

**From:** [Al Armendariz](#)  
**To:** [Layla Mansuri](#)  
**Subject:** Re: FOIA requests for the NM and OK FIPs  
**Date:** 01/20/2011 08:07 PM

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Thanks.

Al

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Al Armendariz  
Regional Administrator  
U.S. EPA  
Region 6  
armendariz.al@epa.gov  
office: 214-665-2100  
twitter: @al\_armendariz  
▼ [Layla Mansuri](#)

----- Original Message -----

**From:** Layla Mansuri  
**Sent:** 01/20/2011 04:30 PM CST  
**To:** Al Armendariz; Chrissy Mann; Lawrence Starfield; Javier Balli  
**Cc:** Carrie Clayton  
**Subject:** Fw: FOIA requests for the NM and OK FIPs  
FYI.

----- Forwarded by Layla Mansuri/R6/USEPA/US on 01/20/2011 04:29 PM -----

**From:** Agustin Carbo-Lugo/R6/USEPA/US  
**To:** Layla Mansuri/R6/USEPA/US@EPA  
**Date:** 01/20/2011 04:11 PM  
**Subject:** Re: Fw: FOIA requests for the NM and OK FIPs

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Layla,

After talking to Joe Kordzi, we have decided to request additional time for both NM and OK's FOIAs. I am requesting an additional time of 30 days from today. Still have no reply from the attorneys. We are only limiting the scope for the OK FOIA, for questions 3 and 4. You may want to wait until I receive confirmation on this one. Most of NM's requests are already in the e docket for the NPRM. We decided to continue uploading in the box all the emails related just to the San Juan Generating Station (as stated in the request).

Hope this helps :)

Agustin F. Carbo-Lugo  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 6

1445 Ross Ave. (6-RC-M)  
Dallas, TX 75202  
Tel: (214) 665-8037  
Fax: (214) 665-2182

-----Layla Mansuri/R6/USEPA/US wrote: -----  
To: Agustin Carbo-Lugo/R6/USEPA/US@EPA  
From: Layla Mansuri/R6/USEPA/US  
Date: 01/20/2011 04:01PM  
Cc: Chrissy Mann/R6/USEPA/US@EPA, Leticia  
Lane/R6/USEPA/US@EPA, Yerusha Beaver/R6/USEPA/US@EPA  
Subject: Re: Fw: FOIA requests for the NM and OK FIPs

Agustin:

Hi. Just following up.

I have a couple of questions.

1. What are the current deadlines?
2. Was there any narrowing to the requests? Is this in the works?

Thanks.  
Layla

Agustin Carbo-Lugo---01/18/2011 10:11:57 AM---Layla, I'll be helping  
PD with both FOIA requests. In December we requested an extension  
of time on

From: Agustin Carbo-Lugo/R6/USEPA/US  
To: Layla Mansuri/R6/USEPA/US@EPA  
Date: 01/18/2011 10:11 AM  
Subject: Fw: FOIA requests for the NM and OK FIPs

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Layla,

I'll be helping PD with both FOIA requests. In December we  
requested an extension of time on the OK FOIA and it appears it was  
granted. This morning I had a meeting with PD and we will be  
requesting to narrow the scope of the request. I should have more  
information this afternoon. I'll get back to you.

Agustin F. Carbo-Lugo  
Office of Regional Counsel

U.S. Environmental Protection Agency, Region 6  
1445 Ross Ave. (6-RC-M)  
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Tel: (214) 665-8037  
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----- Forwarded by Agustin Carbo-Lugo/R6/USEPA/US on 01/18/2011  
10:07 AM -----

From: Lucinda Watson/R6/USEPA/US  
To: Suzanne Smith/R6/USEPA/US@EPA, Ben Harrison/R6/USEPA/US@EPA  
Cc: Agustin Carbo-Lugo/R6/USEPA/US@EPA, Yerusha  
Beaver/R6/USEPA/US@EPA, Carrie Thomas/R6/USEPA/US@EPA  
Date: 01/13/2011 04:40 PM  
Subject: Re: Fw: FOIA requests for the NM and OK FIPs

OGC (Kevin and Geoff) and I think we need to assign Agustin and Yerusha to handle the FOIA coordination for the NM and OK FIPs documents.

It is my understanding that Joe worked with Richard Wessels and is getting the LotusNotes links prepared for R6, RTP, and DC.

But we believe that we need a lawyer, e.g., Agustin, to call the requestors and narrow the scope. Agustin also could work with Joe to get the time estimates and work with whomever in RTP and DC to get their time estimates. Agustin and Joe could draft now the letter suspending the request until we get a sufficient fee commitment. Since it will be Agustin's first huge FOIA assignment, I am sure he will need to turn to Yerusha for assistance.

OGC is willing to offer any legal assistance from their FOIA experts since much of the information concerns business information, contractor information, although I feel like Paul already has explained EPA's position on these materials and PD seems to understand.

FOIA Exemption (b)(5) - Deliberative Process Privilege

Re: Fw: FOIA requests for the NM and OK FIPs

**Re: Fw: FOIA requests for the NM and OK FIPs**

Carrie Thomas to: Lucinda Watson 01/13/2011 02:48 PM

Cc: Agustin Carbo-Lugo, Suzanne Smith, Yerusha Beaver

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Hi Lucinda,  
I agree with Geoff's comments.

For the original QF/FP FOIA, we did suspend the request in writing until we were able to get a sufficient fee commitment from the requestor (**\$10,000 for the R6 response**). We suggested that amount based on a cost estimate after we asked everyone with responsive documents to guess how long it would take them to respond. We are continuing to send rolling responses until we hit that amount, which we are very close to doing. We are also going to contact the requestor to ask if they would like to commit additional fees to cover the remainder of the response and a denial log of what we are withholding and why.

**We also asked the requestor to narrow the scope, but they were under no obligation to do so.** They did, in fact, narrow it slightly (hence the list of excluded records in the instructions e-mail).

Yerusha - correct me if I've misstated anything. Thanks,

Carrie K. Thomas  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 6  
1445 Ross Ave. (6-RC-M)  
Dallas, TX 75202  
Tel: (214) 665-7121  
Fax: (214) 665-2182

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Lucinda Watson---01/13/2011 12:49:49 PM---For the QF/FP FOIA, did we first contact them to try to narrow the request? Next, did we send

a let

From: Lucinda Watson/R6/USEPA/US  
To: Carrie Thomas/R6/USEPA/US@EPA, Suzanne Smith/R6/USEPA/US@EPA  
Cc: Agustin Carbo-Lugo/R6/USEPA/US@EPA  
Date: 01/13/2011 12:49 PM  
Subject: Fw: FOIA requests for the NM and OK FIPs

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For the QF/FP FOIA, did we first contact them to try to narrow the request?  
Next, did we send a letter suspending our response until they agreed to pay the estimated amount?

Of course, I cannot figure out how we would have an estimate until everyone has finished their search for responsive documents?

Bottom line - how do I answer OGC's e-mail so we sound like we know what we are doing?

◆----- Forwarded by Lucinda Watson/R6/USEPA/US on 01/13/2011 12:47 PM -----

**Re: Fw: FOIA requests for the NM and OK FIPs**

Geoffrey Wilcox to: Joe Kordzi 01/12/2011 05:22 PM

Cc: Lea Anderson, Todd Hawes, Kevin McLean, Lucinda Watson, Agustin Carbo-Lugo

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PRIVILEGED COMMUNICATION

Joe:

Let's have a chat about this topic.

Unless something has changed, my understanding is that there are some standard protocols we usually follow in such FOIA requests.

One of the first steps is to alert the requestor that they need to narrow their request because it is overbroad, and secondarily that it will probably cost more than the amount of \$ they agreed to pay.

Unless and until they respond to that, and tell us they will pay more, we usually tell them in writing that we are suspending our response to their request until they get back to us.

Lucinda and Augustin may have more recent experience than me in dealing with such things.

If not, we may want to call one of the OGC FOIA gurus for a consultation. FOIA Exemption (b)(5) - Deliberative Process Privilege

G

Joe Kordzi---01/12/2011 04:09:20 PM---yes thanks - I've called Mr. Orkin to inform him I think the bill would exceed \$500. He hasn't resp

From: Joe Kordzi/R6/USEPA/US  
To: Lea Anderson/DC/USEPA/US@EPA  
Cc: Geoffrey Wilcox/DC/USEPA/US@EPA, Todd Hawes/RTP/USEPA/US@EPA  
Date: 01/12/2011 04:09 PM  
Subject: Re: Fw: FOIA requests for the NM and OK FIPs

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yes thanks - I've called Mr. Orkin to inform him I think the bill would exceed \$500. He hasn't responded yet.

Regards,

Joe

" ... and miles to go before I sleep."  
-- Robert Frost

Lea Anderson---01/12/2011 02:13:06 PM---Joe, I assume (hopefully)  
that we are at least charging the requestor for our search time?  
Please

From: Lea Anderson/DC/USEPA/US  
To: Joe Kordzi/R6/USEPA/US@EPA  
Cc: Geoffrey Wilcox/DC/USEPA/US@EPA, Todd  
Hawes/RTP/USEPA/US@EPA  
Date: 01/12/2011 02:13 PM  
Subject: Re: Fw: FOIA requests for the NM and OK FIPs

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Joe,  
I assume (hopefully) that we are at least charging the requestor for  
our search time? Please let me know if I should keep track of the time  
spend on the search.

thanks,  
Lea

M. Lea Anderson  
EPA Office of General Counsel  
Phone: (202) 564-5571

Joe Kordzi---01/12/2011 01:58:30 PM---Welcome to my FOIAs. I will  
separately send you some Lotus Notes buttons and instructions so you  
ca

From: Joe Kordzi/R6/USEPA/US  
To: Geoffrey Wilcox/DC/USEPA/US@EPA, Lea  
Anderson/DC/USEPA/US@EPA, Todd Hawes/RTP/USEPA/US@EPA

Date: 01/12/2011 01:58 PM

Subject: Fw: FOIA requests for the NM and OK FIPs

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Welcome to my FOIAs. I will separately send you some Lotus Notes buttons and instructions so you can load your emails.

Regards,

Joe

" ... and miles to go before I sleep."  
-- Robert Frost

----- Forwarded by Joe Kordzi/R6/USEPA/US on 01/12/2011 12:52 PM  
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From: Joe Kordzi/R6/USEPA/US

To: R6 6PD-L

Cc: Lucinda Watson/R6/USEPA/US@EPA, Agustin Carbo-Lugo/R6/USEPA/US@EPA

Date: 01/04/2011 11:19 AM

Subject: FOIA requests for the NM and OK FIPs

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Enclosed are two extensive FOIA requests. The first one is related to our just proposed NM regional haze SIP-FIP, and mainly concerns the San Juan Generating Station. The second one basically requests everything we have concerning the OK regional haze SIP-FIP which we are currently working on. [REDACTED]

[REDACTED] I looked into getting drop boxes set up for you to submit your emails, but balked at the 33 page set of instructions that accompanied it, and the lack of an easy, workable way to get those emails to the requestor, so we will do it the old fashioned way. If you have anything that is responsive, pls print it off and give it to me. If that includes documents, pls put them on a CD and name them in such a way the requestor will know which email they go with. I cannot provide guidance on what can be released. According to ORC, we should have all taken that training and are apparently on our own. I'm sorry for not starting this earlier, but I was busy with the FIPs and my efforts to get clarification/help on this didn't work out.

1. The due date for the NM FOIA was 12/30/10. This is the second FOIA on this subject from the same person. A request has been made to get an extension, but as before, the requestor has not been responsive to that request. I think much of what is requested will actually be in the docket in a day or so. However, you may have emails that are responsive.

2. The due date for the OK regional haze SIP-FIP has been extended to 1/15/11, but the requestor expected we would do a rolling submittal, that for the reasons outlined above, didn't work out. Therefore, pls also assume we are also late on this one as well. Because we have not yet proposed our decision on this action, I expect much of what is requested will not be able to be released, but that if you to decide. Here is something that may help:  
[foia.navy.mil/Exemptionb5Slides.ppt](http://foia.navy.mil/Exemptionb5Slides.ppt)

**Pls have everything to me by noon, 1/11/11. If that's not possible, pls let me know ASAP.**

[attachment "SJGS FOIA.pdf" deleted by Lea Anderson/DC/USEPA/US]  
[attachment "OK SIP-FIP FOIA.pdf" deleted by Lea Anderson/DC/USEPA/US]

Regards,

Joe

" ... and miles to go before I sleep."  
-- Robert Frost