

**United States Department of Energy
Office of Hearings and Appeals**

In the Matter of Mariana Castro)

Filing Date: April 14, 2025)

Case No.: FIA-25-0031

Issued: May 5, 2025

Decision and Order

On April 14, 2025, Mariana Castro (Appellant) appealed an interim response letter from April 4, 2025, issued by the Department of Energy's (DOE) Office of Public Information (OPI). The letter responded to Request No. HQ-2025-02688-F, a request filed by the Appellant under the Freedom of Information Act (FOIA), 5 U.S.C. § 522, as implemented by the DOE in 10 C.F.R. Part 1004. In the letter, DOE denied Appellant's request for expedited processing of her FOIA request. Interim Response Letter from OPI to Mariana Castro at 3 (Apr. 4, 2025). The Appellant appeals that decision. Appeal Letter Email from Mariana Castro to OHA Filings at 1 (Apr. 14, 2025). In this Decision, we deny the appeal.

I. Background

On March 28, 2025, the Appellant submitted the FOIA request to the DOE, asking for communications and other records related to the U.S. Deep Seabed Hard Mineral Resources Act. FOIA Request at 1. The Appellant also requested expedited processing, saying: "I am currently reporting a time-sensitive story scheduled for publication in May 2025. These records are essential for informing accurate public reporting on this developing international resource and policy issue." *Id.* at 3.

DOE issued an interim response letter on April 4, 2025. Interim Response Letter at 1. The letter informed the Appellant that DOE was denying her request for expedited processing because the rationale that the Appellant provided "[had] not identified an actual or alleged activity that poses any particular urgency that requires the dissemination of information in an expedited manner." *Id.* at 3.

The Appellant timely appealed the decision to deny her request for expedited processing on April 14, 2025. Appeal at 1. The Appellant argues that the requested information relates to federal government interaction with private companies in a matter of current exigency to the American public and that a delay would make it impossible for the public to understand DOE's role prior to the finalization of policies. *Id.* Therefore, she says that her request for expedited processing should be granted. *Id.*

II. Analysis

Agencies must grant expedited processing to FOIA requesters “in cases in which the person requesting the records demonstrates a compelling need.” 5 U.S.C. § 552(a)(6)(E)(i)(I). A person may demonstrate a compelling need in one of two ways. First, the person might show that failure to expedite their FOIA request “could reasonably be expected to pose an imminent threat to the life or physical safety of an individual.” *Id.* § 552(a)(6)(E)(v)(I). Alternatively, the person might show that they are “primarily engaged in disseminating information” and that there is an “urgency to inform the public concerning actual or alleged Federal Government activity.” *Id.* § 552(a)(6)(E)(v)(II). These criteria are applied narrowly to avoid unduly delaying responses to requests that do not qualify for expedited processing and to ensure that meritorious requests for expedited processing can be processed with appropriate haste “because prioritizing all requests would effectively prioritize none.” *Al-Fayed v. CIA*, 254 F.3d 300, 310 (D.C. Cir. 2001). It is the requestor’s burden to prove that there is a compelling need. *Wadelton v. Dep’t of State*, 941 F.Supp.2d 120, 122 (D.D.C. 2013) (citing *Al-Fayed*, 254 F.3d at 305 n. 4).

The Appellant does not contend there is any imminent threat to life or physical safety of an individual, so we consider the second standard. It is undisputed that the Appellant is a member of the news media, and, thus, she is “primarily engaged in disseminating information.” FOIA Request at 1. We must next determine whether the Appellant has shown that there is an “urgency to inform the public concerning actual or alleged Federal Government activity.” 5 U.S.C. § 552(a)(6)(E)(v)(II). To make that determination, we consider three factors: “(1) whether the request concerns a matter of current exigency to the American public; (2) whether the consequences of delaying a response would compromise a significant recognized interest; and (3) whether the request concerns federal government activity.” *Al-Fayed*, 254 F.3d at 310. In her request, the Appellant stated that the request was for a “time-sensitive story scheduled for publication in May 2025.” FOIA Request at 3. On appeal, the Appellant asserts that the information requested is exigent because of the “U.S. government’s potential involvement in deep-sea mining in international waters” and states that “the public deserves to understand DOE’s role in this industry shift *before* policies or permits are finalized.” Appeal at 1 (emphasis in original).

Courts have historically found that something is a “matter of a current exigency to the American public” when it is a “breaking news story of public interest” or “when the subject matter of the request was central to a pressing issue of the day.” *Wadelton*, 941 F.Supp.2d at 123. The Appellant has not brought forward any evidence that there is substantial interest, on the part of the public or the news media, in the information that the Appellant is seeking. *See Al-Fayed*, 254 F.3d at 311 (explaining that *Al-Fayed* had failed to show that his request was a matter of exigency to the American public because there was no support for his claims in the record); *ACLU v. Dep’t of Justice*, 321 F.Supp.2d 24, 29–30 (explaining that the plaintiff had supported its claim that there was urgency to inform the public and that there was a significant recognized interest at stake by citing several newspaper articles discussing the issue).

We find that the Appellant has not met her burden to show that there is a compelling need in regard to her request. Accordingly, we find her request for expedited processing should not be granted.

III. Order

It is hereby ordered that the Appeal filed on April 14, 2025, by Mariana Castro, FIA-25-0031, is denied.

This is a final order of the Department of Energy from which any aggrieved party may seek judicial review pursuant to the provisions of 5 U.S.C. § 522(a)(4)(B). Judicial review may be sought in the district in which the requester resides or has a principal place of business, or in which the agency records are situated, or in the District of Columbia.

The 2007 FOIA amendments created the Office of Government Information Services (OGIS) to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. You may contact OGIS in any of the following ways:

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