Jeffers, Danielson, Sonn & Aylward, P.S.  
Mr. David E. Sonn  
2600 Chester Kimm Road  
PO Box 1688  
Wenatchee, WA 98807-1688  
(509) 662-3685

RECEIVED

DEC 22 2004

JEFFERS, DANIELSON,  
SONN, & AYLWARD, P.S.

RE: FOIA #05-002

Dear Mr. Sonn:

I am writing to provide you with an estimate for fees to complete FOIA request 05-002 as you requested in your letter dated November 22, 2004. Upon review of the request you submitted regarding records of aeronautical studies performed relating to any of the seven sets of transmission lines that cross the Columbia river upstream of the Vernita Bridge near the Midway Substation, we have determined that in order to conduct a reasonable search and review of the documents you are requesting, it will require time from 3 Bonneville staff members. Per Department of Energy FOIA policy, we charge commercial requestors the hourly salary rate of each searching/reviewing staff member + 16%. In addition, we charge \$.05 per copied page. In our estimation the cost for search and review for this request is approximately \$630.00.

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Should you have any questions, you may contact me at Mail Stop KDP-7 or by calling 503-230-5110.

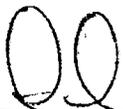
Sincerely,



Annie Eissler  
Freedom of Information Officer

RE: FOIA Request #05-002 – Fee Estimate Agreement

For BPA's official records, please sign in the space indicated below that you accept the estimation of fees contained in this letter dated December 16, 2004, regarding FOIA request #s 05-002 and send back to me by return fax (503) 230-4576 or mail.



---

David E. Sonn  
Jeffers, Danielson, Sonn & Aylward, P.S.  
Attorneys at Law

**JEFFERS, DANIELSON, SONN & AYLWARD, P.S.**

**GARFIELD R. JEFFERS  
JAMES M. DANIELSON  
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J. PATRICK AYLWARD  
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**ATTORNEYS AT LAW  
2600 CHESTER KIMM ROAD  
P.O. BOX 1688  
WENATCHEE, WASHINGTON 98807-1688  
TELEPHONE (509) 662-3685  
FACSIMILE (509) 662-2452**

**December 22, 2004**

**BRIAN C. HUBER  
MICHAEL E. VANNIER**

**DARREN T. BURCHILL  
LISA C. LUI  
KYLE S. KARINEN**

**Of Counsel  
WILLIAM F. BALDWIN  
JOSEPH L. HUGHES (1905-1982)  
RICHARD G. JEFFERS (1910-1976)  
MOSES LAKE**

**515 N. STRATFORD ROAD  
MOSES LAKE, WASHINGTON 98837  
PHONE (509) 765-9705 FAX (509) 765-5060**

**1995-0141-0006**

**Via Facsimile: 503/230-4576**

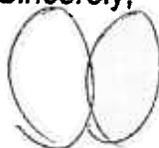
**Ms. Annie Eissler  
Bonneville Power Administration**

**Re: Dyer/KAS v. Grant County PUD, et. al.**

**Dear Ms. Eissler:**

**Enclosed is your letter dated December 17, mailed December 20, and received December 22, which I have signed. The District looks forward to prompt receipt of the documents requested by letter dated November 22, 2004.**

**Sincerely,**



**DAVID E. SONN**

**DES:imt**

**Enclosure**

**cc: Tim Culbertson (w/enc.)  
Ray Foianini (w/enc.)  
Leon Hoepner (w/enc.)  
Dee McGowan (w/enc.)**

Department of Energy

Official File

Bonneville Power Administration  
P.O. Box 3621  
Portland, Oregon 97208-3621

CORPORATE

December 28, 2004

In reply refer to: KDP-7

Jeffers, Danielson, Sonn & Aylward, P.S.  
Mr. David E. Sonn  
2600 Chester Kimm Road  
PO Box 1688  
Wenatchee, WA 98807-1688  
(509) 662-3685

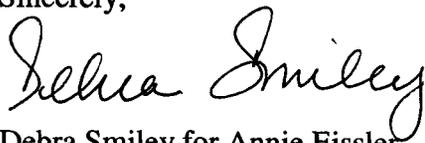
RE: FOIA #05-002

Dear Mr. Sonn:

Thank you for your fax of December 22, 2004 in which you agreed to pay fees estimated to process your FOIA request #05-002.

Alan Courts, Vice President, Engineering & Technical Services, has been designated as Authorizing Official for your request. Mr. Courts has 20 working days, until January 24, 2005 to provide a response. Should you have any questions Mr. Courts may be reached at Mail Stop TN-OPP-3 or by calling 360-619-6731.

Sincerely,



Debra Smiley for Annie Eissler  
Freedom of Information Officer

bcc:

A. Courts – TN-OPP-3

V. Tran – TNLD – TPP-3

R. Stearns – TNLD – TPP-3

S. Baskerville – LT-7

J. Bennett -- LC-7

C. Jacobson -- LC-7

K. Kler – CT-1

Official File – KDP-7 (EX 13-13, 05-002)

Acissler: dls: 3084/12/28/04 (KD-KDP:\FOIA\FOIA2005Letters\Sonn\Open2 (05-002).doc)



# INVOICE

Invoice:  
Invoice Date:  
Page:

FOI-00049  
February 7, 2005  
1 of 1

Please Remit To:  
BONNEVILLE POWER ADMIN  
PO BOX 894196  
LOS ANGELES CA 90189-4196

Customer No: 11198  
Payment Terms: NET 30  
Due Date: March 9, 2005

JEFFERS DANIELSON SONN & AYLWARD PS  
David Sonn  
2600 CHESTER KIM ROAD  
PO BOX 1688  
WENATCHEE WA 98807-1688

**AMOUNT DUE: 625.22 USD**

*To ensure that your account is credited properly, please include the invoice number on your check and/or enclose a copy of the invoice with your payment. Thank You.*

For billing questions, please call: CHANDRA KING  
503-230-3096

Duplicate

Line	Description	Quantity	UOM	Unit Amt	Net Amount
1	SEARCH COSTS	1.00	EA	625.22	625.22

Subtotal: 625.22

**AMOUNT DUE: 625.22 USD**

AMOUNT DUE BONNEVILLE POWER ADMINISTRATION  
FOR BONNEVILLE FOIA REQUEST # 05-002.

Unpaid balance after the due date will accrue interest at a rate of 1 percent per month, unless otherwise stated in the contract or agreement. You have the right to inspect the records and obtain a review, within BPA, of the determination of this indebtedness. All debts are subject to collection under applicable Federal Laws.

For Internal Use

INVOICE CC'S:  
D. SMILEY - KDP-7  
OFFICIAL FILE - CG-4

**JEFFERS, DANIELSON, SONN & AYLWARD, P. S.**

GARFIELD R. JEFFERS  
JAMES M. DANIELSON  
DAVID E. SONN  
J. PATRICK AYLWARD  
J. KIRK BROMILEY  
GREGORY A. LAIR  
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2600 CHESTER KIMM ROAD  
P.O. BOX 1688  
WENATCHEE, WASHINGTON 98807-1688  
TELEPHONE (509) 662-3685  
FACSIMILE (509) 662-2452

February 17, 2005

BRIAN C. HUBER  
MICHAEL E. VANNIER  
  
DARREN T. BURCHILL  
LISA C. LUI  
KYLE S. KARINEN

Of Counsel  
WILLIAM F. BALDWIN

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MOSES LAKE  
515 N. STRATFORD ROAD  
MOSES LAKE, WASHINGTON 98837  
PHONE (509) 765-9705 FAX (509) 765-5060  
1995-0141-0006

Ms. Chandra King  
Bonneville Power Administration  
P.O. Box 894196  
Los Angeles, CA 90189-4196

Re: Dyer/KAS v. Grant County PUI, et. al

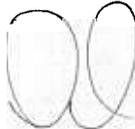
Dear Ms. King:

This letter responds to the billing received on February 11 from BPA. Please provide documentation substantiating the time expended to retrieve the three documents forwarded by letter received January 28, 2005. Please also provide BPA's reasons for the non-timely response to the Freedom of Information Act request.

As you appreciate, Public Utility District No. 2 of Grant County is a municipal agency dealing with municipal funds. Therefore, it must have substantiation to verify expenditures. The only document received that the District did not have is of one page labeled "Exhibit 1". The District was expecting a substantial number of documents in response to its request.

look forward to hearing from you.

Sincerely,



DAVID E. SONN

DES:dlt lmt  
cc: Tim Culbertson  
Ray Folanini  
Leon Hoepner  
Dee McGowan

Department of Energy

Official File

Bonneville Power Administration  
P.O. Box 3621  
Portland, Oregon 97208-3621

CORPORATE

March 10, 2005

In reply refer to: KDP-7

Jeffers, Danielson, Sonn & Aylward, P.S.  
Mr. David E. Sonn  
2600 Chester Kimm Road  
PO Box 1688  
Wenatchee, WA 98807-1688  
(509) 662-3685

RE: FOIA Request #05-002

Dear Mr. Sonn:

Your letter dated February 17, 2005 to Ms. Chandra King requests substantiation of time expended to retrieve the documents forwarded in response to your FOIA request and asks for explanation of the response time to your request.

Enclosed is a copy of the Fee Computation Sheet used by Bonneville during our search, review and document duplication for FOIA requests substantiating the expenses incurred for the time expended in searching and reviewing materials in order to fill your request.

Your faxed agreement to pay fees was received on December 22, 2004. The authorizing official then had 20 working days to respond to your request. December 24 and 31 were Federal holidays. The requested materials were sent to you on January 24, 2005, the due date indicated in our letter of December 28, 2004 acknowledging your faxed fee agreement.

Sincerely,



Annie Eissler  
Freedom of Information Officer

Enclosure:  
Fee Computation Sheet

**Fee Computation Sheet  
for Commercial-use Requesters (Law Firms, etc.)**

(to be filled out by Authorizing Official  
if fees exceed the \$15 minimum)

FOIA # 05-002

**NOTE:** Staff working on this FOIA are to charge their time to the ABM of LSEA along with their own program Work Order number on their T&A.

<b>1. Cost of search</b> (includes time needed for designated employees to search for requested materials/time spent putting info onto a disk - cannot charge for time to produce copies)	Number of Search Hours: <u>10</u>
	Hourly Rate: (employee salary plus 16%) <u>Tram - 8 @ 397 -</u> <u>Steams - 2 @ 114.11</u>
	TOTAL SEARCH COSTS: <u>\$ 411.11</u>
<b>2. Reproduction costs</b>	Number of Copies: <u>N/A</u>
	TOTAL REPRO COSTS: (multiply by \$.05/page)
<b>3. Review Costs</b> (Legal Services / Supervisory Review)	Number of Review Hours: <u>2</u>
	Hourly Rate: (employee salary plus 16%) <u>114.11</u>
	TOTAL REVIEW COSTS: <u>114.11</u>
<b>4. Special Mailing Charges</b> (express mail or fast-mail charges that are requested by the customer are to be charged to the customer.) Specify type of service below: _____	TOTAL MAIL COSTS: <u>N/A</u>
	TOTAL ALL COSTS: <u>\$ 625.22</u>
Requester Name: <u>David Sonn</u>	Phone: <u>509 662-368</u>
Requester Address: <u>Jeffers, Danielson, Sonn &amp; Aylward</u> <u>2600 Chester Kimm Rd P.S.</u> <u>PO Box 1688</u> <u>Wenatchee WA 98807</u>	Fax: _____

**IMPORTANT:** This form must be completed and returned to the FOIA office, routing KDP-7, along with an electronic copy of the closing letter and 2 copies of responsive documents, within the FOIA response deadline.

FOIA #05-002

Mr. David Soon

Chronology

January 22, 2003

Soon: Requests info about marker balls on transmission towers and lines which cross the Columbia River near Midway Substation

January 27, 2003 – FOIA #03-017

BPA: Acknowledgement letter; from FOIA web site - provided November 4, 2002 letter to Franklin L. Smith regarding fees. Trying to get info from web and will check with Debi on her return.

November 12, 2004:

Soon: Original request of “all records of any aeronautical studies performed relating to any of the seven sets of transmission lines that cross the Columbia River upstream of the Vernita Bridge near the Midway Substation which are show in the attached overhead photograph.”

November 18, 2004

BPA: In order for request to be processed, you must include your willingness to pay any associated fees.

November 22, 2004

Soon: Agreement to pay fees; requests “your having the person conducting the records search call me t give an estimate of the billing.”

November 29, 2004

BPA: Acknowledges November 12, 2004 request and states FOIA has been logged in; but not yet perfected since you “would first like an estimate from BPA for approximate costs”

December 17, 2004

BPA: Estimate of fees for “a reasonable search and review of the documents you are requesting, it will require time from 3 BPA staff members.” (\$630) States “we require your signed agreement to pay the fee amount estimated.”

December 22, 2004

Soon: Signs and faxes agreement to pay fees.

December 28, 2004

BPA: Acknowledged receipt of fax to pay fees and states response due by January 24, 2005

January 24, 2005

BPA: Forwards 3 documents at cost of \$625.22.

February 17, 2005

Soon: Requests “documentation substantiating the time expended to retrieve the 3 documents forwarded” and “BPA’s reasons for the non-timely response to the FOIA request.”

March 10, 2005

BPA: Enclosed Fee Computation Sheet and explained faxed agreement to pay fees rec’d on December 22, 2004 and requested materials sent January 24, 2005.

March 18, 2005

Soon:

- States November 22, 2004 letter stated willingness to pay fees so agreement to fees was given prior to December 22, 2004 and BPA has not timely responded to request.
- Rec’d one document not included in an earlier (January 22, 2003) FOIA request. Other two documents are non-responsive.
- Agreed to pay fees “premised upon the understanding that BPA would provide substantial records responsive to the District’s request.”
- Request is not a “commercial request” since a municipal entity is defending itself.
- Two hours for legal services/supervisor review of 3 sheets proves exorbitant and asks BPA review its billings.

Rec'd  
3/22

**JEFFERS, DANIELSON, SONN & AYLWARD, P. S.**

GARFIELD R. JEFFERS  
JAMES M. DANIELSON  
DAVID E. SONN  
J. PATRICK AYLWARD  
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March 18, 2005

BRIAN C. HUBER  
MICHAEL E. VANNIER

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Of Counsel  
WILLIAM F. BALDWIN

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515 N. STRATFORD ROAD  
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PHONE (509) 765-9705 FAX (509) 765-5060  
1995-0141-0006

Ms. Annie Eissler  
Bonneville Power Administration  
P. O. Box 3621  
Portland, OR 97208-3621

Re: Dyer/KAS v. Grant County PUD, et. al.

Dear Ms. Eissler:

This letter responds to your letter dated March 10, mailed March 14, and received on March 16.

Public Utility District No. 2 of Grant County ("District") submitted by email a November 12, 2004 Freedom of Information Act Request for the following:

All records of any aeronautical studies performed relating to any of the seven sets of transmission lines that cross the Columbia River upstream of the Vernita Bridge near the Midway Substation that are shown in the attached overhead photograph...

My November 22, 2004 letter to BPA recited:

Public Utility District No. 2 of Grant County ("District") is willing to pay fees associated with processing the request.

On January 28, this office received BPA's three document response. The first document was a page that BPA had not submitted in response to the Freedom of Information Act Request that the District had submitted on January 22, 2003. (See copy attached.) This first document is the only document responsive to the District's November 12, 2004, Freedom of Information Act Request. The second document is a copy of a portion of a VFR sectional chart. It does not constitute a

“record of any aeronautical study.” The third document is a sheet from an FAA Advisory Circular that the District already had. It, likewise, does not constitute “a record of any aeronautical study performed.” In summary, therefore, BPA has provided no response to the District’s Freedom of Information Act Request. It has provided one sheet that it omitted from its response to the District’s January 22, 2003 request. The other sheets are non-responsive.

The District’s November 12, 2004 FOIA request sought copies of all records of any aeronautical studies relating to any of the seven sets of transmission lines. The initial request sought:

The PUD hereby makes this Freedom of Information Act Request for the following:

1. Documents relating to design and construction of the BPA lines which cross the Columbia River in close proximity to the BPA Midway Substation;
2. Documents relating to communications with the Civil Aeronautics Administration, the Atomic Energy Commission or any other entity regarding lighting/marketing these lines;
3. Any documents regarding lighting/marketing BPA’s lines which cross the Columbia River within this grouping of seven; and
4. Any other FOIA Requests for information submitted by Clifton Dyer or Kennewick Aircraft Services or their attorney, Miller & Associates; the Estates of Kathleen Cheap and James Michael Callow or their attorney, Myers & Knapp or Osborn Smith.

If BPA had advised the District that it had no documents additional to that which it had previously provided, certainly I would not, on the District’s behalf, have agreed to pay up to the estimated amount. When, on behalf of the District, I agreed to pay the estimated amount, I did so premised upon the understanding that BPA would provide substantial records responsive to the District’s request.

As my January 22, 2003 letter (see copy attached) pointed out, the District, a municipal entity, had been sued by Clifton Dyer and Kennewick Aircraft Services, Inc. Dyer claims the District’s line should have marker balls on it. The District made its second FOIA request, i.e., the November 12, 2004 request, to confirm

Ms. Annie Eissler  
March 18, 2005  
Page 3

that no person or entity has ever requested or suggested to BPA that it install marker balls on any of its lines. Thus, the request is not a "commercial request." It is a request seeking information relating to marking to enable the District, a municipal entity, to defend itself from this claim. Thus, statutes relating to payment for "commercial claims" have no application here.

My November 22, 2004 letter to BPA recited

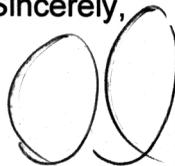
Public Utility District No. 2 of Grant County (the "District") is willing to pay fees associated with processing their request.

Thus, the statement contained in your letter received March 16 that the "agreement to pay fees was received on December 22, 2004" is incorrect. BPA received that commitment much earlier. Consequently, BPA has not timely responded to the District's request.

Two hours for "legal services/supervisor review" to look at three sheets of paper proves exorbitant. Under the circumstances, the District requests that BPA review its billing. Once I receive your response, I will forward it to the District with my recommendation.

If I have missed something here, please advise.

Sincerely,

A handwritten signature in black ink, consisting of two large, overlapping loops that resemble the letters 'DS'.

DAVID E. SONN

DES:imt  
Enclosure

cc: Tim Culbertson (w/o encl.)  
Ray Foianini (w/o encl.)  
Leon Hoepner (w/o encl.)  
Dee McGowan (w/o encl.)



Department of Energy

Official File

Bonneville Power Administration  
P.O. Box 3621  
Portland, Oregon 97208-3621

CORPORATE

March 28, 2005

In reply refer to: KDP-7

Jeffers, Danielson, Sonn & Aylward, P.S  
Mr. David E. Sonn  
2600 Chester Kimm Road  
PO Box 1688  
Wenatchee, WA 98807-1688  
(509) 662-3685

RE: FOIA Request #05-002

Dear Mr. Sonn:

This letter is to acknowledge your March 18, 2005 letter in which you question the timeliness, fees, and responsiveness of BPA's response to your FOIA request #05-002.

The following chronology explains the timeliness of our response to your request.

- November 22, 2004 Your original letter to BPA stated: "Public Utility District No. 2 of Grant County (the District) is willing to pay fees associated with processing their request. I will appreciate your having the person conducting the records search call me to give an estimate of the billing."
- November 29, 2004 BPA's letter acknowledged your request and stated that your request has been logged in; but not yet perfected since you "would first like an estimate from BPA for approximate costs."
- December 17, 2004 BPA provided an estimate of fees for time spent to search and review the documents you requested. The letter stated: "we require your signed agreement to pay the fee amount estimated."
- December 22, 2004 BPA received your agreement to pay fees and began the search and review of documents.
- January 24, 2005 BPA provided documents that were responsive to your FOIA request.

Your original November 22 letter requested an estimate of costs; therefore, we did not begin to process your FOIA request until we had confirmed your willingness to pay for full cost of the

search and review of the documents. Your agreement to pay fees was not received until December 22. We then had 20 days from that date to process your request.

Even though our search and review resulted in only three documents, we still charge fees based on the amount of time spent performing the search and the subsequent review of documents. Fees are charged for search time, even if the search produces no documents that are responsive to a request. The material involved in your request was very technical. Both a technical supervisor and legal counsel performed document review.

Your letter also raises the question of whether the District is exempt from applicable fees.

Upon review of your FOIA request, it does not appear that you have met the burden of establishing that your client qualifies for a waiver of fees for the requested information. The FOIA provides for a reduction or waiver of fees, but only if a requestor shows that disclosure of the information (1) is in the public interest, because it is likely to contribute significantly to the public understanding of the operations or activities of the government; and (2) is not primarily in the commercial interest of the requestor. 5 U.S.C. § 552(a)(4)(A)(iii).

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In order to satisfy the public interest, a requestor must show each of the following:

- (A) The subject of the requested records concerns "the operations or activities of the government";
- (B) Disclosure of the requested records is "likely to contribute" to an understanding of government operations or activities;
- (C) Disclosure of the requested records would contribute to an understanding of the subject by the general public; and
- (D) Disclosure of the requested records is likely to contribute "significantly" to public understanding of government operations or activities.

10 C.F.R. § 1004.9(a)(8)(i). If a requestor satisfies the four factors of the public interest, he must then satisfy the commercial interest factor by showing that disclosure of the information is not primarily in his commercial interest. 10 C.F.R. § 1004.9(a)(8)(ii). Factors to be considered in applying these criteria include but are not limited to:

- (A) The existence and magnitude of a commercial interest: Whether the requester has a commercial interest that would be furthered by the requested disclosure; and, if so
- (B) The primary interest in disclosure: Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is "primarily in the commercial interest of the requester."

The District's interest in this matter, defending itself in litigation over an airplane accident, is considered to be a commercial interest and therefore the district is not exempt from fees.

In addition, your March 18, 2005 letter questions the responsiveness of documents provided to you. Exhibit 2 is a copy of a Seattle Sectional Aeronautical chart indicating the location of the crossing showing the restriction area and the warning obstructions in the area. Exhibit 3 is a copy of the FAA AC70/7460 1K which explains the when markings may be omitted. Our technical staff maintains these documents are responsive to your request.

Lastly, your March 18, 2005 letter suggests that the first document provided in response to your FOIA request 05-002 was asked for and omitted from the documents we provided in response to your FOIA request 03-017. The document provided was not responsive to the specific requests outlined in 03-017.

If dissatisfied with this determination, you may make an appeal within thirty (30) days of receipt of this letter to Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW, Washington, D.C. 20585. Both the envelope and the letter must be clearly marked "Freedom of Information Act Appeal".

Sincerely,



Annie Eissler  
Freedom of Information Officer