



## Department of Energy

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

PUBLIC AFFAIRS

June 23, 2010

In reply refer to: DK-7

Richard van Dijk  
Better Way for BPA

### FOIA #BPA-2010-00630-F

Dear <sup>Ex 6</sup>Mr. van Dijk:

This is the final response to your Freedom of Information Act (FOIA) request. In May 2007, BPA made a PowerPoint presentation to the Northwest Power Pool entitled "I-5 Corridor Reinforcement Project Plan of Service Status Report May 15, 2007." The presentation included three different options. You asked for all underlying environmental, technical, and financial data regarding the Paul-Troutdale option (option 3) presented in this report, as well as any updates since the May 15, 2007 report.

The majority of responsive records are enclosed in their entirety. However, BPA redacted parts of some of the responsive records pursuant to 5 U.S.C. § 552(b) (Exemption 5).

First, BPA is withholding its internal project cost estimates developed by the program office. If disclosed, this information will reveal BPA's estimates and internal pricing analysis for various parts of the I-5 Corridor Project. BPA's internal cost estimates guide BPA's acquisition planning and procurement process. BPA expects to start buying materials and making construction contracts awards in Fall 2012 and extending through Spring 2013. Disclosing this information to the public before the contracts are awarded will jeopardize the competitive bid process. The information has therefore been redacted, and there is no basis for a discretionary disclosure at this time.

Second, some of the redactions are protected attorney-client communications. They contain confidential communications between and among BPA attorneys and employees for the purposes of obtaining legal advice as part of the project review process. For example, although BPA is making a discretionary release of the draft Agency Decision Framework (ADF), it is not releasing the legal analysis attachment. This legal analysis was prepared by a BPA attorney as part of the project review process in response to a request for legal advice from the BPA Administrator and agency executives. It contains the attorney's interpretations and analysis of relevant case law as well as his opinions on the legal risks associated with different potential courses of agency action.

Third, BPA is withholding emails between a BPA attorney and the BPA Administrator and agency employees. The emails contain confidential attorney client communications, and/or communications that are protected by the deliberative process privilege under Exemption 5.

BPA reviewed the redacted legal analysis and emails to determine if there were any portions that could be segregated and released, but without infringing upon the attorney client or deliberative process privileges. BPA determined that it was not possible to do so for the legal analysis and some of the emails, and therefore only released the email headings and the header and footer of each page in those cases. A discretionary release of the withheld portions of the analysis and emails would not be in the public interest because it will hamper BPA's ability to ensure a full and frank discussion of relevant legal and policy considerations.

If you choose to appeal, it must be made within thirty (30) calendar days of receipt of a letter denying any portion of the request. The appeal should be sent to the Director, Office of Hearings and Appeals, HG-1, U.S. L'Enfant Plaza Building, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585-1615.

The written appeal, including the envelope, must clearly indicate that a Freedom of Information Act Appeal is being made. The appeal must contain all the elements required by 10 CFR 1004.8, to the extent applicable.

I appreciate the opportunity to assist you with this matter and apologize for the delay. If you have any questions regarding this letter, please contact our office at 503-230-7305.

Sincerely,



Christina J. Munro  
Freedom of Information Act/Privacy Act Officer

Enclosure(s): Responsive Documents

Due to the size of the response it cannot be posted. To obtain a copy, please contact the BPA FOIA Office at 503-230-7305.