

FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

OCT 27 2015

Re: Response Letter,  
FOIA No. FY15-129

**VIA ELECTRONIC AND REGULAR MAIL**

Mr. Robert Godfrey  
Save Passamaquoddy Bay  
P. O. Box 222, Moose Island  
Eastport, ME 04631  
[info@savepassamaquoddybay.org](mailto:info@savepassamaquoddybay.org)

Dear Mr. Godfrey:

By correspondence received on September 28, 2015, you filed a request for information pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552 (2012) and the Federal Energy Regulatory Commission's (FERC or Commission) FOIA regulations, 18 C.F.R. § 388.108 (2015). Specifically, you requested recordings, transcripts, notes and minutes from a FERC Bi-Weekly Conference Call on August 3, and September 14, 2015 regarding the Downeast LNG project, Docket No. PF14-19.

A search of the Commission's non-public files identified two documents responsive to your request. Both documents are conference call logs created by Commission staff for internal use. The documents include summaries of two calls and related deliberative information. The deliberative information is protected from disclosure by FOIA Exemption 5, which protects from disclosure intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency. See 5 U.S.C. § 552(b)(5).

Courts have consistently held that three policy purposes constitute the basis for the FOIA Exemption 5 deliberative process privilege: (1) to encourage open, frank discussions on matters of proposed policy between subordinates and superiors; (2) to protect against premature disclosure of proposed policies before they are finally adopted; and (3) to protect against public confusion that might result from disclosure of reasons and rationales that were not in fact ultimately the grounds for an agency's action. See *Russell v. Dep't of the Air Force*, 682 F.2d 1045, 1048 (D.C. Cir. 1982); see also *Environmental Protection Agency v. Mink*, 410 U.S. 73, 87 (1972). Here, portions of the documents reflect Commission staff deliberations regarding a matter pending before the Commission. See *Odland v. FERC*, Civil Action No. 13-141, 2014 WL 1244773, (D.D.C. 2014); *Reliant Energy Power Generation v. FERC*, 520 F. Supp. 2d 194 (D.D.C. 2007). That information has been redacted pursuant to FOIA Exemption 5.

The documents also contain certain personal information that is protected from disclosure. FOIA Exemption 6 provides that an agency should not disclose "personnel...and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy."<sup>1</sup> See e.g., *Bibles v. Oregon Natural Desert Ass'n*, 519 U.S. 355 (1997); *National Ass'n of Retired Fed. Employees v. Horner*, 879 F.2d 873 (D.C. Cir. 1989). Accordingly, the names, phone numbers, and email addresses of the meeting attendees have been redacted in accordance with FOIA Exemption 6.

The redacted documents are enclosed. As provided by the Freedom of Information Act and 18 C.F.R. § 388.110(a)(1) of the Commission's regulations, any appeal from this determination must be filed within 45 days of the date of this letter. This appeal must be in writing, addressed to Max Minzner, General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, and clearly marked "Freedom of Information Act Appeal." Please include a copy to Charles A. Beamon, Associate General Counsel, General and Administrative Law, at the same address.

Sincerely,



Leonard M. Tao

Director

Office of External Affairs

Enclosures (2)

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<sup>1</sup>

See 5 U.S.C. § 552(b)(6).

<i>Office of Energy Projects – Division of Gas Environment and Engineering – Gas Branch 1</i>			<b>Project No.:</b> PF14-19-000	
<b>Bi-Weekly Conference Call</b>				
<b>Date of Meeting:</b> Monday, August 3, 2015 10:00 am EST			<b>Project:</b> Downeast LNG Export Project	
<b>Meeting Attendees:</b>				
<b>Name</b>	<b>Representing</b>	<b>Office/Location</b>	<b>Phone</b>	<b>Email</b>
	U.S. Army Corps of Eng.	Manchester, ME		
	NOAA National Marine Fisheries Service	Annapolis, MD		
	Downeast LNG	Robbinston, ME		
	Tetra Tech	Boston, MA		

### Meeting Summary

#### Project Updates – Downeast LNG

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#### Project Updates – FERC

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<i>Office of Energy Projects – Division of Gas Environment and Engineering – Gas Branch 1</i>			<b>Project No.:</b> PF14-19-000	
<b>Bi-Weekly Conference Call</b>				
<b>Date of Meeting:</b> Monday, September 14, 2015 10:00 am EST			<b>Project:</b> Downeast LNG Export Project	
<b>Meeting Attendees:</b>				
<b>Name</b>	<b>Representing</b>	<b>Office/Location</b>	<b>Phone</b>	<b>Email</b>
	FERC	Washington, DC		
	U.S. EPA	Boston, MA		
	Downeast LNG	Robbinston, ME		
	Tetra Tech	Boston, MA		

### Meeting Summary

#### Project Updates – FERC

- [REDACTED]

#### Project Updates – Downeast LNG

- [REDACTED]

- [REDACTED]

#### General Discussion

- [REDACTED]

#### Future Bi-weekly Calls

- [REDACTED]