

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

GOVERNMENT ACCOUNTABILITY &
OVERSIGHT,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
ENERGY,

Defendant.

Civil Action No. 24-1829 (RDM)

JOINT STATUS REPORT

Government Accountability & Oversight (“Plaintiff”) and Defendant U.S. Department of Energy (“Defendant” or “DOE”), by and through their respective counsel, submit the following Joint Status Report in this Freedom of Information Act (“FOIA”) case, pursuant to the Court’s August 16, 2024 Minute Order.

1. This case stems from Plaintiff’s request for expedited processing of FOIA request HQ-2024-02097-F. *See* Compl. ¶¶ 1, 8-26, ECF No. 1.

Defendant’s Position

2. The status of the request is as follows:

- a. On July 24, 2024, a search for the requested records was authorized and subsequently run. This search yielded no responsive documents.
- b. On July 31, 2024, Defendant, on its own initiative, authorized a second search using broader search terms, which was subsequently run.
- c. The second search on HQ-2024-02097-F was completed in August 2024. DOE has subsequently identified 97 potentially responsive documents, totaling 4,354

pages. Defendant is currently in the process of conducting a responsiveness review of the pages.

- d. At this time, Defendant cannot represent whether any of the records found are actually responsive to the request.
- e. Defendant represents that review of these documents will require multiple levels of intra-agency review and potentially additional review by non-DOE entities.

3. Defendant cannot yet determine when it will be in a position to send a final response.

4. Defendant represents that it is working diligently on processing this FOIA request in light of the overall number of FOIA requests received this year by DOE and the limited resources available to the FOIA Office.

5. At this time, Defendant does not anticipate filing a motion to stay under *Open America v. Watergate Special Prosecution Force*, 547 F.2d 605 (D.C. Cir. 1976).

6. However, Defendant is filing a motion for consolidation in this case requesting the Court consolidate this case with seven (7) other cases involving the same Plaintiff on the same or similar FOIA requests. This is the first filed case of the eight (8) cases. All eight (8) actions seek documents and correspondence within the Department of Energy related to a purported 2023 liquefied natural gas (“LNG”) export study that Plaintiff claims was buried by senior agency officials to justify a pause of LNG export authorizations (“LNG Pause”). The United States will be filing this motion on September 13, 2024.

7. Defendant therefore proposes that the Court decline to enter a status report schedule until the Court rules on the forthcoming motion for consolidation.

Plaintiff's Position

8. Plaintiff notes that this Status Report represents the first indication to Plaintiff by Defendant that some number of records may in fact exist responsive to this June 7, 2024 request, which Defendant has apparently known since July 31, 2024 or as soon as the next day, August 1, 2024. ¶¶2(b)-(c), *supra*.

9. Plaintiff notes that Defendant does not state that the records produced in response to its search are responsive, and believes that, rather than seeking delays and having had this search result for as long as six weeks, Defendant should be able to and should answer that question by this time. See ECF No. 1 at 4-5, ¶¶. 11-14.

10. As such, Plaintiff requests that this Court require the Defendant to assert within the next 14 days how many responsive records exist, and thereafter confer with Plaintiff in an attempt to set a reasonable and lawful processing schedule for such records.

Parties' Joint Positions

11. The Parties believe that establishing a summary judgment briefing schedule and filing of a *Vaughn* index are premature at this time.

12. The Parties intend to engage in good-faith discussions regarding the DOE's search for potentially responsive documents.

Dated: September 13, 2024

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Respectfully submitted,

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