



Department of Energy

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

FREEDOM OF INFORMATION ACT PROGRAM

September 9, 2015

In reply refer to: FOIA #BPA-2015-01782-F

Jim Hansen
(b)(6)

Dear Mr. Hansen:

We have received your request for records under the Freedom of Information Act (5 U.S.C. § 552). Thank you for your interest in the Bonneville Power Administration (BPA). Your request was received in this office on August 26, 2015, and has been assigned control number BPA-2015-01707-F. Please use this number in any correspondence with the agency about your request.

You requested:

"I received a letter from BPA regarding an encroachment of a building on BPA right of way. TERR-BELL-1 Case Number 20100586. I've been working with right of way agent Jason Verduzco, telephone 509-468-3086. The case file is in his possession. Two years ago I purchased the property with the encroachment on it. It is my understanding that this encroachment was filed back in 2010 and the previous owners knew about this and withheld this information from the sale. I would like to see all the contents of this encroachment file."

We have reviewed your request and have determined that it addresses all of the criteria of a proper request under the FOIA, DOE, and BPA regulation that implements the FOIA at Title 10, Code of Federal Regulations, Part 1004.

Final response:

We conducted a search of the paper and electronic records of the Real Property offices. We have located 6 pages of material responsive to your request. We are releasing the 6 pages with redactions under Exemption 6.

The Freedom of Information Act generally requires the release of all government records upon request. However, FOIA permits withholding certain, limited information that falls under one or more of nine statutory exemptions (5 U.S.C. §§ 552(b)(1-9)).

Exemption 6 protects information in “personnel and medical files and similar files” when the disclosure of such information “would constitute a clearly unwarranted invasion of personal privacy” (5 U.S.C. § 552(b)(6)). Exemption 6 requires balancing the public interest in the information against the individual privacy interest at issue. Here, we assert this exemption to redact the names of the previous owners. We find no public interest in this information and therefore redact it under Exemption 6.

Information that falls under Exemption 6 cannot be discretionarily released; the right of privacy belongs to the individual, not to the agency. Therefore, we did not analyze this information under the discretionary release guidelines in Attorney General Holder’s March 19, 2009, FOIA Memorandum.

Fees:

There are no fees associated with this request.

Pursuant to Department of Energy FOIA regulations at 10 C.F.R. § 1004.8, you may administratively appeal this response in writing within 30 calendar days. If you choose to appeal, please include the following:

- (1) The nature of your appeal - denial of records, partial denial of records, adequacy of search, or denial of fee waiver;
- (2) Any legal authorities relied upon to support the appeal; and
- (3) A copy of the determination letter.

Clearly mark both your letter and envelope with the words “FOIA Appeal,” and direct it to the following address:

Director, Office of Hearings and Appeals
Department of Energy
1000 Independence Avenue SW
Washington DC 20585-1615

I appreciate the opportunity to assist you. If you have any questions about this letter, please contact Colleen Cushnie, FOIA Case Coordinator (BPA Contractor, ACS), at (503) 230-5986 or email at cacushnie@bpa.gov.

Sincerely,



C. M. Frost
Freedom of Information/Privacy Act Officer



Department of Energy

Bonneville Power Administration
2520 US Highway 2 East
Kalispell, MT 59901

September 10, 2010

In reply refer to: TERR/Kalispell
Case No. 20100586

Tract: H-HS-33-A-147
ADNO: 6318
Line: Hungry Horse-Hot Springs Line (Operated as Flathead-Hot Springs No. 1)
Location: AOL of Structure 13/2

CERTIFIED RETURN RECEIPT REQUESTED

(b)(6)
800 White Basin Road
Kalispell, MT 59901-8911

Dear (b)(6):

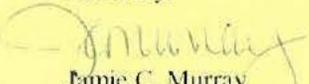
Recently, a representative of the Bonneville Power Administration (BPA) was out in your area and noticed a building located within and encroaching on our 250'-wide transmission line easement. This encroachment is in the SW¹/₄NE¹/₄ of Section 9, Township 27 North, Range 21 West, Principle Meridian, Flathead County, Montana, as shown on the enclosed map.

BPA acquired its rights by Transmission Line Easement dated July 10, 1951 and was recorded with the Flathead County Recorder's Office, a copy of which is included for your records. The easement states that BPA has the right to keep the easement clear of structures and fire hazards. Safe operation and maintenance standards do not allow structures to be located within the right-of-way. BPA is in the process of conducting a survey to locate the easement boundaries, as well as the location of the mobile home and barn and their relationship to those boundaries.

Please note that BPA imposes certain restrictions and/or prohibitions on the use of property encumbered by our transmission line rights-of-way. BPA's typical easement prohibits structures within the easement area. Land Use Applications must be submitted to BPA for any use proposed within the rights-of-way. I will be in contact with you once the survey is complete and the data has been forwarded to my office.

I anticipate this survey will be completed within the next few weeks. At that time, you will be required to initiate steps to remove any portion of the structures, if any, determined to be encroaching on our easement. **Please be assured that BPA does realize that moving structures of this size is not an easy task and we are willing to work with you on a reasonable removal schedule, if needed.** In the interim, if you have any questions, please do not hesitate to contact me. I can be reached at (406) 751-7821 or by email at jcmurray@bpa.gov.

Sincerely,


Jamie C. Murray
Lead Realty Specialist

Enclosures

bcc:
Aircraft Services – TC-SP-Hanger
M. Stolfus – TFKF-Kalispell
J. Murray – TERR-Kalispell
N. Meisner – TERR-3
Official File – TERR (Case No. 20100586)

JCMurray:jcm:9/10/2010 (W:\tsr_wg\CASE FILE\010CASE\20100586LTR01.doc)

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Restricted Delivery Fee (Endorsement Required)	
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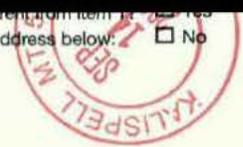
Postmark
Here

Sent to (b)(6) - 20100586

Street, Apt. No.,
or PO Box No. 800 White Basin Rd

City, State, ZIP+4 Kalispell MT 59901

PS Form 3800, August 2006 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>(b)(6)</p> <p>b. Is delivery address different from item 1? <input checked="" type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> 
<p>1. Article Addressed to:</p> <p>(b)(6)</p> <p>800 White Basin Rd Kalispell MT 59901</p>	
<p>2. Article Number (Transfer from service label)</p> <p>7006 3450 0000 8810 9478</p>	<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail</p> <p><input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>PS Form 3811, February 2004</p>	<p>Domestic Return Receipt</p> <p>102595-02-M-1540</p>



Department of Energy

Bonneville Power Administration
2520 US Highway 2 East
Kalispell, MT 59901

November 4, 2010

In reply refer to: TERR/Kalispell
Case No. 20100586

Tract: H-HS-33-A-147
ADNO: 6318
Line: Hungry Horse-Hot Springs Line (Operated as Flathead-Hot Springs No. 1)
Location: AOL of Structure 13/2

CERTIFIED RETURN RECEIPT REQUESTED

(b)(6)

800 White Basin Road
Kalispell, MT 59901-8911

Dear (b) (6)

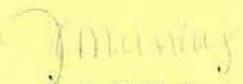
Recently, I sent you a letter regarding the possible encroachment of a building located within the Bonneville Power Administration's (BPA) above referenced 250'-wide transmission line easement. This encroachment is in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 9, Township 27 North, Range 21 West, Principle Meridian, Flathead County, Montana. Since that time, the requested survey has been complete and does reflect this building to be located completely within BPA easement area, as shown on the enclosed map.

As disclosed previously, BPA acquired its rights by Transmission Line Easement dated July 10, 1951 and was recorded with the Flathead County Recorder's Office. The easement states that BPA has the right to keep the easement clear of structures and fire hazards. Safe operation and maintenance standards do not allow structures to be located within the right-of-way.

I do need to inform you that until this encroachment is removed from within the right-of-way, you assume all risk of loss, damage, or injury, which may result from it being located within the right-of-way. **This does not mean that by assuming this risk it can stay. It must be moved.** It is further understood that any damage to BPA's property caused by or resulting from your use of the right-of-way may be repaired by BPA, and the actual costs for such repair shall be charged against and paid by you.

BPA understands that moving a building is a major undertaking and is willing to work with you on a removal schedule. Please give me a call as soon as possible to discuss a schedule that will work for both of us. I can be reached at (406) 751-7821 or by email at jcmurray@bpa.gov. Thank you for your prompt attention to this matter.

Sincerely,


Jamie C. Murray
Lead Realty Specialist

Enclosures

bcc:
Aircraft Services - TC-SP-Hanger
M. Stolfus - TFKF-Kalispell
J. Murray - TERR-Kalispell
N. Meisner - TERR-3
Official File - TERR (Case No. 20100586)

JCMurray:jcm:11/4/2010 (W:\tsr_wg\CASE FILE\010CASE\20100586LTR02.doc)

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Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 6.62

Postmark
Here

Sender's Name: (b)(6)

Street or P.O. Box No.: 800 White Basin Rd.

City, State, ZIP+4: Kalispell, MT 59901

PS Form 3800, August 2006 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

(b)(6)

800 white BASIN Rd.
Kalispell, MT 59901

COMPLETE THIS SECTION ON DELIVERY

(b)(6)

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number (Transfer from service label) 7006 3450 0000 8810 9546



Department of Energy

Bonneville Power Administration
2520 US Highway 2 East
Kalispell, MT 59901

November 22, 2010

In reply refer to: TERR/Kalispell
Case No. 20100586

Tract: H-HS-33-A-147
ADNO: 6318
Line: Hungry Horse-Hot Springs Line (Operated as Flathead-Hot Springs No. 1)
Location: AOL of Structure 13/2

(b)(6)
800 White Basin Road
Kalispell, MT 59901-8911

Dear (b)(6) [redacted]:

Per our conversation last week regarding the encroachment of your building located within the Bonneville Power Administration's (BPA) above referenced 250'-wide transmission line easement, it is my understanding that your plan is to pour a concrete foundation and move the building during the spring/summer of 2011. As we discussed, enclosed you will find a Land Use Application for your temporary use of BPA's easement area.

Just a reminder, BPA imposes certain restrictions and/or prohibitions on the use of property encumbered by our transmission line rights-of-way. BPA's typical easement prohibits structures within the easement area, but we are willing to work with you while plans are made to remove the building from within BPA's right-of-way.

Once your application is complete, return it to this office at the address above. If you need any assistance in completing the application or have any questions, please give me a call. I can be reached at (406) 751-7821 or by email at jcmurray@bpa.gov. Thank you again for your prompt attention to this matter.

Sincerely,

Jamie C. Murray
Lead Realty Specialist

Enclosure

cc:
Aircraft Services – TC-SP-Hanger
M. Stoffus – TFKF/Kalispell
J. Murray – TERR/Kalispell
N. Meisner – TERR/3
Official File – TERR (Case No. 20100586)

JCMurray:jcm:11/22/2010 (W:\tsr_wg\CASE FILE\010CASE\20100586LTR03.doc)



Department of Energy

Bonneville Power Administration
2520 US Highway 2 East
Kalispell, MT 59901

September 8, 2011

In reply refer to: TERR/Kalispell
Case No. 20100586

Tract: H-HS-33-A-147
ADNO: 6318
Line: Hungry Horse-Hot Springs Line (Operated as Flathead-Hot Springs No. 1)
Location: AOL of Structure 13/2

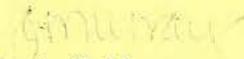
(b)(6)
800 White Basin Road
Kalispell, MT 59901-8911

Dear (b)(6):

This is a follow up to both our September conversation and the letter I sent you regarding the removal of your building located within the Bonneville Power Administration's (BPA) above referenced 250'-wide transmission line easement. Your plan at that time was to pour a concrete foundation and move the building during the spring/summer of 2011. I just wanted to check in with you and see how the move was going.

As we discussed before, in order to maintain operation and safety criteria, BPA imposes certain restrictions and/or prohibitions on the use of property encumbered by our transmission line rights-of-way. Please give me a call at your earliest convenience. I can be reached at (406) 751-7821 or by email at jcmurray@bpa.gov. Thank you again for your prompt attention to this matter.

Sincerely,


Jamie C. Murray
Lead Realty Specialist

bcc:
Aircraft Services – TC-SP-Hanger
M. Stolfus – TFKF/Kalispell
J. Murray – TERR/Kalispell
N. Meisner – TERR/3
Official File – TERR (Case No. 20100586)

JCMurray:mebw:9/8/2011(Z:\CASE FILE\010CASE\20100586LTR04.doc)