

**U.S. District Court  
District of Oregon (Portland (3))  
CIVIL DOCKET FOR CASE #: 3:20-cv-01028-AR**

Advocates for the West v. Bonneville Power Administration  
Assigned to: Magistrate Judge Jeffrey J. Armistead  
Cause: 05:552 Freedom of Information Act

Date Filed: 06/26/2020  
Date Terminated: 03/24/2022  
Jury Demand: None  
Nature of Suit: 895 Freedom of Information Act  
Jurisdiction: U.S. Government Defendant

**Plaintiff**

**Advocates for the West**

represented by **Andrew R. Missel**  
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**LEAD ATTORNEY**  
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V.

**Defendant**

**Bonneville Power Administration**

represented by **Joshua Keller**  
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Portland, OR 97204  
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**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

Date Filed	#	Docket Text
06/26/2020	<u>1</u>	Complaint. Filing fee in the amount of \$400 collected. Agency Tracking ID: AORDC-6901138 Filer is subject to the requirements of Fed. R. Civ. P. 7.1. Jury Trial Requested: No. Filed by Advocates for the West against Bonneville Power Administration (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Proposed Summons). (Missel, Andrew) (Entered: 06/26/2020)
06/26/2020	<u>2</u>	Notice of Case Assignment to Magistrate Judge John V. Acosta and Discovery and Pretrial Scheduling Order. <b>NOTICE: Counsel shall print and serve the summonses and all documents issued by the Clerk at the time of filing upon all named parties in accordance with Local Rule 3-5.</b> Discovery is to be completed by 10/26/2020. Joint Alternate Dispute Resolution Report is due by 11/23/2020. Pretrial Order is due by 11/23/2020. Ordered by Magistrate Judge John V. Acosta. (sb) (Entered: 06/26/2020)

06/26/2020	<u>3</u>	Summons Issued Electronically as to Bonneville Power Administration. <b>NOTICE: Counsel shall print and serve the summonses and all documents issued by the Clerk at the time of filing upon all named parties in accordance with Local Rule 3-5.</b> (sb) (Entered: 06/26/2020)
06/26/2020	<u>4</u>	Corporate Disclosure Statement . Filed by Advocates for the West. (Missel, Andrew) (Entered: 06/26/2020)
07/20/2020	<u>5</u>	Affidavit of Service of Summons Issued, <u>3</u> upon Bonneville Power Administration served on 6/29/2020 (Attachments: # <u>1</u> Exhibit Affidavit of Service and Return Mail Receipts) Filed by Advocates for the West. (Missel, Andrew) (Entered: 07/20/2020)
07/24/2020	<u>6</u>	Consent Motion for Extension of Time <i>to Answer</i> . Filed by Bonneville Power Administration. (Keller, Joshua) (Entered: 07/24/2020)
07/24/2020	7	<b>ORDER:</b> Granting consent Motion for Extension of Time <u>6</u> . Answer is due by 8/18/2020. Ordered by Magistrate Judge John V. Acosta. (cw) (Entered: 07/24/2020)
07/24/2020	<u>8</u>	First Amended Complaint . Filed by Advocates for the West against Bonneville Power Administration (Attachments: # <u>1</u> Exhibit Changes from Initial Complaint to Amended Complaint). (Missel, Andrew) (Entered: 07/24/2020)
08/17/2020	<u>9</u>	Consent Motion for Extension of Time to Answer <i>Amended Complaint</i> . Filed by Bonneville Power Administration. (Keller, Joshua) (Entered: 08/17/2020)
08/17/2020	10	<b>ORDER by Judge Acosta:</b> GRANTING Motion for Extension of Time to Answer <u>9</u> . Deadline for defendant to answer the amended complaint is extended to 9/1/2020. (png) (Entered: 08/17/2020)
08/28/2020	<u>11</u>	Unopposed Motion for Extension of Time to Answer <i>Amended Complaint</i> . Filed by Bonneville Power Administration. (Keller, Joshua) (Entered: 08/28/2020)
08/31/2020	12	<b>ORDER by Judge Acosta:</b> GRANTING Motion for Extension of Time to Answer <u>11</u> . Answer deadline is extended to 9/8/2020. (png) (Entered: 08/31/2020)
09/08/2020	<u>13</u>	Answer to <u>8</u> Amended Complaint . Filed by Bonneville Power Administration. (Keller, Joshua) (Entered: 09/08/2020)
09/09/2020	14	<b>Scheduling Order by Judge Acosta:</b> Telephone Rule 16 Conference is SET for Tuesday, October 20, 2020 at 10:00 AM in Portland before Magistrate Judge John V. Acosta. The Court's conference call information shall be provided by separate entry. (png) (Entered: 09/09/2020)
09/17/2020	<u>15</u>	Rule 26(f) Report and Discovery Plan <i>and Request for Briefing Schedule</i> . Filed by Advocates for the West. (Attachments: # <u>1</u> Exhibit 26(a)(1) Waiver) (Missel, Andrew) (Entered: 09/17/2020)
09/17/2020	<u>16</u>	<b>Individual Party Consent to Jurisdiction by U.S. Magistrate Judge.</b> (Entered: 09/17/2020)
09/17/2020	<u>17</u>	<b>Individual Party Consent to Jurisdiction by U.S. Magistrate Judge.</b> (Entered: 09/17/2020)
09/18/2020	18	<b>Scheduling Order:</b> Telephone Status Conference is SET for Monday, September 21, 2020 at 10:00 AM in Portland before Magistrate Judge John V. Acosta. The Court's conference call information shall be provided by separate sealed entry. Ordered by Magistrate Judge John V. Acosta. (png) (Entered: 09/18/2020)
09/21/2020	19	<b>MINUTES of Proceedings:</b> Telephone Status Conference held on 9/21/2020 with Judge Acosta presiding. Any motion for summary judgment is to be filed by 10/5/2020; response due by 11/2/2020; reply due by 11/16/2020. Once briefing is complete, the Court will decide whether oral argument is necessary. Defendant to file a status report to the Court and counsel on the progress of the search records by 1/4/2021, which will be taken into account on the ruling of any summary judgment motion. Current case management deadlines are suspended until after ruling on any summary judgment motion. The 10/20/2020 Rule 16 Conference is STRICKEN. Andrew Missel, Elizabeth Potter present as counsel for plaintiff. Joshua Keller present as counsel for defendant. Candice Palen present for defendant. Court Reporter: Bonita Shumway. (png) (Entered: 09/21/2020)

09/21/2020	<u>20</u>	Full Consent by all Parties to Jurisdiction by US Magistrate Judge. (jtj) (Entered: 09/21/2020)
10/05/2020	<u>21</u>	Motion for Partial Summary Judgment . Oral Argument requested. Filed by Advocates for the West. (Missel, Andrew) (Entered: 10/05/2020)
10/05/2020	<u>22</u>	Declaration of Andrew Royce Missel . Filed by Advocates for the West. (Related document(s): Motion for Partial Summary Judgment <u>21</u> .) (Attachments: # <u>1</u> Exhibit FEIS Excerpt, # <u>2</u> Exhibit Petition to Intervene, # <u>3</u> Exhibit Accord Comments, # <u>4</u> Exhibit Order Granting Intervention, # <u>5</u> Exhibit IPR Comments, # <u>6</u> Exhibit First CRK Request, # <u>7</u> Exhibit Second CRK Request, # <u>8</u> Exhibit CRK FOIA Appeal, # <u>9</u> Exhibit First Request (-700), # <u>10</u> Exhibit Second Request (-719), # <u>11</u> Exhibit Third Request (-739), # <u>12</u> Exhibit Fourth Request (-783), # <u>13</u> Exhibit Fifth Request (-784), # <u>14</u> Exhibit EIM ROD Excerpt, # <u>15</u> Exhibit EIM Workshops, # <u>16</u> Exhibit Cutter FOIA Response, # <u>17</u> Exhibit BiOp Excerpt, # <u>18</u> Exhibit communications with BPA, # <u>19</u> Exhibit BPA FOIA webpage, # <u>20</u> Exhibit DOE FY2019 FOIA Report, # <u>21</u> Exhibit DOE FY2018 FOIA Report, # <u>22</u> Exhibit DOE FY2017 FOIA Report, # <u>23</u> Exhibit DOE FY2016 FOIA Report, # <u>24</u> Exhibit DOE FY2015 FOIA Report, # <u>25</u> Exhibit DOJ FY2019 FOIA Report, # <u>26</u> Exhibit DOI FY2019 FOIA Report) (Missel, Andrew) (Entered: 10/05/2020)
10/06/2020	<u>23</u>	<b>Scheduling Order by Judge Acosta:</b> Motion for Partial Summary Judgment <u>21</u> ] is taken under advisement as of 11/16/2020. Request for oral argument shall be considered in due course. (png) (Entered: 10/06/2020)
10/06/2020	<u>24</u>	OFFICIAL COURT TRANSCRIPT OF PROCEEDINGS FILED Telephone Status Conference held on 9/21/2020 before Judge John V. Acosta, Court Reporter Bonita J. Shumway, telephone number 503-326-8188 or bonita_shumway@ord.uscourts.gov. <b>Transcript may be viewed at Court's public terminal or purchased from the Court Reporter before the deadline for Release of Transcript Restriction. Afterwards it may be obtained through the Court Reporter or PACER. See Policy at ord.uscourts.gov.</b> Notice of Intent to Redact Transcript is due by 10/13/2020. Redaction Request due 10/27/2020. Redacted Transcript Deadline set for 11/6/2020. Release of Transcript Restriction set for 1/4/2021. (Shumway, Bonita) (Entered: 10/06/2020)
11/02/2020	<u>25</u>	Response to Motion for Partial Summary Judgment <u>21</u> . Filed by Bonneville Power Administration. (Keller, Joshua) (Entered: 11/02/2020)
11/02/2020	<u>26</u>	Declaration of Joshua Keller . Filed by Bonneville Power Administration. (Related document(s): Response to Motion <u>25</u> .) (Attachments: # <u>1</u> Exhibit A) (Keller, Joshua) (Entered: 11/02/2020)
11/02/2020	<u>27</u>	Declaration of Candice Palen . Filed by Bonneville Power Administration. (Related document(s): Response to Motion <u>25</u> .) (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6) (Keller, Joshua) (Entered: 11/02/2020)
11/16/2020	<u>28</u>	Reply to Defendant's Response to Motion for Partial Summary Judgment <u>21</u> Oral Argument requested. Filed by Advocates for the West. (Missel, Andrew) (Entered: 11/16/2020)
11/16/2020	<u>29</u>	Second Declaration of Andrew Royce Missel . Filed by Advocates for the West. (Related document(s): Motion for Partial Summary Judgment <u>21</u> .) (Attachments: # <u>1</u> Exhibit Ex. 27 --- 783 Extension, # <u>2</u> Exhibit Ex. 28 --- 784 Extension, # <u>3</u> Exhibit Ex. 29 --- EIM Phase III Decision, # <u>4</u> Exhibit Sixth Request Acknowledgment) (Missel, Andrew) (Entered: 11/16/2020)
12/14/2020	<u>30</u>	Motion to Supplement <i>the Complaint</i> . Filed by Advocates for the West. (Attachments: # <u>1</u> Exhibit Proposed Supplemental Complaint, # <u>2</u> Exhibit Changes from FAC to supplemental complaint) (Missel, Andrew) (Entered: 12/14/2020)
12/15/2020	<u>31</u>	<b>Scheduling Order by Judge Acosta:</b> Motion to Supplement <i>the Complaint</i> <u>30</u> is taken under advisement as of 1/19/2021. Any request for oral argument shall be considered in due course. (png) (Entered: 12/15/2020)
01/04/2021	<u>32</u>	<b>ORDER by Judge Acosta:</b> GRANTING Motion to Supplement <u>30</u> . Plaintiff has leave to file a supplemental complaint by 1/11/2021. Defendant's answer to supplemental complaint is due within 30 days of Plaintiff's filing. (png) (Entered: 01/04/2021)

		01/04/2021)
01/04/2021	<u>33</u>	First Supplemental Complaint. Jury Trial Requested: No. Filed by Advocates for the West against Bonneville Power Administration. (Missel, Andrew) (Entered: 01/04/2021)
01/04/2021	<u>34</u>	Status Report by Bonneville Power Administration. Filed by Bonneville Power Administration. (Keller, Joshua) (Entered: 01/04/2021)
01/06/2021	35	<b>Order by Judge Acosta:</b> The Court acknowledges receipt of Status Report <u>34</u> and directs Bonneville Power Administration to file an additional Status Report on the progress of the search records by 3/1/2021, which will be taken into account on the ruling of any summary judgment motion. (pjt) (Entered: 01/06/2021)
01/06/2021	36	<b>Scheduling Order by Judge Acosta:</b> Motion for Partial Summary Judgment <u>21</u> is reset to be taken under advisement as of 3/2/2021. (pjt) (Entered: 01/06/2021)
02/02/2021	<u>37</u>	Answer to Complaint . Filed by Bonneville Power Administration. (Keller, Joshua) (Entered: 02/02/2021)
03/01/2021	<u>38</u>	Second Status Report by Bonneville Power Administration. Filed by Bonneville Power Administration. (Keller, Joshua) (Entered: 03/01/2021)
03/02/2021	39	<b>Scheduling Order by Judge Acosta:</b> The Court acknowledges receipt of Status Report <u>38</u> and directs Bonneville Power Administration to file an additional Status Report on the progress of the search records by 6/30/2021. (pjt) (Entered: 03/02/2021)
03/05/2021	<u>40</u>	Counter Status Report <i>in Response to BPA's Second Status Report</i> by Advocates for the West. Filed by Advocates for the West. (Missel, Andrew) (Entered: 03/05/2021)
03/08/2021	41	<b>Scheduling Order by Judge Acosta:</b> Telephone Status Conference is SET for Thursday, March 11, 2021 at 1:30 PM in Portland before Magistrate Judge John V. Acosta. The Court's conference call information shall be provided to the parties by separate sealed entry. (pjt) (Entered: 03/08/2021)
03/11/2021	42	<b>MINUTES of Proceedings:</b> Status Conference held on 3/11/2021 by telephone with Magistrate Judge John V. Acosta presiding. Discussions held regarding production of discovery. The Court ORDERS defendant to prioritize and accelerate the production of EIM-related documents to ensure they are produced to plaintiff no later than Friday, July 30, 2021. Defendants shall continue their good faith efforts in producing other documents to plaintiff. Elizabeth Potter present as counsel for plaintiff. Joshua Keller, Candice Palen present as counsel for defendant. Court Reporter: Ryan White. (pjt) (Entered: 03/11/2021)
06/02/2021	<u>43</u>	<b>OPINION AND ORDER:</b> Based on the foregoing, Advocates' motion for summary judgment (ECF No. <u>21</u> ) is GRANTED IN PART and DENIED IN PART as set forth above. BPA is to comply with the court's March 11, 2021 order to produce all EIM-related documents by July 30, 2021. BPA is to produce 1,000 responsive pages each following month, with the first 1,000 pages due August 31, 2021. IT IS SO ORDERED. DATED this 2nd day of June, 2021 by United States Magistrate Judge John V. Acosta. (pjt) (Entered: 06/02/2021)
06/30/2021	<u>44</u>	Third Status Report by Bonneville Power Administration. Filed by Bonneville Power Administration. (Keller, Joshua) (Entered: 06/30/2021)
07/01/2021	45	<b>Scheduling Order by Judge Acosta:</b> The Court acknowledges receipt of Status Report <u>44</u> and directs Bonneville Power Administration to file an additional Status Report on the progress of the search records by 8/2/2021. (pjt) (Entered: 07/01/2021)
07/30/2021	<u>46</u>	Motion for Extension of Time <i>to Produce EIM-Related Documents and Submit Fourth Status Report</i> . Filed by Bonneville Power Administration. (Keller, Joshua) (Entered: 07/30/2021)
08/02/2021	47	<b>ORDER by Judge Acosta:</b> GRANTING Motion for Extension of Time <u>46</u> . The Court extends the following deadlines: (1) Deadline for production of all EIM-related documents is extended to 8/1/2021. (2) Deadline for the Defendant to submit a fourth status report is extended to 8/12/2021. (pjt) (Entered: 08/02/2021)

08/02/2021	48	<b>CORRECTED Order by Judge Acosta 27</b> : GRANTING Motion for Extension of Time <u>46</u> . The Court extends the following deadlines: (1) Deadline for production of all EIM-related documents is extended to <b>8/10/2021</b> . (2) Deadline for the Defendant to submit a fourth status report is extended to 8/12/2021. (pjpg) (Entered: 08/02/2021)
08/11/2021	<u>49</u>	Fourth Status Report by Bonneville Power Administration. Filed by Bonneville Power Administration. (Keller, Joshua) (Entered: 08/11/2021)
08/11/2021	50	<b>Scheduling Order by Judge Acosta:</b> the Court acknowledges receipt of Bonneville Power Administration's Fourth Status Report <u>49</u> . Telephone Status Conference is SET for Monday, August 16, 2021 at 9:30 AM in Portland before Magistrate Judge John V. Acosta. The Court's conference call information shall be provided to the parties by separate sealed entry. (pjpg) (Entered: 08/11/2021)
08/16/2021	51	<b>MINUTES of Proceedings:</b> Status Conference held by telephone before Magistrate Judge John V. Acosta on 8/16/2021. Plaintiff shall file a status report regarding review of the Defendant's production of records by 9/30/2021. The Court will review the report and determine next steps. Elizabeth Hunter Potter present as counsel for plaintiff. Joshua Keller present as counsel for defendant. Magistrate Judge John V. Acosta presiding. (gw) (Entered: 08/16/2021)
09/30/2021	<u>52</u>	Status Report by Advocates for the West. Filed by Advocates for the West. (Missel, Andrew) (Entered: 09/30/2021)
10/01/2021	53	<b>Order by Judge Acosta:</b> The Court acknowledges receipt of the Plaintiff's Status Report <u>52</u> and direct Plaintiff to file, no later than October 29, 2021, a stipulated motion for dismissal with prejudice or, alternatively, another status report. (pjpg) Modified on 10/4/2021 (pjpg). (Entered: 10/01/2021)
10/26/2021	<u>54</u>	Second Status Report by Advocates for the West. Filed by Advocates for the West. (Missel, Andrew) (Entered: 10/26/2021)
10/27/2021	55	<b>Order by Judge Acosta:</b> The Court acknowledges receipt of Plaintiff's Status Report <u>54</u> and directs the parties to file a stipulated motion for dismissal with prejudice, or, alternatively, another status report by 12/10/2021. (pjpg) (Entered: 10/27/2021)
12/10/2021	<u>56</u>	Third Status Report by Advocates for the West. Filed by Advocates for the West. (Missel, Andrew) (Entered: 12/10/2021)
12/10/2021	57	<b>Scheduling Order by Judge Acosta:</b> The Court acknowledges receipt of Plaintiff's Third Status Report <u>56</u> and directs Plaintiff to file a stipulation of dismissal no later than 1/24/2022, or another status report, as appropriate. (pjpg) (Entered: 12/10/2021)
01/24/2022	<u>58</u>	Fourth Status Report by Advocates for the West. Filed by Advocates for the West. (Missel, Andrew) (Entered: 01/24/2022)
01/25/2022	59	<b>ORDER by Judge Acosta:</b> The Court acknowledges receipt of Plaintiff's Status Report <u>58</u> and directs Plaintiff to file a stipulation of dismissal no later than 3/10/2022, or another status report, as appropriate. (pjpg) (Entered: 01/25/2022)
02/11/2022	<u>60</u>	Unopposed Motion for Leave to File Amended Complaint/Petition . Filed by Advocates for the West. (Attachments: # <u>1</u> Proposed Document) (Missel, Andrew) (Entered: 02/11/2022)
02/14/2022	61	<b>ORDER by Judge Acosta:</b> GRANTING Motion for Leave to File Amended Complaint/Petition <u>60</u> . Plaintiff has leave to amend the complaint by 2/22/2022. (pjpg) (Entered: 02/14/2022)
02/14/2022	<u>62</u>	Second Amended Complaint . Filed by Advocates for the West against Bonneville Power Administration. (Missel, Andrew) (Entered: 02/14/2022)
03/10/2022	<u>63</u>	Fifth Status Report by Advocates for the West. Filed by Advocates for the West. (Missel, Andrew) (Entered: 03/10/2022)
03/11/2022	64	<b>Scheduling Order by Judge Acosta:</b> The Court acknowledges receipt of Plaintiff's Fifth Status Report <u>63</u> and directs Plaintiff to file a stipulation of dismissal no later than 4/1/2022, or another status report, as appropriate. (pjpg) (Entered: 03/11/2022)

03/22/2022	<u>65</u>	Unopposed Motion to Dismiss <i>under Rule 41(a)(2)</i> Filer is subject to the requirements of Fed. R. Civ. P. 7.1. Filed by Advocates for the West. (Attachments: # <u>1</u> Attachment Settlement Agreement) (Missel, Andrew) (Entered: 03/22/2022)
03/23/2022	<u>66</u>	Notice of Case Reassignment: This case has been reassigned from Magistrate Judge John V. Acosta to Magistrate Judge Jeffrey J. Armistead. (cw) (Entered: 03/23/2022)
03/24/2022	<u>67</u>	<b>ORDER DISMISSING CASE:</b> This case is hereby DISMISSED with prejudice on the terms set forth in the parties' settlement agreement. (ECF No. 65-1). As provided in the agreement, the Court retains jurisdiction to enforce the terms of the settlement agreement. DATED this 24th day of March, 2022, by United States Magistrate Judge Jeffrey J. Armistead. (jpg) (Entered: 03/25/2022)