



OFFICE of GOVERNMENT INFORMATION SERVICES

November 10, 2015 — Sent via email

██████████
██████████

Re: Case No. 201500862
NG: CM: AS

NATIONAL
ARCHIVES
and RECORDS
ADMINISTRATION

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OGIS
COLLEGE PARK, MD
20740-6001

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Dear ██████████:

This responds to your June 23, 2015, request for assistance from the Office of Government Information Services (OGIS), pertaining to your Freedom of Information Act (FOIA) request to the Department of Energy, Idaho Operations Office (DOE-ID). Thank you for contacting OGIS.

Congress created OGIS as the Federal FOIA Ombudsman to complement existing FOIA practice and procedure; we strive to work in conjunction with the agency's request and appeal process. The goal is for OGIS to allow, whenever practical, the requester to exhaust his or her remedies within the agency, including the appeal process. OGIS has no investigatory or enforcement power, nor can we compel an agency to release documents.

In your submission to OGIS, you requested assistance with a FOIA request (██████████) and subsequent appeal to the Department of Energy, Idaho Operations Office (DOE-ID). I understand that you are concerned about the adequacy of DOE-ID's search for responsive records.

We carefully reviewed your submission of information. I understand that in response to the request, DOE-ID indicated that the requested data was already publically available due to an earlier FOIA request. All responsive information is available in the online reading rooms. These documents may be reviewed on the Idaho National Laboratory (INL) website at <https://www.inl.gov/doe-public-reading-room/>. In your appeal, you disputed the adequacy of the agency's search and noted the incompleteness of the records available online. Per the ██████████, Decision and Order, DOE Office of Hearings and Appeals (OHA) reviewed DOE-ID's initial determination. Upon review, OHA denied your appeal, asserting that the agency's search for responsive records was adequate and that the agency did not locate any unreleased responsive records.

We contacted DOE-ID to discuss your dispute and how the agency processed your request and appeal. DOE-ID FOIA and Privacy Act Officer ██████████ reviewed your request and the agency's actions and reaffirmed the agency's final position on the records you seek. In cases such as this where an agency is firm in response, there is little assistance OGIS can offer beyond providing more information about the agency's actions.



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██████████ informed us that all available information is located on the INL website at <http://www4vip.inl.gov/library/searchreadingroom2.shtml>.

Regarding your concern about the adequacy of the search, ██████████ informed OGIS that he performed an exhaustive search for documents responsive to your colleague's request. He explained that the request was provided to the DOE Federal contractor and the DOE-ID program manager since these folks are most intimately aware of the location of any responsive records. They searched for records (in response to an earlier request) and provided the documents to ██████████ for review and posting. ██████████ also explained that shortly before receiving your request, the agency received a request through its Public Affairs office requesting the identical records. In response to that requests ██████████ obtained all responsive records which were later posted on the DOE-ID website. If you believe additional records have been created since the date of your original request, you may wish to submit a new FOIA request seeking the additional records by limiting the search from the date of your last FOIA request to present for any additional records if any exist.

Federal courts have long settled that in regard to a search for documents, the crucial issue is whether an agency conducted an adequate search for a document, not whether a document *might* exist. An adequate search is conducted when the search is reasonably calculated to uncover all relevant documents. *Weisberg v. Dep't of Justice*, 705 F.2d 1344, 1351 (D.C. Cir. 1983).

While I understand that this is not the result for which you hoped, I hope that this additional information about your request is useful to you. Thank you for bringing this matter to OGIS; at this time there is no further action for us to take and we will consider this matter closed.

Sincerely,

JAMES V.M.L. HOLZER
Director

cc: DOE-ID FOIA Officer, via email

We appreciate your feedback. Please visit <https://www.surveymonkey.com/s/OGIS> to take a brief anonymous survey on the service you received from OGIS.