

From: Robert Godfrey <info@savepassamaquoddybay.org>
Subject: **Second Request to Comply with July 11 FOIA Request**



Date: 2011 July 27 1:22:52 PM EDT

To: FOIA-CEII <FOIA-CEII@ferc.gov>

Cc: Patrick Woodcock <patrick_woodcock@snowe.senate.gov>, Gail Kelly <gail_kelly@snowe.senate.gov>, Carol Woodcock <carol_woodcock@collins.senate.gov>, Marcia Gartley <Marcia.Gartley@mail.house.gov>, Rosemary Winslow <rosemary.winslow@mail.house.gov>, "Christopher R. Sharpley" <ighotline@hq.doe.gov>, Rebecca Boucher <rboucher@dunkielsaunders.com>, Sean Mahoney <smahoney@clf.org>, Jane West <jwest@clf.org>

Bcc: Linda Godfrey <linda@atlanticleadershipcenter.com>

Angela M. Washington
Management Analyst for the Office of External Affairs
Federal Energy Regulatory Commission

Re my 2011 July 11 Freedom of Information Act (FOIA) request re the permitting status of Downeast LNG, FERC Docket No. CP07-52.

Ms. Washington,

I am asking for a second time after filing my July 11 FOIA request that FERC comply with my request (see email thread, below). Your previous email indicated that fulfilling my request requires more information on my part, and that FERC will not process my request.

My request is unambiguous, asking for very specific information that should be publicly and easily available, but that is not. I have also responded to your email asking that if additional information is required what kind of exact information is needed. As of yet, I have not received an answer.

I point out that FOIA allows only nine exemptions to compliance. Those are records that are:

1. Properly classified as secret in the interest of national defense or foreign policy (b)(1).

2. Related solely to internal personnel rules and practices (b)(2).
3. Specifically exempted by other statutes (b)(3).
4. Concerning trade secrets and commercial or financial information obtained from a person that is privileged or confidential (b)(4).
5. Privileged interagency or intra-agency memoranda or letters, except under certain circumstances (b)(5).
6. Personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy (b)(6).
7. Investigatory records compiled for law enforcement purposes (b)(7).
8. Contained in or related to certain examination, operating, or condition reports concerning financial institutions (b)(8).
9. Geological and geophysical information and data, including maps, concerning wells (b)(9).

My request does not fall under any of those nine exemptions.

You indicated in our July 22 telephone conversation that FERC is not required to comply with a FOIA request if the information is considered "public," and that my request might fall under that exemption. FOIA clearly does not exempt public information from such requests. You also indicated in that conversation that FERC "may not have a checklist" of items required for permitting approval. If that were true -- if FERC were to not have a list of requirements that must be completed for permitting approval -- then that would bring into alarming question the credibility and competency of FERC's permitting process -- all the more reason why FERC must supply an answer.

Even if FERC does not have a checklist, and even if the records requested do not qualify under FOIA, FERC is still obligated to provide answers to my questions under FOIA, other than merely "dismissing the entire request as lacking sufficient information." Each individual question deserves either an answer or qualification as to why it is not being answered.

Please respond via email by the FOIA-specified 20-day deadline from my request submission date.

Thank you.

Robert Godfrey
researcher & webmaster
Save Passamaquoddy Bay 3-Nation Alliance
(US • Passamaquoddy • Canada)

PO Box 222
Eastport, ME 04631
(207)853-4123
(207)853-2922 (my office at Old Sow Publishing)
www.SavePassamaquoddyBay.org

cc: Sen. Olympia Snowe
Sen. Susan Collins
Rep. Mike Michaud
Christopher Sharpley, DOE Office of the Inspector General
Rebecca Boucher, Esq., Dunkiel Saunders Law Firm
Sean Mahoney, Conservation Law Foundation
Jane West, Conservation Law Foundation

From: info@savepassamaquoddybay.org
Subject: **Re: Clarification of FOIA request.**
Date: 2011 July 25 6:37:52 PM EDT
To: FOIA-CEII@ferc.gov
Cc: patrick_woodcock@snowe.senate.gov, gail_kelly@snowe.senate.gov,
rboucher@dunkielsaunders.com, ighotline@hq.doe.gov

Angela M. Washington
Management Analyst for the Office of External Affairs
Federal Energy Regulatory Commission

**Re my 2011 July 11 Freedom of Information Act (FOIA) request re the
permitting status of Downeast LNG, FERC Docket No. CP07-52.**

Ms. Washington,

Thank you for acknowledging my FOIA request, as I requested on Friday, July 22. You have not indicated in your response in what way my FOIA request is deficient, other than in vague terms. To the contrary, I have requested specific information that is clearly stated in my original request, and that should be easily accessed:

1) The status of the permitting requirements -- the checklist -- for Downeast LNG, CP07-52. To be succinct, exactly what requirements have not been completed? That is a straightforward question that should

be easily answered and that is not found in FERC's eLibrary;

2) The names and positions of the FERC staff who are responsible for keeping track of those requirements -- another straightforward question that should be easily answered, and that is not available in FERC's eLibrary; and

3) The laws, regulations, or policies giving FERC staff authority to withhold the requested information from the public -- yet another straightforward question, although it may not be easily answered, since FOIA does not appear to give FERC staff that authority.

You advised me on Friday that FERC is obligated to provide responses to FOIA requests only if the information is non-public. You referred me to the wording of FOIA. I have read the act, and have found no reference limiting responses to non-public information. I have also read each and every filing to the docket of interest, and am unable to determine what requirements have not been met by the applicant. The eLibrary does not appear to contain the requested information; or, if that information is contained, it is not easily found or understood; it is essentially inaccessible.

The information sought is being requested via FOIA precisely because FERC has "buried" that information and has demonstrated its unwillingness to provide that information to the public in a forthright, easily accessible and understood manner. These circumstances are precisely why FOIA exists; to make government responsive to the public interest.

Since the FERC docket and staff do not make clear what permitting requirements have not yet been fulfilled -- even after two years from FERC's deadline for responses from the applicant to technical questions arising from the Draft EIS, and after multiple unsuccessful attempts on my part to obtain that information both from the docket and from FERC personnel -- it is in the public interest that FERC supply answers to my FOIA request.

Please comply with my FOIA request, as asked. Otherwise, please provide a clear description, citing passages in the Act demonstrating exactly how my request does not comply with request requirements. If there is a clear reason why my request does not comply with the Act, I will reword and resubmit my request.

I look forward to receiving your response in a timely manner, and thank you for your effort.

Very truly,

Robert Godfrey

researcher & webmaster

Save Passamaquoddy Bay 3-Nation Alliance

(US • Passamaquoddy • Canada)

PO Box 222

Eastport, ME 04631

(207)853-4123

(207)853-2922 (my office at Old Sow Publishing)

www.SavePassamaquoddyBay.org

cc: Senator Olympia Snowe

Rebecca Boucher, Esq., Dunkiel Saunders Elliott Raubvogel & Hand

Christopher R. Sharpley, Deputy Inspector General for Investigations and Inspections

On 2011 Jul 25, at 12:40 PM, FOIA-CEII wrote:

Hello Mr. Godfrey,

Thank you for contacting the Federal Energy Regulatory Commission (FERC). As I stated in our conversation on Friday July 22, your FOIA request was received. I also indicated that we weren't able to process your request as originally submitted and asked that you provide more information regarding the specific type of information you were requesting.

I have included the following link to aid you in your search:

<http://www.ferc.gov/legal/ceii-foia/foia.asp>

If you have questions or need further assistance, please do not hesitate to contact our FOIA-CEII Service Center by email at foia-ceii@ferc.gov or by phone at 202 502-6088.

Sincerely,

Angela M. Washington
Management Analyst for the Office of External Affairs
Federal Energy Regulatory Commission
202-502-8870

NOTICE: This email message and any attachments are for the sole use of the intended recipients and may contain information that is classified as privileged, CEII or otherwise protected from disclosure. Any unauthorized review, use, disclosure or distribution is strictly prohibited. If you are not the intended recipient, please contact the sender by reply email and delete the original message from your computer system and destroy any copies of the message as well as any attachments.

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

From: info@savepassamaquoddybay.org
[mailto:info@savepassamaquoddybay.org]
Sent: Monday, July 11, 2011 5:09 PM
To: FOIA-CEII
Subject: Electronic FOIA Request Form

Title:
First Name: Robert
Last Name: Godfrey
Organization: Save Passamaquoddy Bay
Street Address: PO Box 222
Street Address2:
City: Eastport
State: ME
Zip Code: 04631
Phone: 207-853-2922
Fax:
Email: info@savepassamaquoddybay.org
Your Request: Receive the material in electronic form (if possible)
Records Seeking: This request is regarding the Downeast LNG import terminal applications, Docket No. CP07-52, et al. Save Passamaquoddy Bay

is an official intervenor in this matter.

1) The name(s) and job title(s) of the person(s) responsible for maintaining FERC LNG terminal application permitting checklists indicating exactly what permitting requirements have and have not been completed by the applicant;

2) A copy of the current Checklist status for the Downeast LNG import terminal application.

3) The text of any existing regulation, law, or policy giving FERC the authority to refuse providing the public or intervenors with the checklist status of an LNG formal application. Failing existence of such regulation, law, or policy, we request a statement indicating same.

Expedited Threat:

Expedited Urgency: yes

Expedited Justification: Downeast LNG is now over 2 years late in providing FERC with requested information arising from the Draft Environmental Impact Statement. The public should already have been able to track the permitting status, other than simply being informed by FERC that the Final EIS will be issued when the applicant has completed all requirements.

The public has already been made to wait two years beyond the FERC 2009 July 6 deadline for the applicant to comply with information requests. The impact of the project's permitting has already taken a great toll on relationships between area family members, among friends, between communities, between New Brunswick and Maine, and between the US and Canada.

Considerable expense has been incurred by the public (individuals and NGOs) during this process, and the requested information may disclose whether or not additional funds will be required in the future and must be raised.

The permit applicant has millions of dollars at its disposal -- to the disadvantage of the public that must raise what funds it can to be involved in the process.

Without expedited processing of our request, the public would be without

substantive information regarding the project's permitting status, placing the public at an even greater disadvantage.

Expedited Processing Certify: I Certify

Payment of Fees: Request a waiver or reduction of fees

SpecifiedAmount: \$ 200.00

Fee Waiver Justification: I represent Save Passamaquoddy Bay, and the request is made as part of our free news gathering and online news dissemination service to the general public via our website

<<http://www.savepassamaquoddybay.org/>> and through news releases to local,

state, national, and international news services.

The information requested is not for commercial use, and is not for my or Save Passamaquoddy Bay's financial benefit.

Save Passamaquoddy Bay is a Maine Non-Profit corporation (NGO) whose sole

purpose is related to LNG projects in Passamaquoddy Bay, including dissemination of news regarding those projects.