



## Department of Energy

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

PUBLIC AFFAIRS

May 8, 2009

In reply refer to: DK-7

Kristin F. Ruether  
Advocates for the West  
Attorney for Western Watersheds Projects  
P.O. Box 1612  
Boise, ID 83701

RE: FOIA #09-031

Dear Ms. Ruether:

This letter is a 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.

**You requested the following:**

Information and records on the Blue Mountains Wildlife Area Complex, Asotin Wildlife Area and the Wildlife Pilot Grazing Program.

**Response:**

BPA is disclosing most of the responsive records in their entirety. However, BPA has withheld some of the responsive records, in whole or in part, pursuant to 5 U.S.C. § 552(b)(5) (Exemption 5) and 5 U.S.C. § 552(b)(6) (Exemption 6) of the FOIA. BPA has included in your response, the letter and responsive records to FOIA #09-017.

**Exemption 5**

Exemption 5 protects from mandatory disclosure "inter-agency or intra-agency memorandums or letters that would not be available by law to a part 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. The quality of agency decisions would be adversely affected if frank and independent recommendations were inhibited by the knowledge that the content of such recommendations might be made public. For this reason, discretionary disclosure of the deliberative portions of these documents is not being made.

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. Release of information exchanged between attorneys and clients would result in less open discussion between them, and attorneys would not be able to adequately advise and represent their clients. Sound legal advice and advocacy serves the public interest and such advice and advocacy depends upon attorneys being fully informed by their clients and being able to communicate with them.

Due to the size of the responsive documents they cannot be posted. To obtain a copy please contact the BPA FOIA Office at 503-230-7305.

For these reasons, discretionary disclosure of the attorney-client privilege information is not being made. Disclosure would be harmful to the integrity of governmental decision-making processes and could stifle future communications between clients and attorneys.

This satisfies the standard set forth by the Attorney General by a memorandum dated March 19, 2009. That standard states that when a FOIA request is denied, agencies will be defended and justified in not releasing the material on a discretionary basis “only if (1) the agency reasonably foresees that disclosure would harm an interest protected by one of the statutory exemptions, or (2) disclosure is prohibited by law.” The Attorney General’s memorandum also provided that whenever full disclosure of a record is not possible, agencies “must consider whether they can make a partial disclosure.” Thus, we have determined that a partial disclosure is proper in this instance.

#### Exemption 6

Exemption 6 protects the disclosure of personnel, medical, and similar files when disclosure would constitute a clearly unwarranted invasion of personal privacy. To determine whether information should be withheld under Exemption 6, an agency must: (1) identify whether a privacy interest exists in the information; (2) identify whether release would further the public interest by shedding light on the operations and activities of the government; and (3) weigh the identified privacy interests in the information against the public interest in disclosure. In this case, personal email addresses and phone numbers are being withheld under Exemption 6 of the FOIA.

Because there is a significant privacy interest in the information being withheld, and no public interest that would be served by disclosure, BPA finds that disclosure would cause an unwarranted invasion of personal privacy. BPA has disclosed, however, the reasonably segregable portions of the responsive records that are not protected by Exemption 6.

If you are dissatisfied with this determination, you may appeal within 30 days from the date you received this letter to the Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585. The appeal must be in writing and both the envelope and letter must be clearly marked “Freedom of Information Act Appeal.”

I appreciate the opportunity to assist you in this matter. If you have any questions, please contact Laura M. Atterbury, FOIA/Privacy Act Specialist, at 503-230-7305.

Sincerely,

*/s/ Christina J. Brannon*

Christina J. Brannon  
Freedom of Information/Privacy Act Officer