

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

In the Matter of Informed Consent Action)
Network)

Filing Date: June 20, 2025)
_____)

Case No.: FIA-25-0043

Issued: July 1, 2025

Decision and Order

The Informed Consent Action Network (Appellant) appeals a final determination letter issued to it from the Department of Energy (DOE) Headquarters (HQ) Freedom of Information Act (FOIA) Officer, concerning Request No. HQ-2025-02368, filed under the FOIA, 5 U.S.C. § 552, as implemented by the DOE in 10 C.F.R. Part 1004. In the final determination letter, the FOIA Officer informed Appellant that it conducted a search and found no responsive documents. Determination Letter from DOE HQ’s FOIA Officer to Appellant at 1 (Mar. 24, 2025) (Determination Letter). Appellant challenges DOE HQ’s determination with respect to the adequacy of the search conducted. Appeal Brief from Appellant to Office of Hearings and Appeals (OHA) at 2–4 (June 20, 2025) (Appeal). In this Decision, we deny the Appeal.

I. Background

On March 5, 2025, Appellant filed the following FOIA request: “All communications (including but not limited to emails, text messages, direct messages, Teams chats, Slack chats, Signal messages, Skype messages, WhatsApp messages, etc.) sent and/or received by Kevin Knobloch from June 1, 2013, through January 31, 2017, to and/or from david_keith@harvard.edu, eburns@g.harvard.edu, dean@seas.harvard.edu, and/or keutsch@seas.harvard.edu.” Determination Letter at 1; Appeal at 1.

On March 24, 2025, DOE HQ’s FOIA Officer issued a Determination Letter representing that the “request was assigned to DOE’s Office of the Chief Information Officer (IM) to conduct a search of its files for responsive records” and that “IM completed its search but did not locate any documents responsive [to Appellant’s] request.” Determination Letter at 1.

On June 20, 2025, Appellant filed the instant Appeal challenging the adequacy of the search. Appeal at 2–4. In particular, Appellant challenges the lack of specificity provided in the Determination Letter: “[DOE] failed to identify what records it searched, who searched for the records, and through what process [DOE] searched for the records.” *Id.* at 3. Appellant further argues that DOE “should have at least searched Mr. Knobloch’s email for all emails sent and/or received to and/or from the email addresses provided in the FOIA Request.” *Id.* Accordingly, Appellant requests that DOE “review its search methods to ensure it will meet its FOIA obligations in litigation by providing the missing documents.” *Id.* at 4.

OHA contacted DOE HQ's FOIA Officer and the assigned FOIA Analyst to inquire as to the search methodology employed by DOE HQ when determining that no responsive records existed. *See* Email from OHA to FOIA Officer and FOIA Analyst (June 23, 2025). Search documentation demonstrates that, on March 20, 2025, IM's FOIA Coordinator informed the FOIA Analyst that, given the age of the requested records, IM would not have responsive records. Email from IM to FOIA Analyst (March 20, 2025). Specifically, because the requested records were from 2013 through 2017 and because standard employees' email records are typically only retained for 7 years, IM's FOIA Coordinator assumed no responsive records existed. *Id.*; Email from FOIA Analyst to OHA (June 27, 2025). However, the FOIA Analyst informed OHA that he has since learned "there is a different retention schedule for High [L]evel Officials (HLOs)" of up to "15 years" and that Mr. Knobloch was a former "Chief of Staff." Email from FOIA Analyst to OHA (June 27, 2025). The FOIA Analyst "confirm[ed] there is an inbox for Kevin Knobloch" and that DOE HQ "can search" Mr. Knobloch's emails. *Id.*

On June 30, 2025, the FOIA Analyst emailed OHA, confirming that IM conducted an electronic search of Mr. Knobloch's email account, using the specific search parameters provided by Appellant. Email from FOIA Analyst to OHA (June 30, 2025). The electronic search of the inbox resulted in no responsive records to Appellant's FOIA request. *Id.*

II. Analysis

The FOIA requires that, upon receiving a request, a government agency "conduct a search reasonably calculated to uncover all relevant documents." *Truitt v. Dep't of State*, 897 F.2d 540, 542 (D.C. Cir. 1990). An agency is not required to conduct an exhaustive search of each of its record systems for its search to be deemed adequate; it need only conduct a reasonable search of systems that are likely to uncover responsive records. *Ryan v. FBI*, 113 F. Supp. 3d 356, 362 (D.D.C. 2015) (citing *Oglesby v. U.S. Dep't of the Army*, 920 F.2d 57, 68 (D.C. Cir. 1990)). "The adequacy of a FOIA search is generally determined not by the fruits of the search, but by the appropriateness of the methods used to carry out the search." *Jennings v. Dep't of Justice*, 230 F. App'x 1, 1 (D.C. Cir. 2007) (internal quotation marks omitted). Where a search involves a review of electronic record systems, a government agency should describe, "with reasonable detail," the methods it used to perform a search, including "the search terms and the type of search performed," so the adequacy of the search can be determined. *Reporters Comm. For Freedom of the Press v. FBI*, 877 F.3d 399, 404 (D.C. Cir. 2017) (citing *Oglesby*, 920 F.2d at 68).

OHA finds that, while DOE HQ's initial search was inadequate, DOE HQ has since conducted an adequate search reasonably calculated to uncover responsive documents, and no responsive records were found. As an initial matter, OHA considers that Appellant identified a broad range of communication types including text messages, direct messages, Teams chats, Slack chats, Signal messages, Skype messages, and WhatsApp messages. Regardless, Appellant only identified senders or recipients that were email addresses potentially communicating with Mr. Knobloch. Because Appellant only identified email addresses of external parties, DOE HQ reasonably identified Mr. Knobloch's email account as the sole repository in which responsive records may be located. Furthermore, search documentation demonstrates that DOE HQ, when conducting an electronic search of Mr. Knobloch's email account, used the exact search parameters identified by Appellant—in particular, the date range and specific email addresses in the "to and/or from" field

that Appellant included in its request. Therefore, we deny Appellant's challenge to the adequacy of the search.

Appellant also argues that DOE HQ's Determination Letter "provided no information regarding the adequacy of its search." Appeal at 3 (citing *Steinberg v. Dep't of Justice*, 23 F.3d 548, 552 (D.C. Cir. 1994) (requiring that agencies specify "what records were searched, by whom, and through what process")). However, Appellant's cited caselaw, *Steinberg*, specifically dealt with the level of specificity required from the agency defendant at the federal litigation stage. *See* 23 F.3d at 552 (specifying that the agency's declaration in support of its motion for summary judgment lacked sufficient detail for a determination as to the adequacy of the agency's search). There is no specific requirement that DOE, in its determination letters, provide those details at this juncture of the FOIA process. *See generally* 10 C.F.R. §§ 1004.4(d)(2), 1004.7 (only requiring that the FOIA Officers inform requesters when no responsive records exist and of their right to appeal the adequacy of the search). Furthermore, this Decision provides Appellant with information as to DOE HQ's search methodology. That the Determination Letter lacked this information does not, by itself, provide a basis for granting the Appeal.

III. Order

It is hereby ordered that the appeal filed by the Informed Consent Action Network, on June 20, 2025, Case No. FIA-25-0043, 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. § 552(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 the right to pursue litigation. OGIS may be contacted in any of the following ways:

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