



## Department of Energy

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

FREEDOM OF INFORMATION ACT/PRIVACY PROGRAM

September 8, 2016

In reply refer to: FOIA #BPA-2016-01059-F

Taylor W. Anderson  
Bend Bulletin  
2829 SE Holgate Blvd.  
Portland, OR 97202  
[tanderson@bendbulletin.com](mailto:tanderson@bendbulletin.com)

Dear Mr. Anderson:

This communication is a final response to your Freedom of Information Act (FOIA) request received at Bonneville Power Administration (BPA) on June 15, 2016 which BPA acknowledged on July 28, 2016.

In BPA's July 28, 2016 acknowledgment letter to you, we indicated that intervening circumstances involved in our records search might necessitate an adjustment to the statutory records release time requirement, as permitted by the FOIA (5 U.S.C. § 552(a)(6)(D)(i)). We had planned to update you with a true target date for the release of the responsive records, but our search efforts yielded positive results and we are now releasing the responsive records to you in lieu of providing a target update.

### **Request**

"Email from October 27, 2014, in which David Thatcher says BPA will discuss "safety clause in F&W contracts," with a meeting scheduled for the following Monday; Emails sent and received regarding that meeting and any decisions or policies created as a result."

### **Response: Records Subject to Discretionary Release**

BPA conducted a search for agency records in the germane parts of the Compliance & Governance office and located agency records responsive to your FOIA request. BPA believes that the response to your request involves agency records containing "pre-decisional" and "deliberative" information, the release of which might harm interests intended to be protected by the 5 U.S.C. § 552(b)(5) (Exemption 5) deliberative process privilege. That deliberative process privilege protects records evincing the deliberative or decision-making processes of government agencies from public release.

That said, please be aware that while responding to your FOIA request, and in reviewing the responsive agency records for potential redaction under Exemption 5, BPA has been at all times mindful of Attorney General Holder's Memorandum for Heads of Executive Departments and Agencies Concerning the Freedom of Information Act, 74 Fed. Reg. 51879 (Oct. 8, 2009) (Holder Memo), directing all Federal agencies to adopt a presumption in favor of disclosure. In accord with the Holder Memo, records protected by Exemption 5's deliberative process privilege may be discretionarily released. BPA has considered and approved the discretionary release of the information in the responsive records set that would otherwise be arguably subject to Exemption 5. BPA is therefore releasing 3 pages of responsive records to you, with no redactions. Those agency records accompany this communication.

Pursuant to 10 C.F.R. § 1004.7(b)(2), I am the individual responsible for the determination to release the information described above.

### **Fee**

As a media requester, FOIA fees are waived for your BPA-2016-01059-F request for BPA records.

### **Appeal**

This decision, as well as the adequacy of the search, may be appealed within 90 calendar days from your receipt of this letter pursuant to 10 C.F.R. § 1004.8. Appeals should be addressed to:

Director, Office of Hearings and Appeals,  
HG-1, L'Enfant Plaza  
U.S. Department of Energy  
1000 Independence Avenue, S.W.  
Washington, D.C. 20585-1615

The written appeal, including the envelope, must clearly indicate that a FOIA appeal is being made. You may also submit your appeal to [OHA.filings@hq.doe.gov](mailto:OHA.filings@hq.doe.gov), including the phrase "Freedom of Information Appeal" in the subject line. The appeal must contain all of the elements required by 10 C.F.R. § 1004.8, including a copy of the determination letter. Thereafter, judicial review will be available to you in the Federal District Court either: 1) in the district where you reside; 2) where you have your principal place of business; 3) where DOE's records are situated; or 4) in the District of Columbia.

You may contact DOE's FOIA Public Liaison, Sarah Westenberg, at the address at the letter header for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows:

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road-OGIS  
College Park, Maryland 20740-6001  
E-mail: [ogis@nara.gov](mailto:ogis@nara.gov)

Telephone: 202-741-5770; Toll free: 1-877-684-6448; Facsimile: 202-741-5769.

If you have questions about this communication, you may also contact James King (CorSource Technology Group, Inc.), assigned to the BPA FOIA office, at 503.230.7621.

Sincerely,



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

Responsive agency records enclosed

**Thatcher,David B (BPA) - CG-7**

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**From:** Lofy,Peter T (BPA) - KEWU-4  
**Sent:** Wednesday, February 04, 2015 5:36 PM  
**To:** Dondy-Kaplan,Hannah A (BPA) - KEWM-4; Brown,Cecilia K (BPA) - KEWM-4  
**Cc:** Van Leuven,Kristi J (BPA) - NSSP-4; Thatcher,David B (BPA) - CG-7  
**Subject:** WE team help: Executive Safety Committee - contractor safety for F&W contracts

I know you aren't fond of doing things at the last minute, but we just got direction in a meeting with Procurement and Safety that we are going to be requiring our sponsors to provide more safety direction to their employees and subcontractors. And having it only show up in the boilerplate is really insufficient.

I thought we might get a "pass" for a little while so we could figure this out more. But the COs have been putting new safety clauses in contracts for a few months, so I want to alert the Bios they may need to do some things they have done. On the other hand, many people may already be doing these, but we've never asked for the forms.

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We could create a new milestone later, and then have Tuan and us scramble to get them into our contracts at the last minute. But I suggest that we take a little time to pen a milestone now. Otherwise we will have a last minute milestone scramble, which none of us needs.

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The two products that are going to be required are "Site Specific Safety Plan" (construction) and "Job Hazard Analysis". The templates for these are still being negotiated. We have examples, but they aren't pretty. So we aren't willing to adopt them without at least some negotiation.

The any reputable construction company already does these. They are used to it. The Bios (e.g., for Spawn surveys) are not.

(DAVE: Just an FYI, since I know this has ben

(new milestone: first thoughts ):

Suggested WE :Manage and Administer <b>DRAFT</b>	
<b>Title:</b>	Comply with all applicable federal, state, tribal and local safety requirements, including reporting.

Description:

As described in more detail elsewhere in the contract's Terms and Conditions (T&C), the contractor shall comply with all applicable federal, state, tribal and local safety laws, rules, regulations and requirements, including any BPA-specific requirements. The contractor's contract manager shall review the full T&C, and comply with all safety requirements for contract and subcontract activities.

For construction (as defined by BPA), regardless of whether the contractor or subcontractor completes the work, a safety plan shall be prepared and submitted 45 days before construction will be allowed to commence (including work anticipated in the first 90 days of any future contract). BPA review and [acceptance TERM?] of each site plan is required before any construction may commence (including, but not limited to, site preparation [e.g., providing access, etc.]). Contract activities not specific to a particular site (e.g., spawning surveys) may require a hazards analysis.

Until we get specific, I'd prefer not to use too much jargon in the milestone just yet (e.g., Site Specific Safety Plan)

## Thatcher,David B (BPA) - CG-7

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**Subject:** SAFETY CLAUSE IN IGC'S  
**Location:** 792

**Start:** Thu 11/6/2014 1:00 PM  
**End:** Thu 11/6/2014 1:30 PM

**Recurrence:** (none)

**Meeting Status:** Accepted

**Organizer:** Kelly,Damian J (BPA) - CGP-7

**Required Attendees:** Van Leuven,Kristi J (BPA) - NSSP-4; Thatcher,David B (BPA) - CG-7; Weinstein,Jason C (BPA) - PTL-5

**Optional Attendees:** Heister,Brenda S (BPA) - NSSP-4; Mote,Khanida P (BPA) - NSSP-4; Wolfe,Karen T (BPA) - NSSP-4; Rojas,Jose I (BPA) - NSSP-4

**Objective:**

1. Review BPI to determine if prescriptions require insertion of Safety Clause in IGC.
2. Clarity hall way conversation w/ Kristi wherein she felt a new clause, specific to IGCs needed to be developed.