



## Department of Energy

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

PUBLIC AFFAIRS

July 20, 2007

In reply refer to: DK-7

Mr. Edward J. Brost  
1802 Hummingbird Ct  
West Richland, WA 99353

FOIA: 07-030

Dear Mr. Brost:

This letter is your final response to your request for information that you made to the Bonneville Power Administration (BPA), under the Freedom of Information Act (FOIA), 5 U.S.C. § 552.

In your request you asked for copies of documents related to an ethics allegation made against you around the time of your retirement from BPA on October 31, 2006. You also asked for a copy of the allegation and emails or other supporting information (excluding portions of power sales contracts) included with the allegation.

The BPA conducted a search of their files for responsive documents. That search located four documents. Documents #1, 2 and 3 are provided with information withheld under Exemption 5 and Exemption 6 of the FOIA, 5 U.S.C. 552(b)(5) and (b)(6), respectively, with no reasonably segregable portions. Document #4 is being released in its entirety.

Exemption 5 protects from mandatory disclosure "inter-agency or intra-agency memorandums or letters that would not be available by law to a party other than an agency in litigation with the agency..." Exemption 5 incorporates the deliberative process privilege which protects advice, recommendations, and opinions that are part of the process by which agency decisions and policies are formulated.

Exemption 5 also protects attorney client information, which is communications between attorney and client that relate to a legal matter for which the client has sought professional advice. The privilege usually protects a client's disclosure to any attorney, but also extends to an attorney's opinion based on those disclosures, and to communications between attorneys that reflect client-supplied information.

The documents with information withheld under Exemption 5 are being withheld because they express opinions that fall within the deliberative process privilege and fall within the attorney-client privilege. Moreover, attorney would not feel they could adequately advise and represent their clients if the information is disclosed.

Exemption 6 protects from mandatory disclosure “personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” In applying Exemption 6, the BPA considered (1) whether a significant privacy interest would be invaded; (2) whether release of the information would further the public interest by shedding light on the operations or activities of the Government; and (3) whether in balancing privacy interests against the public interest, disclosure would constitute a clearly unwarranted invasion of privacy.

The withheld information is of a highly personal nature and the individual(s) to whom it pertains and who would be participants in a potential IG investigation have an expectation that it will remain private. Disclosure of this information could subject the individual(s) in questions to unwarranted communication, attention, and harassment that would intrude into his personal life.

In applying Exemption 6, the BPA balanced the public interest in disclosure against the privacy interests of the individual(s) involved and concluded that the public interest in disclosure did not outweigh the adverse impact of disclosure on the individual(s).

If you are dissatisfied with our 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, DC 20585. Both the envelope and the letter must be clearly marked “Freedom of Information Act Appeal.” There will be charge for this request.

I appreciate the opportunity to assist you with this matter. If you have any questions about this response, please contact me or Laura M. Atterbury, FOIA Specialist, at (503) 230-7305.

Sincerely,

*/s/ Christina J. Brannon*

Christina J. Brannon  
Freedom of Information Act Officer

Enclosure (responsive documents)

**Krier, Jerilyn A - LC-7**

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**From:** [ Redact/Exemption 6 ]  
**Sent:** Friday, October 27, 2006 4:51 PM  
**To:** Krier, Jerilyn A - LC-7  
**Subject:** Confidential

Jeri,

[

REDACT/ Exemption 5 & 6

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[ Document #1 ]

To: Jerry Krier

Subject: Ed Brost Notification of Franklin PUD Offer  
October 31, 2006

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REDACT/Exemption 5 & 6

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December 7, 2006

TO: IG

FR: Jeri Krier

RE: Former BPA Employee Ed Brost

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REDACT/Exemption 5 & 6

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REDACTED/Exemption 5 & 6

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Note to File

November 20, 2006 8:50 AM

I just spoke with Ed Brost. He is in Tennessee, and I returned his call to me of Friday November 17, 2006. I called him on his cell phone, number 509-539-4477.

I told Ed that he should not talk with me about any matters regarding his representation of Franklin PUD. I told him I was the Agency's counsel, not his. I told him that I had asked him in October to prepare a memo for me regarding the timeline for his negotiations of employment with Franklin. I had advised him then that there was grousing about his going to work for Franklin, and it would be a good idea to document his negotiations with Franklin in case there were any questions. I had asked him to prepare a memo for me regarding his recusal when conducting discussions with Franklin. I recounted to Ed that after asking him for this memo, but before Ed sent the memo to me, I learned of allegation that he had involved himself in matters regarding Franklin at the same time he was negotiating employment with Franklin. Today I told him I had deleted his memo without reading it. I told him that the matter was being turned over to the IG and I did not have any idea if they would investigate or how long an investigation would take. I told him I could not provide him any ethics advice and I would recommend that he seek private counsel.