

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

In the Matter of: Preston Snee

Filing Date: September 11, 2025

Case No.: FIA-25-0064

Issued: September 30, 2025

Decision and Order

On September 11, 2025, Preston Snee (Appellant) appealed a determination contained in an Acknowledgment Letter issued to him from the Department of Energy's (DOE) National Nuclear Security Administration (NNSA) regarding Request No. FOIA 25-00526-PV, a request filed under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, as implemented by DOE in 10 C.F.R. Part 1004. In the Acknowledgment Letter, NNSA denied Appellant's request for expedited processing. Appellant challenged the denial. In this Decision, we deny the appeal.

I. BACKGROUND

On August 12, 2025, Appellant, an Associate Professor of Chemistry at the University of Illinois at Chicago, filed a FOIA request seeking the following:

[A]ll DOE and Los Alamos National Laboratory (LANL) records from January 1, 2023, to the present relating to the export control review and public release decision for the computer code associated with the research article:

“Colloidal quantum dots enable tunable liquid-state lasers” authored by Donghyo Hahm, Valerio Pinchetti, Clément Livache, Namyoung Ahn, Jungchul Noh, Xueyang Li, Jun Du, Kaifeng Wu, and Victor I. Klimov, published in Nature Materials volume 24, pages 48–55 (2025), DOI: <https://doi.org/10.1038/s41563-024-02048-y>.

Specifically, I request:

All communications (including emails, letters, memos, meeting notes, or messages) between members of the LANL Export Control Office (headed by Ms. Joy Torres), as well as any other DOE officials, concerning review, approval, denial, or conditions for release of the code and the members of the Klimov group associated with publication of this manuscript including the authors.

Any “Export Control Review” determinations, “Office of Classification and Information Protection Review” determinations, or other internal review outcomes concerning whether the code could be publicly distributed.

Any policy documents, internal guidelines, or review criteria that were applied specifically in this case when determining the releasability of the code.

Any communication from LANL or DOE to the journal publisher or its editors regarding the release or withholding of the code.

For the purpose of this request, “records” includes all forms of recorded information, including but not limited to emails, scanned documents, handwritten notes, phone logs, and internal memoranda.

FOIA Request from Appellant at 1–2 (August 12, 2025). Appellant indicated that he was seeking expedited processing, but his reasoning for doing so was incompletely captured by the filing system, so NNSA contacted him for the full explanation. Email from FOIA Analyst to Appellant at 2 (August 12, 2025). Appellant responded, stating:

I am a research scientist who publishes and disseminates findings in the scientific community and to the public. . . . There is an urgency to inform the public regarding [the] potential misuse of DOE export control authority, which directly affects the integrity, reproducibility, and public trust in federally funded research. Prompt disclosure will enable timely public awareness and corrective action before the scientific record is further compromised.

Email from Appellant to FOIA Analyst at 1 (August 12, 2025).

On August 14, 2025, NNSA sent Appellant a letter acknowledging receipt of his FOIA request and denying the request for expedited processing. Acknowledgment Letter to Appellant at 1–2 (August 14, 2025). NNSA explained its decision, stating that Appellant had not demonstrated a compelling need for expedited processing, specifically because he had not sufficiently addressed whether the request concerned a matter of current exigency to the American public and whether the consequences of delaying a response would compromise a significant recognized interest. *Id.* at 2.

On September 11, 2025, Appellant filed an appeal of NNSA’s decision to deny expedited processing. Appeal at 1 (September 11, 2025). Appellant stated that he believed the results of a computer simulation cited in the article were likely falsified and argued that it was “very important to DOE and [the] American public to know whether national lab research scientists are falsifying publicly disseminated research products.” *Id.* He further argued that processing delays would “cause greater loss of time and resources by US based research groups” that used the published data. *Id.*

II. ANALYSIS

It is well-established that “public awareness of the government’s actions is ‘a structural necessity in a real democracy,’” and that “[t]imely awareness is equally necessary because ‘stale information is of little value.’” *Am. Oversight v. United States Dep’t of State*, 414 F. Supp. 3d 182, 186 (D.D.C. 2019) (citing *Nat’l Archives & Records Admin. v. Favish*, 541 U.S. 157, 172 (2004) and *Payne Enters. v. United States*, 837 F.2d 486, 494 (D.C. Cir. 1988)). Therefore, delays in processing a FOIA request may “‘cause irreparable harm,’ but typically only in ‘rare FOIA cases . . . involving ongoing proceedings of national importance.’” *Brennan Ctr. for Justice at NYU Sch. Of Law v. Dep’t of Commerce*, 498 F. Supp. 3d 87, 101 (D.D.C. Oct. 20, 2020) (quoting *Ctr. for Pub. Integrity v. Dep’t of Def.*, 411 F. Supp. 3d 5, 11–13 (D.D.C. 2019)).

The FOIA requires expedited processing “in cases in which the person requesting the records demonstrates a compelling need and in other cases determined by the agency.” 5 U.S.C. § 552(a)(6)(E)(i). DOE regulations use the FOIA’s language, which states that:

[A] compelling need exists when failure to obtain records expeditiously could reasonably be expected to pose a threat to the life or physical safety of an individual or, when a request is submitted by a person primarily engaged in disseminating information and there is an urgency to inform the public about actual or alleged Federal Government activity.

10 C.F.R. § 1004.5(d)(6); 5 U.S.C. § 552(a)(6)(E)(v). This case concerns the second definition only, as Appellant does not allege any threat to life or physical safety of an individual. Further, NNSA does not contest that Appellant is primarily engaged in disseminating information, and therefore the only matter at issue is whether Appellant has established there is an urgency to inform the public about Federal Government activity. Acknowledgment Letter at 2.

The D.C. Circuit has held that courts must consider at least three factors to determine whether a requestor has demonstrated “urgency to inform,” and, thus, a compelling need for expedited processing of a FOIA request:

- (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 v. CIA, 254 F.3d 300, 310 (D.C. Cir. 2001). Courts have found that current exigency exists when “the subject matter of the request was central to a pressing issue of the day.” *Waderton v. Dep’t of State*, 941 F. Supp. 2d 120, 123 (D.D.C. 2013). NNSA does not contest that the request concerns federal government activity. Acknowledgment Letter at 2.

In *Eugenie Reich*, OHA Case No. TFA-0187, the requester was seeking records related to an external investigation on fraud and research misconduct allegations made by the journal Nature about a group of DOE researchers; in particular, she wanted the names of panel members to ensure there were no conflicts of interest in the investigation. *Eugenie Reich*, OHA Case. No. TFA-0187 at 1–2 (March 5, 2007). The requester sought expedited processing for her request, citing as her compelling need that the public needed to be informed of alleged wrongdoing committed by

researchers using DOE funding. *Id.* at 2. She stated that there was risk of significant harm to the public interest through the expenditure of tax dollars on fraudulent research and that there was a danger that other researchers were relying on the allegedly fraudulent data. *Id.* at 2–3. The request for expedited processing was denied on the grounds that the requester did not establish any threat to the life or safety of an individual and did not identify “any particular urgency” that required expedited processing. *Id.* at 3. On appeal, OHA found that the requester had not demonstrated that the information would no longer be useful if processed within the timeframe of a normal FOIA request. *Id.* at 6–7. She had submitted recent newspaper articles on the topic and noted that she had a public address upcoming, but OHA found that neither demonstrated the “requisite urgency” to show a compelling need for expedited processing. *Id.* at 7. Moreover, OHA wrote, the scientists who were using the allegedly fraudulent research were “also the citizens most likely to be already familiar with the controversy surrounding [the] work.” *Id.* The appeal was denied. *Id.*

The facts of this case are similar to those in *Reich*. Appellant alleges research misconduct at a national laboratory; argues that an urgency to inform arises from the public’s need to know about research misconduct at national laboratories; and argues that a significant interest would be compromised if other researchers relied on incorrect data. Unlike in *Reich*, Appellant did not offer any news articles or other evidence to show that there is a national discourse about the integrity of the research in question. Indeed, he does not contend that this is a breaking news story or that a concrete harm would occur from disclosure within the normal FOIA timeframe. He fails to even identify what the allegedly falsified data measures, making it impossible to determine whether it pertains to a matter of current exigency to the American public that simply cannot wait.

The requester in *Reich* offered detail on the type of alleged research misconduct and documentary evidence in support of her request for expedited processing and still did not clear the bar for demonstrating a compelling need. I cannot find that Appellant has cleared the bar with less. Accordingly, I find that Appellant has not demonstrated an urgency to inform regarding the requested records and, therefore, has not demonstrated a compelling need for expedited processing.

III. ORDER

It is hereby ordered that the Appeal filed on September 11, 2025, by Preston Snee, No. FIA-25-0064, 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 one’s right to pursue litigation. OGIS may be contacted in any of the following ways:

Office of Government Information Services
National Archives and Records Administration

8601 Adelphi Road-OGIS, College Park, MD 20740

Web: <https://www.archives.gov/ogis> Email: ogis@nara.gov

Telephone: 202-741-5770 Fax: 202-741-5769 Toll-free: 1-877-684-6448

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