

United States Department of Energy
Office of Hearings and Appeals

In the Matter of: Muhammad Afzal Najmi)

Filing Date: December 1, 2025)

Case No.: FIA-26-0009)

Issued: December 12, 2025

Decision and Order

On December 1, 2025, Muhammad Afzal Najmi (Appellant) appealed an Interim Determination Letter (Interim Determination) issued to him from the Department of Energy’s (DOE) Office of the General Counsel (OGC) regarding Request No. HQ-2026-00183-F, 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. The Interim Determination responded to Appellant’s request for expedited processing. OGC denied expedited processing and Appellant appealed, challenging this decision. In this Decision, we deny the appeal.

I. BACKGROUND

Appellant’s FOIA request pertained to records about oil and gas companies that exported to Pakistan, including environmental compliance reports, sustainability assessments, climate impact assessments, national security or maritime energy assessments, and compliance investigations and enforcement activities. FOIA Request at 2 (Oct. 30, 2025); Interim Determination at 1 (Nov. 24, 2025). The request was quite broad and Appellant worked with OGC to narrow the request. Appeal Email from Appellant (Appeal) at 4–7 (Nov. 30, 2025). In his original request, Appellant included a request for expedited processing of his request, writing in explanation:

Pursuant to 5 U.S.C. § 552(a)(6)(E), I request expedited processing. Delay in disclosure may harm the public interest, as: Pakistan is currently undergoing critical energy security challenges and environmental stress linked to fossil fuel markets. Disclosure will inform the public and international stakeholders. I am actively engaged in public advocacy and dissemination of information through legal filings, public campaigns, international submissions, and documented interventions before global institutions. This information is urgently needed to inform public debate and policymaking.

FOIA Request at 3.

On November 24, 2025, OGC issued the Interim Determination to Appellant denying his request for expedited processing. Interim Determination at 2. OGC wrote that Appellant had failed to demonstrate an “urgency to inform”—and, hence, a “compelling need”—as required by the FOIA

and DOE regulations for expedited processing to be granted. *Id.* OGC clarified that Appellant had not sufficiently addressed two of the three factors required to demonstrate an “urgency to inform,” namely whether the request concerned a matter of current exigency to the American public and whether the consequence of delaying a response would compromise a significant recognized interest. *Id.*

Appellant filed the instant appeal on December 1, 2025.¹ Appeal at 1. Appellant argued that his request concerned the following matters of current exigency to the American public.

- U.S. energy trade via U.S. companies (ExxonMobil, Chevron, ConocoPhillips, Shell, BP, Oxy)
- U.S. Government inter-agency communications (State, Commerce, Treasury/OFAC, EPA)
- U.S. export-linked environmental risks
- U.S. involvement in EU-Nayara sanctions effects

Appeal at 2. He argued that a delay in processing could compromise recognized interests in the following ways.

- Hinder environmental safety reporting
- Obstruct ongoing public advocacy
- Impact court filings
- Restrict public understanding of transboundary oil-trade environmental risks
- Delay transparency on U.S. Government international energy activity

Id. He added that “[c]ourts recognize environmental risk as a ‘recognized public interest.’ (EPIC v. NSA, NRDC v. DOE).” *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

¹ The Appeal was received on a weekend and, therefore, its official filing date is the following business day. 10 C.F.R. § 1004.8(c) (indicating that submissions made “after the regular business hours of the Office of Hearings and Appeals are considered received on the next regular business day”).

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 mirror the FOIA’s language, which states that the term “compelling need” means:

- (I) that a failure to obtain requested records on an expedited basis under this paragraph could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or
- (II) with respect to a request made by a person primarily engaged in disseminating information, urgency to inform the public concerning actual or alleged Federal Government activity.

Id. § 552(a)(6)(E)(v). *See also* 10 C.F.R. § 1004.5(d)(6). The categories for compelling need are intended to be narrowly applied. *Al-Fayed v. C.I.A.*, 254 F.3d 300, 310 (D.C. Cir. 2001). Appellant has not alleged that expedited processing is required to prevent imminent harm. Therefore, we discuss only the second definition of “compelling need.”

Courts must consider three factors when determining whether a requestor has demonstrated an “urgency to inform”: “(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. OGC determined that Appellant failed to sufficiently address only the first two factors.

A matter is of current exigency to the American public when, in close temporal proximity to the request, there is “substantial interest, either on the part of the American public or the media, in” the matter. *Al-Fayed*, 254 F.3d at 311. The requester must include evidence to demonstrate this interest on the topic—such as news stories, showing that the matter is “central to a pressing issue of the day,” or pending legislation—such that the matter is of “immediate public interest in view of [an] ongoing debate.” *Rolling Stone LLC v. DOJ*, 739 F. Supp. 3d 237, 243 (S.D.N.Y. 2024). When a request is broad, spanning general categories and keywords without a targeted focus on an event or record, the requester must also identify how those records relate to a matter of current exigency to the American public. *Id.* Newsworthiness is not sufficient to demonstrate that an issue is of current exigency. *Id.* Indeed, a matter can be “both newsworthy and of importance to the general public . . . [and still] not implicate the level of exigency necessary to compel expedited processing.” *Documented NY v. United States Dep’t of State*, 2021 U.S. Dist. LEXIS 176553, *8 (S.D.N.Y. 2021) (citing *Al-Fayed*, 254 F.3d at 310).

In order to show that a significant recognized interest would be compromised by a delay in processing, a requester must “identify a specific end point at which the information’s value drops off altogether—*i.e.*, the conclusion of a process such as a legislative vote, impeachment proceeding, national census, court case, or the like.” *Rolling Stone*, 739 F. Supp. at 244 (internal citations omitted); *Long v. Dep’t of Homeland Sec.*, 436 F. Supp. 2d 38, 43 (D.D.C. 2006) (stating that the plaintiff [requestor] must “identify an imminent action indicating that the requested information will ‘not retain its value if procured through the normal FOIA channels’”).

Appellant’s justifications for expedited processing were largely absent from his initial request, but even on appeal, they fall short. He has not demonstrated that there is ongoing debate among the *American* public about—or even widespread coverage of—oil and gas exports to Pakistan and their downstream effects. The law is clear that a matter must be exigent to the American public for expedited processing to be justified. Moreover, he does not identify an end point at which the requested information loses its value, regardless of whether the interest in the information is recognized as significant. He makes references to litigation and public dissemination campaigns but does not include specifics about those activities or any deadlines that may exist. He offers no evidentiary support for his claims of current exigency or that a significant recognized interest, if one exists, would be harmed by a delay in processing. Simply put, Appellant has not provided enough evidence with enough specificity to justify expedited processing of his FOIA request.

III. ORDER

It is hereby ordered that the Appeal filed on **Error! Reference source not found.** by Muhammad Afzal Najmi, No. FIA-26-0009, 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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