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From: FOIA-Central@hq.doe.gov
Sent: Friday, July 10, 2009 1:38 PM
To: FOIA-Central
Subject: DOE Headquarters FOIA Request

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OTHER: 2 HOURS SEARCH FREE, 100 FREE PAGES

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Record Description:

I respectfully request the following information, including related emails, memos, records, or other communications or documentations, on behalf of the Center:

- Federal Register notice of Security and Prosperity Partnership ("SPP"), SPP Working Group or committee formation, for the Energy Working Group, Nucs and Rads Working Group, or any other SPP-related working group (collectively "SPP Working Group");
- SPP, or SPP Working Group Charter;
- SPP, or SPP Working Group, or committee, meeting notice(s) published anywhere, including in the Federal Register;
- SPP, or SPP Working Group meeting(s) minutes;
- SPP Working Group member names, term limitations, information regarding per diems or wages; and schedule of meetings; and
- SPP Working Group materials, communications, and recommendations.

Preferred Form or Format: cd

Type of Requester (if provided):

Affiliated with an educational or noncommercial scientific institution, and this request is made for scholarly or scientific purpose and not for commercial use.

Fees and Fee Waivers:

I request a waiver or reduction of fees.

Waiver or Reduction of Fees Factors (if provided):

1. The subject of the request: Whether the subject of the requested records concerns "the operations or activities of the government."

The subject matter of this request relates to the activities the SPP Working Groups and the Department of Energy undertakes in furtherance of its goals. These are specific and identifiable activities of the government. See Judicial Watch, 326 F.3d at 1313 ("'[R]easonable specificity' [is] all that FOIA requires" with regard to this factor).

2. The informative value of the information to be disclosed: Whether the disclosure is "likely to contribute" to an understanding of government operations or activities.

The information requested will help provide the Center with insight into the policies and decision-making processes of the SPP Working Groups and the Department of Energy . The requested documents are not currently in the public domain. Their release is not only "likely to contribute," but is in fact certain to contribute to better public understanding of SPP Working Group activities/operations regarding their compliance with applicable environmental, transportation, and other laws. The information requested will contribute to an understanding of what the SPP Working Groups are planning to promote, as well as what impacts such activities/operations will have on species, the landscape, and human environment. The public is always well served when it knows how government activities, particularly matters touching on legal and ethical questions, have been conducted. See Judicial Watch, 326 F.3d at 1314 ("[T]he American people have as much interest in knowing that key [agency] decisions are free from the taint of conflict of interest as they have in discovering that they are not.").

3. The contribution to an understanding by the general public of the subject likely to result from disclosure, taking into account your ability and intent to disseminate the information to the public in a form that can further understanding of the subject matter.

The Center is a non-profit organization that informs, educates, and counsels the public regarding environmental issues, policies, and laws relating to environmental issues. The Center has been substantially involved in the management activities of numerous government agencies for years, and has consistently displayed its ability to disseminate information granted to it through FOIA. In consistently granting the Center's fee-waivers, agencies have recognized that (1) the Center's requested information contributes significantly to the public understanding of the operations or activities of the government, (2) the Center's requested information enhances the public's understanding to a greater degree than currently exists, (3) the Center possesses the expertise to explain the requested information to the public (e.g. the Center has several staff biologists and staff attorneys), (4) the Center possesses the ability to disseminate the requested information to the general public, (5) and that the news media recognizes that the Center is an established expert in the field of imperiled species, biodiversity, and impacts on protected species. Public oversight and enhanced understanding of SPP Working Group duties is absolutely necessary. The Center members' track record of active participation in oversight of governmental agency activities and its consistent contribution to the public's understanding of agency activities as compared to the level of public understanding prior to disclosure are well established. In determining whether the disclosure of requested information will contribute significantly to public understanding, a guiding test is whether the requester will disseminate the disclosed records to a reasonably broad audience of persons interested in the subject. Carney v U.S. Dept. of Justice, 19 F.3d 807 (2nd Cir. 1994) (emphasis added). The Center need not show how it intends to distribute the information, because "[n]othing in FOIA, the [agency] regulation, or our case law require[s] such pointless specificity." Judicial Watch, 326 F.3d at 1314. It is sufficient for the Center to show how it distributes information to the public generally. Id. The documents requested in this FOIA request will be used to understand the details of the SPP Working Groups and how they operate. They will also be used to determine whether and how the SPP Working Groups and the Department of Energy are complying with and implementing its obligations in regard to various environmental and other laws. Concurrent with any action which the Center may take after obtaining the requested documents, the Center will publicize the reasons for the action and the underlying actions of SPP Working Groups and/or other agencies that have prompted the action. This is certain to result in a significant increase in public understanding of government agency activity, and in particular of SPP Working Group and Department of Energy responsibilities. The Center has enforced or publicized agency compliance with the provisions of various environmental laws many times through information gained from FOIA requests like this one, and has also many times publicized the status of endangered species and the conservation measures being taken on their behalf through information gained from FOIAs like this one. The Center intends to use the documents requested in this request in a similar manner. In addition, our informational publications supply information not only to our membership, but also to the memberships of most other conservation organizations, locally as well as nationally. Our informational publications continue to contribute information to public media outlets, as well. For example, information such as that presently requested is often disseminated through our e-mail Biodiversity alerts, which is sent to nearly 220,000 people approximately once a week, and our web page, which is accessed nearly 1.5 million times each month. Information concerning the status of the SPP working groups will likely be disseminated through all of these means.

4. The significance of the contribution to public understanding: Whether the disclosure is likely to contribute "significantly" to public understanding of government operations or activities.

Public understanding of the use of public money will significantly increase as a result of disclosure because the requested information will help reveal the status of the SPP Working Groups and their activities. In other words, once the public is more aware of the SPP Working Groups and how the Department of Energy participates, the public will a) have a better understanding of the SPP, and b) can better gauge whether SPP and Department of Energy decisions and activities are appropriate or whether certain actions should be undertaken. Such public oversight of agency action is vital to our democratic system and clearly envisioned by the drafters of the FOIA. The Center intends to fulfill its well established function of public oversight of agency action. The Center is not requesting these documents merely for their intrinsic informational value. It is irrelevant whether any portion of the Center's request may currently be in the public domain, because the Center requests considerably more than any piece of information that may currently be available to other individuals. Judicial Watch, 326 F.3d at 1315. In addition, the Center plans to take the information it learns from the disclosed documents and educate the public about the SPP Working Groups, educate the public about what projects the SPP Working Groups intend to support, and educate the public about whether the SPP Working Groups and Department of Energy 's decisions are appropriate in light of the known information.

5. The existence and magnitude of a commercial interest: Whether the requester has a commercial interest that would be furthered by the requested disclosure, and, if so

Access to government documents, disclosure forms, and similar materials through FOIA requests is essential to the Center's role of educating the general public. The Center, a non-profit organization, has no commercial interest and will realize no commercial benefit from the release of the requested information.

6. The primary interest in disclosure: Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is "primarily in the commercial interest of the requester."

Access to government documents, disclosure forms, and similar materials through FOIA requests is essential to the Center's role of educating the general public. The Center, a non-profit organization, has no commercial interest and will realize no commercial benefit from the release of the requested information.

Expedited Processing:

Specific Justification for Expedited Processing: