

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

PROTECT THE PUBLIC'S TRUST )  
Post Office Box 26141 )  
Alexandria, VA 22313, )  
Plaintiff, )

v. )

Civil Case No. 21 - 2486

UNITED STATES DEPARTMENT )  
OF ENERGY, )  
1000 Independence Ave SW )  
Washington, D.C. 20585 )  
Defendant. )

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

Plaintiff PROTECT THE PUBLIC'S TRUST for its complaint against Defendant UNITED STATES DEPARTMENT OF ENERGY, alleges as follows:

1. This is an action under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, *et seq.* for declaratory and injunctive relief, seeking immediate processing and release of agency records responsive to Plaintiff's FOIA request following the Department's failure to comply with the FOIA and with the requirements of *Citizens for Responsibility & Ethics in Washington v. Federal Election Commission*, 711 F.3d 180, 816 (D.C. Cir. 2013).

**PARTIES**

2. Plaintiff Protect the Public's Trust ("PPT") is an unincorporated non-profit association of citizens within the meaning of *Act Now To Stop War & End Racism Coal. v. District of Columbia*, 427 U.S. App. D.C. 296, 305, 846 F.3d 391, 400 (2017). It is concerned with maintaining integrity, ethics and responsibility in government and with transparency matters related thereto.

3. Defendant United States Department of the Energy (“Energy” or “the Department”) is a federal agency within the meaning of FOIA, 5 U.S.C. § 552(f)(1). The Department has possession, custody, and control of records responsive to Plaintiff’s FOIA request.

**JURISDICTION AND VENUE**

4. This Court has jurisdiction pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.
5. Venue is proper in this Court under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e).

**PROTECT THE PUBLIC’S TRUST’S FOIA REQUEST**

6. This action concerns a FOIA request submitted to Defendant via Electronic Mail on May 12, 2021. A true and correct copy of the request at issue is attached as Exhibit A.
7. The request sought certain described communications to, from or pertaining to Kelly Speakes-Backman, who is Principal Deputy Assistant Secretary and the Acting Assistant Secretary for the Department of Energy’s Office of Energy Efficiency and Renewable Energy (EERE). Ms. Speakes-Backman’s biography raises questions about her ability to avoid conflicts of interest and to fulfill her duties without running afoul of applicable conflict of interest and other ethics considerations. The requested records will shed light on these questions.
8. Ms. Speakes-Backman has now joined the Department after serving previously as the chief executive officer of the Energy Storage Association, an industry lobby group that asserts that it “represents a diverse group of companies, including independent power producers, electric utilities, energy service companies, financiers, insurers, law firms, installers, manufacturers, component suppliers and integrators involved in deploying energy storage systems around the globe.”

9. Recent news reports raise serious questions about a “pattern of ethical issues” at the Department of Energy, and specifically regarding Ms. Speakes-Backman’s ability to fulfill her duties without endorsing the work of her former employer and without favoring her former employer’s members. The American people deserve an assurance of impartial government and laws such as FOIA are designed to ensure that, affording access to the “record of what the Government is up to.” *DOJ v. Reporters Comm. for Free Press*, 489 U.S. 749, 773 (1989). They should not fear that the person delivering billions of taxpayer dollars is tainted in any way by bias toward their former employers and entities their employer represented. Those interests are what the request at issue in this matter seeks to address.
10. Defendant received the FOIA request at issue on May 12, 2021, and assigned it tracking number HQ-2021-00691-F.
11. Despite the passage of four months’ time and various communications between Plaintiff and Defendant, the Department has failed to provide a “determination” regarding the request as required by *Citizens for Responsibility & Ethics in Washington v. Federal Election Commission*, 711 F.3d 180, 816 (D.C. Cir. 2013).
12. FOIA provides that a requesting party is entitled to a substantive agency response within twenty working days, including a determination of whether the agency intends to comply with the request. 5 U.S.C. § 552(a)(6)(A)(i). Within that deadline, the agency must also “determine and communicate the scope of the documents it intends to produce and withhold, and the reasons for withholding any documents,” and “inform the requester that it can appeal whatever portion of” the agency’s “determination” is adverse to the requestor. *CREW v. FEC*, 711 F.3d 180,

188 (D.C. Cir. 2013); accord *Shermco Industries v. Secretary of U.S. Air Force*, 452 F. Supp. 306, 317 (N.D. Tex. 1978).

13. U.S. Code 5 U.S.C.S. § 552(a)(6)(A) prescribes that the 20-day time limit shall not be tolled by the agency except in two narrow scenarios: The agency may make one request to the requester for information and toll the 20-day period while it is awaiting such information that it has reasonably requested from the requester, § 552(a)(6)(A)(ii)(I), and agencies may also toll the statutory time limit if necessary to clarify with the requester issues regarding fee assessment. § 552(a)(6)(A)(ii)(II). In either case, the agency's receipt of the requester's response to the agency's request for information or clarification ends the tolling period. Neither apply here as the Department did not seek additional information from Plaintiff regarding the request at issue in this suit.
14. The Defendant is now past the statutory period for issuing such determinations on the above-described request.
15. Defendant is thereby improperly denying Plaintiff access to agency records in violation of FOIA.
16. Plaintiff need not pursue further administrative remedies for the reasons set forth in *CREW v. FEC*, 711 F.3d 180, 188 (D.C. Cir. 2013).

**FIRST CLAIM FOR RELIEF**  
**Duty to Produce Records – Declaratory Judgment**

17. Plaintiff restates and incorporates by reference each of the foregoing paragraphs as if fully set forth herein.
18. Plaintiff has sought and been denied production of responsive records reflecting the conduct of official business

19. Plaintiff has a statutory right to the information it seeks, and the Defendant has unlawfully withheld the information.
20. Plaintiff is not required to further pursue administrative remedies.
21. Plaintiff asks this Court to enter a judgment declaring that:
  - a. Plaintiff is entitled to records responsive to its FOIA request described above, and any attachments thereto, but Defendant failed to provide the records;
  - b. Defendant's processing of Plaintiff's FOIA request described above is not in accordance with the law, and does not satisfy Defendant's obligations under FOIA;
  - c. Defendant must now produce records responsive to Plaintiff's request.

**SECOND CLAIM FOR RELIEF**  
**Duty to Produce Records – Injunctive Relief**

22. Plaintiff restates and incorporates by reference each of the foregoing paragraphs as if fully set forth herein.
23. Plaintiff is entitled to injunctive relief compelling Defendant to produce the records responsive to the FOIA request described in this pleading.
24. Plaintiff asks the Court to enter an injunction ordering Defendant to produce to Plaintiff, within 10 business days of the date of the order, the requested records sought in Plaintiff's FOIA request described above, and any attachments thereto.
25. Plaintiff asks the Court to order the Parties to consult regarding withheld documents and to file a status report to the Court within 30 days after Plaintiff receives the last of the produced documents, addressing Defendant's preparation of a *Vaughn* log and a briefing schedule for resolution of remaining issues associated with Plaintiff's challenges to Defendant's withholdings, if any, and any other remaining issues.

**THIRD CLAIM FOR RELIEF**  
**Costs And Fees – Injunctive Relief**

26. Plaintiff restates and incorporates by reference each of the foregoing paragraphs as if fully set forth herein.
27. Pursuant to 5 U.S.C. § 552(a)(4)(E), the Court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the complainant has substantially prevailed.
28. This Court should enter an injunction ordering the Defendant to pay reasonable attorney fees and other litigation costs reasonably incurred in this case.

**PRAYER FOR RELIEF**

Protect the Public's Trust respectfully requests this Court:

1. Assume jurisdiction in this matter, and maintain jurisdiction until the Defendant complies with FOIA and every order of this Court;
2. Declare Defendant has violated FOIA by failing to provide Plaintiff with the requested records and failing to notify Plaintiff of a final determination within the statutory time limit;
3. Declare the documents sought by the request, as described in the foregoing paragraphs, are public under 5. U.S.C. § 552 and must be disclosed;
4. Order Defendant to expeditiously provide the requested records to Plaintiff within 20 business days of the Court's order;
5. Award Plaintiff's attorneys their fees and other litigation costs reasonably incurred pursuant to 5 U.S.C. § 552(a)(4)(E); and
6. Grant such other relief as this Court deems just and proper.

Respectfully submitted this the 23<sup>rd</sup> day of September 2021,

PROTECT THE PUBLIC'S TRUST

By Counsel:

/s/Matthew D. Hardin

Matthew D. Hardin, D.C. Bar No. 1032711

Hardin Law Office

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Washington, DC 20006

(202) 802-1948

MatthewDHardin@protonmail.com

*Counsel for Plaintiffs*



# PROTECT the PUBLIC'S TRUST

VIA ELECTRONIC MAIL

May 12, 2021

FOIA Requester Service Center  
US Department of Energy  
1000 Independence Avenue, SW  
Mail Stop MA-46  
Washington, DC 20585

## **Re: Ethics Records and Communications of Kelly Speakes-Backman**

Dear FOIA Officer,

This is a request under the Freedom of Information Act, 5 U.S.C. § 552, *as amended* (FOIA), from the Protect the Public's Trust (PPT), a non-profit organization dedicated to promoting ethics in government and restoring the public's trust in government officials.

### **Records Requested**

In light of the several instances of public appearances where Ms. Speakes-Backman appears to have endorsed or implied participation in matters where her former employer would receive a financial benefit, PPT requests the following records.

1. All communications to, from or pertaining to Kelly Speakes-Backman, including schedules, calendars, virtual meeting logs (e.g., Zoom, Teams, or other platform used by the Department), meeting invites, public appearances, guidance or counseling provided by the DOE Ethics Office pertaining to an ethics matter of Kelly Speakes-Backman. This should include all communications pertaining to Ms. Speakes-Backman produced by, received by or discussed among employees within the DOE's Office of the Assistant Counsel for Ethics and Personnel Law. It should also include all relevant records within the Office of Energy Efficiency and Renewable Energy (EERE), Office of Electricity or other relevant offices at DOE. If any requested records were produced prior to the official start date of any individual those should also be included.

For this request, the term "all records" refers to, but is not limited to, any and all documents, correspondence (including, but not limited to, inter and/or intra-agency correspondence as well as correspondence with entities or individuals outside the



## PROTECT the PUBLIC'S TRUST

federal government), emails, text messages, letters, notes, telephone records, telephone notes, minutes, memoranda, comments, files, presentations, consultations, biological opinions, assessments, evaluations, schedules, telephone logs, digital logs such as those produced by Microsoft Teams (including Teams file folders or collaborative work documents housed in Teams), papers published, and/or unpublished, reports, studies, photographs and other images, data (including raw data, GPS or GIS data, UTM, LiDAR, etc.), maps, and/or all other responsive records, in draft or final form.

This request is not meant to exclude any other request that, although not specifically requested, are reasonably related to the subject matter of this request. If you or your office have destroyed or determine to withhold any records that could be reasonably construed to be responsive to this request, I ask that you indicate this fact and the reasons therefore in your response.

Under the FOIA Improvement Act of 2016, agencies are prohibited from denying requests for information under the FOIA unless the agency reasonably believes release of the information will harm an interest that is protected by the exemption. FOIA Improvement Act of 2016 (Public Law No. 114-185), codified at 5 U.S.C. § 552(a)(8)(A).

Should you decide to invoke a FOIA exemption, please include sufficient information for us to assess the basis for the exemption, including any interest(s) that would be harmed by release. Please include a detailed ledger which includes:

1. Basic factual material about each withheld record, including the originator, date, length, general subject matter, and location of each item; and
2. Complete explanations and justifications for the withholding, including the specific exemption(s) under which the record (or portion thereof) was withheld and a full explanation of how each exemption applies to the withheld material. Such statements will be helpful in deciding whether to appeal an adverse determination. Your written justification may help to avoid litigation.

If you determine that portions of the records requested are exempt from disclosure, we request that you segregate the exempt portions and mail the non-exempt portions of such records to my attention at the address below within the statutory time limit. 5 U.S.C. § 552(b).

PPT is willing to receive records on a rolling basis.



## PROTECT the PUBLIC'S TRUST

Given the urgency of the public's need to know whether Ms. Speakes-Backman is performing her duties consistent with her ethical obligations, we request that the FOIA office use the Department's Records Enterprise Management System to search and process this request. Given the likelihood of potential ethics violations outlined in the letter above and to advance the public interest in ensuring a clean government, we request expedited processing.

Finally, FOIA's "frequently requested record" provision was enacted as part of the 1996 Electronic Freedom of Information Act Amendments, and requires all federal agencies to give "reading room" treatment to any FOIA-processed records that, "because of the nature of their subject matter, the agency determines have become the subject of subsequent requests for substantially the same records." 5 U.S.C. § 552(a)(2)(D)(ii)(I). Also, enacted as part of the 2016 FOIA Improvement Act, FOIA's Rule of 3 requires all federal agencies to proactively "make available for public inspection in an electronic format" "copies of records, regardless of form or format ... that have been released to any person ... and ... that have been requested 3 or more times." 5 U.S.C. § 552(a)(2)(D)(ii)(I). Therefore, we respectfully request that you make available online any records that the agency determines will become the subject of subsequent requests for substantially the same records, and records that have been requested three or more times.

### **Format of Requested Records**

Under FOIA, you are obligated to provide records in a readily accessible electronic format and in the format requested. See, e.g., 5 U.S.C. § 552(a)(3)(B) ("In making any record available to a person under this paragraph, an agency shall provide the record in any form or format requested by the person if the record is readily reproducible by the agency in that form or format."). "Readily accessible" means text-searchable and OCR-formatted. See 5 U.S.C. § 552(a)(3)(B). We ask that you please provide all records in an electronic format. Additionally, please provide the records either in (1) load-ready format with a CSV file index or Excel spreadsheet, or; (2) for files that are in .PDF format, without any "portfolios" or "embedded files." Portfolios and embedded files within files are not readily accessible. Please do not provide the records in a single, or "batched," .PDF file. We appreciate the inclusion of an index.

If you should seek to withhold or redact any responsive records, we request that you: (1) identify each such record with specificity (including date, author, recipient, and parties copied); (2) explain in full the basis for withholding responsive material; and (3) provide all segregable portions of the records for which you claim a specific exemption. 5 U.S.C. § 552(b). Please correlate any redactions with specific exemptions under FOIA.



# PROTECT the PUBLIC'S TRUST

## Fee Waiver Request

FOIA was designed to provide citizens a broad right to access government records. FOIA's basic purpose is to "open agency action to the light of public scrutiny," with a focus on the public's "right to be informed about what their government is up to." *U.S. Dep't of Justice v. Reporters Comm. for Freedom of Press*, 489 U.S. 749, 773-74 (1989) (internal quotation and citations omitted). In order to provide public access to this information, FOIA's fee waiver provision requires that "[d]ocuments shall be furnished without any charge or at a [reduced] charge," if the request satisfies the standard. 5 U.S.C. § 552(a)(4)(A)(iii). FOIA's fee waiver requirement is "liberally construed." *Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1310 (D.C. Cir. 2003); *Forest Guardians v. U.S. Dept. of Interior*, 416 F.3d 1173, 1178 (10th Cir. 2005).

The 1986 fee waiver amendments were designed specifically to provide non-profit organizations such as PPT access to government records without the payment of fees. Indeed, FOIA's fee waiver provision was intended "to prevent government agencies from using high fees to discourage certain types of requesters and requests," which are "consistently associated with requests from journalists, scholars, and non-profit public interest groups." *Ettlinger v. FBI*, 596 F.Supp. 867, 872 (D. Mass. 1984) (emphasis added). As one Senator stated, "[a]gencies should not be allowed to use fees as an offensive weapon against requesters seeking access to Government information ...." 132 Cong. Rec. S. 14298 (statement of Senator Leahy).

### I. PPT Qualifies for a Fee Waiver.

Under FOIA, a party is entitled to a fee waiver when "disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the [Federal] government and is not primarily in the commercial interest of the requester." 5 U.S.C. § 552(a)(4)(A)(iii). The DOE FOIA regulations at 10 C.F.R. § 1004.9(a)(8) establish the same standard.

Thus, DOE must consider four factors to determine whether a request is in the public interest: (1) whether the subject of the requested records concerns "the operations or activities of the Federal government," (2) whether the disclosure is "likely to contribute" to an understanding of government operations or activities, (3) whether the disclosure "will contribute to public understanding" of a reasonably broad audience of persons interested in the subject, and (4) whether the disclosure is likely to contribute "significantly" to public understanding of government operations or activities. 10 C.F.R. § 1004.9(a)(8). As shown below, PPT meets each of these factors.

#### A. The Subject of This Request Concerns "The Operations and Activities of the Government."



## PROTECT the PUBLIC'S TRUST

The subject matter of this request concerns the operations and activities of DOE. This request asks for: All communications to, from or pertaining to Kelly Speakes-Backman, including schedules, calendars, virtual meeting logs (e.g., Zoom, Teams, or other platform used by the Department), meeting invites, public appearances, guidance or counseling provided by the DOE Ethics Office pertaining to an ethics matter of Kelly Speakes-Backman. This should include all communications pertaining to Ms. Speakes-Backman produced by, received by or discussed among employees within the DOE's Office of the Assistant Counsel for Ethics and Personnel Law. It should also include all relevant records within the Office of Energy Efficiency and Renewable Energy (EERE), Office of Electricity or other relevant offices at DOE. If any requested records were produced prior to the official start date of any individual those should also be included.

### B. Disclosure is "Likely to Contribute" to an Understanding of Government Operations or Activities.

The requested records are meaningfully informative about government operations or activities and will contribute to an increased understanding of those operations and activities by the public.

Disclosure of the requested records will allow PPT to convey to the public information about whether a senior official is acting consistently with her ethics obligations. After disclosing records relating to Ms. Speakes-Backman, PPT will inform the public about whether a senior official at the Department of Energy responsible for overseeing billions in taxpayer funds is endorsing or participating in matters that financially benefit her former employer or its members. Once the information is made available, PPT will analyze it and present it to its followers and the general public in a manner that will meaningfully enhance the public's understanding of this topic.

Thus, the requested records are likely to contribute to an understanding of DOE's operations and activities.

### C. Disclosure of the Requested Records Will Contribute to a Reasonably Broad Audience of Interested Persons' Understanding of the Ethics Compliance of a Senior Political Appointee at the Department of Energy.

The requested records will contribute to public understanding of whether the ethics advice provided by career officials is being followed and whether a senior political appointee is appropriately participating in particular matters at DOE. Review of these records will assist the public in knowing whether future actions, decisions, and deliberations of non-career appointees are being conducted in a compliant manner. As explained above, the records will contribute to public understanding of this topic.

Ethics obligations exist to reduce the likelihood that senior government officials are making decisions in a biased or arbitrary manner or to benefit the interests of former employers, clients or related parties. Ensuring the avoidance of conflicts of interest or the



# PROTECT the PUBLIC'S TRUST

appearance of bias is of interest to a reasonably broad segment of the public. PPT will use the information it obtains from the disclosed records to educate the public at large about what obligations have been identified for Ms. Speakes-Backman. *See W. Watersheds Proj. v. Brown*, 318 F.Supp.2d 1036, 1040 (D. Idaho 2004) (“... find[ing] that WWP adequately specified the public interest to be served, that is, educating the public about the ecological conditions of the land managed by the BLM and also how ... management strategies employed by the BLM may adversely affect the environment.”).

Through PPT’s synthesis and dissemination (by means discussed in Section II, below), disclosure of information contained and gleaned from the requested records will contribute to a broad audience of persons who are interested in the subject matter. *Ettlinger v. FBI*, 596 F.Supp. at 876 (benefit to a population group of some size distinct from the requester alone is sufficient); *Carney v. Dep’t of Justice*, 19 F.3d 807, 815 (2d Cir. 1994), cert. denied, 513 U.S. 823 (1994) (applying “public” to require a sufficient “breadth of benefit” beyond the requester’s own interests); *Cnty. Legal Servs. v. Dep’t of Hous. & Urban Dev.*, 405 F.Supp.2d 553, 557 (E.D. Pa. 2005) (in granting fee waiver to community legal group, court noted that while the requester’s “work by its nature is unlikely to reach a very general audience,” “there is a segment of the public that is interested in its work”).

Indeed, the public does not currently have an ability to easily evaluate the requested records, which concern the integrity of one of the most high-profile and well-funded Offices within DOE. We are also unaware of any previous release to the public of these or similar records. *See Cnty. Legal Servs. v. HUD*, 405 F.Supp.2d 553, 560 (D. Pa. 2005) (because requested records “clarify important facts” about agency policy, “the CLS request would likely shed light on information that is new to the interested public.”). As the Ninth Circuit observed in *McClellan Ecological Seepage Situation v. Carlucci*, 835 F.2d 1282, 1286 (9th Cir. 1987), “[FOIA] legislative history suggests that information [has more potential to contribute to public understanding] to the degree that the information is new and supports public oversight of agency operations....”

Disclosure of these records is not only “likely to contribute,” but is certain to contribute, to public understanding of whether Ms. Speakes-Backman is acting consistently with her ethics obligations. The public is always well served when it knows how the government conducts its activities, particularly matters touching on ethics questions. Hence, there can be no dispute that disclosure of the requested records to the public will educate the public about the potential conflicts of interest, recusal obligations, and ethics guidance provided to Ms. Speakes-Backman.

#### D. Disclosure is Likely to Contribute Significantly to Public Understanding of Government Operations or Activities.

PPT is not requesting these records merely for their intrinsic informational value. Disclosure of the requested records will significantly enhance the public’s understanding



# PROTECT the PUBLIC'S TRUST

of the potential conflicts of interest and likelihood of an appearance of bias in decision-making as compared to the level of public understanding that exists prior to the disclosure. Indeed, public understanding will be significantly increased as a result of disclosure.

The records are also certain to shed light on DOE's compliance with its own mission and responsibility to protect our nation's nuclear arsenal and expend taxpayer funds wisely. Such public oversight of agency action is vital to our democratic system and clearly envisioned by the drafters of the FOIA. Thus, PPT meets this factor as well.

## II. PPT has the Ability to Disseminate the Requested Information Broadly.

PPT is a non-profit organization that informs, educates, and counsels the public about the importance of government officials acting consistently with their ethics obligations. A key component of being able to fulfill this mission and educate the public about these duties is access to information that articulates what obligations exist for senior government officials. PPT intends to publish information from requested records on its website, distribute the records and expert analysis to its followers through social media channels including Twitter, Facebook, and other similar platforms. PPT also has a robust network of reporters, bloggers, and media publications interested in its content and that have durable relationships with the organization. PPT intends to use any or all of these far-reaching media outlets to share with the public information obtained as a result of this request.

Through these means, PPT will ensure: (1) that the information requested contributes significantly to the public's understanding of the government's operations or activities; (2) that the information enhances the public's understanding to a greater degree than currently exists; (3) that PPT possesses the expertise to explain the requested information to the public; (4) that PPT possesses the ability to disseminate the requested information to the general public; (5) and that the news media recognizes PPT as a reliable source in the field of government ethics and conduct.

Public oversight and enhanced understanding of DOE's duties is absolutely necessary. In determining whether disclosure of requested information will contribute significantly to public understanding, a guiding test is whether the requester will disseminate the information 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). PPT 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 PPT to show how it distributes information to the public generally. *Id.*

## III. Obtaining the Requested Records is of No Commercial Interest to PPT.

Access to government records, disclosure forms, and similar materials through FOIA requests is essential to PPT's role of educating the general public. PPT is a 501(c)(3) nonprofit organization with supporters and members of the public who seek a transparent,



# PROTECT the PUBLIC'S TRUST

ethical and impartial government that makes decisions in the best interests of all Americans, not former employers and special interests. PPT has no commercial interest and will realize no commercial benefit from the release of the requested records.

#### IV. Conclusion

For all of the foregoing reasons, PPT qualifies for a full fee waiver. We hope that the Department will immediately grant this fee waiver request and begin to search and disclose the requested records without any unnecessary delays.

If you have any questions, please contact me at [foia@protectpublictrust.org](mailto:foia@protectpublictrust.org). All records and any related correspondence should be sent to my attention at the address below.

Sincerely,

Morgan Yardis  
Research and Publication Associate  
[foia@protectpublictrust.org](mailto:foia@protectpublictrust.org)



<input type="radio"/> <b>G. Habeas Corpus/ 2255</b>  <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	<input type="radio"/> <b>H. Employment Discrimination</b>  <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation)  *(If pro se, select this deck)*	<input checked="" type="radio"/> <b>I. FOIA/Privacy Act</b>  <input checked="" type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act)  *(If pro se, select this deck)*	<input type="radio"/> <b>J. Student Loan</b>  <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> <b>K. Labor/ERISA (non-employment)</b>  <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> <b>L. Other Civil Rights (non-employment)</b>  <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education	<input type="radio"/> <b>M. Contract</b>  <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran’s Benefits <input type="checkbox"/> 160 Stockholder’s Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> <b>N. Three-Judge Court</b>  <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)

**V. ORIGIN**  
 1 Original Proceeding  
  2 Removed from State Court  
  3 Remanded from Appellate Court  
  4 Reinstated or Reopened  
  5 Transferred from another district (specify)  
  6 Multi-district Litigation  
  7 Appeal to District Judge from Mag. Judge  
  8 Multi-district Litigation – Direct File

**VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)**  
 5 U.S.C. § 552, et seq., seeking agency records responsive to Plaintiff’s FOIA request.

<b>VII. REQUESTED IN COMPLAINT</b>	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$ n/a JURY DEMAND:	Check YES only if demanded in complaint YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
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<b>VIII. RELATED CASE(S) IF ANY</b>	(See instruction)	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	If yes, please complete related case form
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DATE: 9/23/2021	SIGNATURE OF ATTORNEY OF RECORD /s/Matthew D. Hardin
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**INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44**  
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the cover sheet.

- I. COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III. CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV. CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of a action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI. CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII. RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk’s Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

Protect the Public's Trust

\_\_\_\_\_  
*Plaintiff*

v.

U.S. Department of Energy

\_\_\_\_\_  
*Defendant*

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Civil Action No. 21-2486

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

U.S. Department of Energy  
c/o U.S. Attorney's Office  
Attn.: Civil Process Clerk  
555 4th Street NW  
Washington, DC 20530

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Matthew D. Hardin  
Hardin Law Office  
1725 I Street NW, Suite 300  
Washington, DC 20006

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*ANGELA D. CAESAR, CLERK OF COURT*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

Protect the Public's Trust

\_\_\_\_\_  
*Plaintiff*

v.

U.S. Department of Energy

\_\_\_\_\_  
*Defendant*

)  
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)

Civil Action No. 21-2486

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

U.S. Department of Energy  
c/o U.S. Attorney General  
950 Pennsylvania Ave NW  
Washington, DC 20530

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Matthew D. Hardin  
Hardin Law Office  
1725 I Street NW, Suite 300  
Washington, DC 20006

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*ANGELA D. CAESAR, CLERK OF COURT*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

Protect the Public's Trust

\_\_\_\_\_  
*Plaintiff*

v.

U.S. Department of Energy

\_\_\_\_\_  
*Defendant*

)  
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Civil Action No. 21-2486

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

U.S. Department of Energy  
Attn: Samuel Walsh, General Counsel  
1000 Independence Ave SW  
Washington, D.C. 20585

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Matthew D. Hardin  
Hardin Law Office  
1725 I Street NW, Suite 300  
Washington, DC 20006

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*ANGELA D. CAESAR, CLERK OF COURT*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*