

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

JIMMY TOBIAS,)
124 Washington Place)
New York, NY 10014)
)
Plaintiff,)
)
v.)
)
U.S. DEPARTMENT OF INTERIOR,)
1849 C Street NW,)
Washington, D.C. 20240)
)
BUREAU OF LAND MANAGEMENT,)
1849 C Street NW)
Washington, D.C. 20240)
)
Defendants.)

COMPLAINT

1. Plaintiff JIMMY TOBIAS brings this suit to force Defendants U.S. DEPARTMENT OF INTERIOR (“DOI”) and BUREAU OF LAND MANAGEMENT (“BLM”) to comply with Plaintiff’s FOIA requests for DOI senior officials’ correspondence with or about certain energy corporations, such as NV Energy, Greenlink North, and Berkshire Hathaway Energy. In violation of FOIA, Defendants have failed to issue a determination within the statutory deadline, have failed to produce records responsive to the requests, and have failed to provide estimated dates of completion for the requests.

PARTIES

2. Plaintiff JIMMY TOBIAS is an independent reporter with *The Guardian* and *The Nation*, among other media outlets, and is the FOIA requester in this case.

3. Defendant U.S. DEPARTMENT OF INTERIOR (“DOI”) is a federal agency and subject to the Freedom of Information Act, 5 U.S.C. § 552.

4. Defendant BUREAU OF LAND MANAGEMENT (“BLM”) is a component of DOI and a federal agency subject to the Freedom of Information Act, 5 U.S.C. § 552.

JURISDICTION AND VENUE

5. This case is brought under 5 U.S.C. § 552(a)(4)(B) and presents a federal question conferring jurisdiction on this Court. *See* 28 U.S.C. § 1331.

6. Venue is proper under 5 U.S.C. § 552(a)(4)(B).

MAY 26, 2022 FOIA REQUEST (BEAUDREAU 1)

7. On May 26, 2022, TOBIAS submitted a FOIA request to DOI for “[a]ny and all written or electronic communications, including email attachments, between Tommy Beaudreau and any official, representative, staffer, lobbyist, or other agent associated with one or more of the following entities: NV Energy, the Nevada utility, Berkshire Hathaway Energy, the corporate energy company, or any of their lobbying or legal firms.” TOBIAS limited the scope of the search to records that have been created since January 1, 2021. Ex. 1.

8. Tommy Beaudreau is the Deputy Secretary of DOI.

9. On May 26, 2022, DOI acknowledged receipt of the request and assigned reference number DOI-OS-2022-003954 to the request. *Id.* at 1-2.

10. TOBIAS sought an estimated date of completion for the request on June 25, 2022, and DOI never responded. *Id.* at 2.

11. As of the date of this filing, DOI has not issued a determination letter and has produced no records responsive to this request. Nor has DOI complied with the statutory requirement under 5 U.S.C. § 552(a)(7)(B)(ii) to furnish an estimated date of completion when requested.

MAY 26, 2022 FOIA REQUEST (BEAUDREAU 2)

12. On May 26, 2022, TOBIAS submitted a FOIA request to DOI for “[a]ny and all written or electronic communications, including email attachments, sent or received by Tommy Beaudreau that contains one or more of the following words or phrases: ‘Greenlink North’, ‘NV Energy’, and/or ‘Berkshire.’” TOBIAS limited the scope of the search to records that have been created since January 1, 2021. Ex. 2.

13. On May 26, 2022, DOI acknowledged receipt of the request and assigned reference number DOI-OS-2022-003961 to the request. *Id.* at 1-2.

14. TOBIAS sought an estimated date of completion for the request on June 25, 2022, and DOI never responded. *Id.* at 2.

15. As of the date of this filing, DOI has not issued a determination letter and has produced no records responsive to this request. Nor has DOI complied with the statutory requirement under 5 U.S.C. § 552(a)(7)(B)(ii) to furnish an estimated date of completion when requested.

MAY 26, 2022 FOIA REQUEST (CULVER 1)

16. On May 26, 2022, TOBIAS submitted a FOIA request to BLM, a component of DOI, for “[a]ny and all written or electronic communications, including email attachments, between Nada Culver and any official, representative, staffer, lobbyist, or other agent associated with one or more of the following entities: NV Energy, the Nevada utility, Berkshire Hathaway Energy, the corporate energy company, or any of their lobbying or legal firms.” TOBIAS limited the scope of the search to records that have been created since January 1, 2021. Ex. 3.

17. Nada Culver is the Deputy Director of Police Programs at Bureau of Land Management.

18. On May 26, 2022, BLM acknowledged receipt of the request and assigned reference number DOI-BLM-2022-003952 to the request. *Id.* at 1-2.

19. TOBIAS sought an estimated date of completion for the request on June 25, 2022, and BLM never responded. *Id.* at 2.

20. As of the date of this filing, BLM has not issued a determination letter and has produced no records responsive to this request. Nor has BLM complied with the statutory requirement under 5 U.S.C. § 552(a)(7)(B)(ii) to furnish an estimated date of completion when requested.

MAY 26, 2022 FOIA REQUEST (CULVER 2)

21. On May 26, 2022, TOBIAS submitted a FOIA request to BLM, a component of DOI, for “[a]ny and all written or electronic communications, including email attachments, sent or received by Nada Culver that contains one or more of the following words or phrases: ‘Greenlink North’, ‘NV Energy’, and/or ‘Berkshire.’” TOBIAS limited the scope of the search to records that have been created since January 1, 2021. Ex. 4.

22. On May 26, 2022, BLM acknowledged receipt of the request and assigned reference number DOI-BLM-2022-003958 to the request. *Id.* at 1-2.

23. TOBIAS sought an estimated date of completion for the request on June 25, 2022, and BLM never responded. *Id.* at 2.

24. As of the date of this filing, BLM has not issued a determination letter and has produced no records responsive to this request. Nor has BLM complied with the statutory requirement under 5 U.S.C. § 552(a)(7)(B)(ii) to furnish an estimated date of completion when requested.

MAY 26, 2022 FOIA REQUEST (DANIEL-DAVIS 1)

25. On May 26, 2022, TOBIAS submitted a FOIA request to DOI for “[a]ny and all written or electronic communications, including email attachments, between Laura Daniel-Davis and any official, representative, staffer, lobbyist, or other agent associated with one or more of the following entities: NV Energy, the Nevada utility, Berkshire Hathaway Energy, the corporate energy company, or any of their lobbying or legal firms.” TOBIAS limited the scope of the search to records that have been created since January 1, 2021. Ex. 5.

26. Laura Daniel-Davis is the Principal Deputy Assistant Secretary for Land and Mineral Management at DOI.

27. On May 26, 2022, DOI acknowledged receipt of the request and assigned reference number DOI-OS-2022-003953 to the request. *Id.* at 1-2.

28. TOBIAS sought an estimated date of completion for the request on June 25, 2022, and DOI never responded. *Id.* at 2.

29. As of the date of this filing, DOI has not issued a determination letter and has produced no records responsive to this request. Nor has DOI complied with the statutory requirement under 5 U.S.C. § 552(a)(7)(B)(ii) to furnish an estimated date of completion when requested.

MAY 26, 2022 FOIA REQUEST (DANIEL-DAVIS 2)

30. On May 26, 2022, TOBIAS submitted a FOIA request to DOI for “[a]ny and all written or electronic communications, including email attachments, sent, or received by Laura Daniel-Davis that contains one or more of the following words or phrases: ‘Greenlink North’, ‘NV Energy’, and/or ‘Berkshire.’” TOBIAS limited the scope of the search to records that have been created since January 1, 2021. Ex. 6.

31. On May 26, 2022, DOI acknowledged receipt of the request and assigned reference number DOI-OS-2022-003960 to the request. *Id.* at 1-2.

32. TOBIAS sought an estimated date of completion for the request on June 25, 2022, and DOI never responded. *Id.* at 2.

33. As of the date of this filing, DOI has not issued a determination letter and has produced no records responsive to this request. Nor has DOI complied with the statutory requirement under 5 U.S.C. § 552(a)(7)(B)(ii) to furnish an estimated date of completion when requested.

MAY 26, 2022 FOIA REQUEST (SCOTT 1)

34. On May 26, 2022, TOBIAS submitted a FOIA request to DOI for “[a]ny and all written or electronic communications, including email attachments, between Janea Scott and any official, representative, staffer, lobbyist, or other agent associated with one or more of the following entities: NV Energy, the Nevada utility, Berkshire Hathaway Energy, the corporate energy company, or any of their lobbying or legal firms.” TOBIAS limited the scope of the search to records that have been created since January 1, 2021. Ex. 7.

35. Janea Scott is the Senior Counselor to the Assistant Secretary for Land and Minerals Management at DOI.

36. On May 26, 2022, DOI acknowledged receipt of the request and assigned reference number DOI-OS-2022-003951 to the request. *Id.* at 1-2.

37. TOBIAS sought an estimated date of completion for the request on June 25, 2022, and DOI never responded. *Id.* at 2.

38. As of the date of this filing, DOI has not issued a determination letter and has produced no records responsive to this request. Nor has DOI complied with the statutory

requirement under 5 U.S.C. § 552(a)(7)(B)(ii) to furnish an estimated date of completion when requested.

MAY 26, 2022 FOIA REQUEST (SCOTT 2)

39. On May 26, 2022, TOBIAS submitted a FOIA request to DOI for “[a]ny and all written or electronic communications, including email attachments, sent or received by Janea Scott that contains one or more of the following words or phrases: ‘Greenlink North’, ‘NV Energy’, and/or ‘Berkshire.’” TOBIAS limited the scope of the search to records that have been created since January 1, 2021. Ex. 8.

40. On May 26, 2022, DOI acknowledged receipt of the request and assigned reference number DOI-OS-2022-003959 to the request. *Id.* at 1-2.

41. TOBIAS sought an estimated date of completion for the request on June 25, 2022. *Id.* at 2.

42. On July 20, 2022, DOI stated that it is “waiting on a program office” and “cannot provide a timeline at this point.” *Id.* at 2.

43. As of the date of this filing, DOI has not issued a determination letter and has produced no records responsive to this request. Nor has DOI complied with the statutory requirement under 5 U.S.C. § 552(a)(7)(B)(ii) to furnish an estimated date of completion when requested.

COUNT I – MAY 26, 2022 FOIA REQUEST (BEAUDREAU 1)

44. The above paragraphs are incorporated by reference.

45. Defendant DOI is a federal agency subject to FOIA.

46. Included within the scope of the request are one or more records or portions of records that are not exempt under FOIA.

47. In violation of 5 U.S.C. § 552(a)(6)(A)(i) and (a)(3)(A), DOI has failed to issue a determination and has failed to promptly produce records responsive to the request.

COUNT II – MAY 26, 2022 FOIA REQUEST (BEAUDREAU 2)

48. The above paragraphs are incorporated by reference.

49. Defendant DOI is a federal agency subject to FOIA.

50. Included within the scope of the request are one or more records or portions of records that are not exempt under FOIA.

51. In violation of 5 U.S.C. § 552(a)(6)(A)(i) and (a)(3)(A), DOI has failed to issue a determination and has failed to promptly produce records responsive to the request.

COUNT III – MAY 26, 2022 FOIA REQUEST (CULVER 1)

52. The above paragraphs are incorporated by reference.

53. Defendant DOI and its component BLM are federal agencies subject to FOIA.

54. Included within the scope of the request are one or more records or portions of records that are not exempt under FOIA.

55. In violation of 5 U.S.C. § 552(a)(6)(A)(i) and (a)(3)(A), Defendants have failed to issue a determination and have failed to promptly produce records responsive to the request.

COUNT IV – MAY 26, 2022 FOIA REQUEST (CULVER 2)

56. The above paragraphs are incorporated by reference.

57. Defendant DOI and its component BLM are federal agencies subject to FOIA.

58. Included within the scope of the request are one or more records or portions of records that are not exempt under FOIA.

59. In violation of 5 U.S.C. § 552(a)(6)(A)(i) and (a)(3)(A), Defendants have failed to issue a determination and have failed to promptly produce records responsive to the request.

COUNT V – MAY 26, 2022 FOIA REQUEST (DANIEL-DAVIS 1)

60. The above paragraphs are incorporated by reference.

61. Defendant DOI is a federal agency subject to FOIA.

62. Included within the scope of the request are one or more records or portions of records that are not exempt under FOIA.

63. In violation of 5 U.S.C. § 552(a)(6)(A)(i) and (a)(3)(A), DOI has failed to issue a determination and has failed to promptly produce records responsive to the request.

COUNT VI – MAY 26, 2022 FOIA REQUEST (DANIEL-DAVIS 2)

64. The above paragraphs are incorporated by reference.

65. Defendant DOI is a federal agency subject to FOIA.

66. Included within the scope of the request are one or more records or portions of records that are not exempt under FOIA.

67. In violation of 5 U.S.C. § 552(a)(6)(A)(i) and (a)(3)(A), DOI has failed to issue a determination and has failed to promptly produce records responsive to the request.

COUNT VII – MAY 26, 2022 FOIA REQUEST (SCOTT 1)

68. The above paragraphs are incorporated by reference.

69. Defendant DOI is a federal agency subject to FOIA.

70. Included within the scope of the request are one or more records or portions of records that are not exempt under FOIA.

71. In violation of 5 U.S.C. § 552(a)(6)(A)(i) and (a)(3)(A), DOI has failed to issue a determination and has failed to promptly produce records responsive to the request.

COUNT VIII – MAY 26, 2022 FOIA REQUEST (SCOTT 2)

72. The above paragraphs are incorporated by reference.

73. Defendant DOI is a federal agency subject to FOIA.

74. Included within the scope of the request are one or more records or portions of records that are not exempt under FOIA.

75. In violation of 5 U.S.C. § 552(a)(6)(A)(i) and (a)(3)(A), DOI has failed to issue a determination and has failed to promptly produce records responsive to the request.

WHEREFORE, TOBIAS asks the Court to:

- i. declare that Defendants have violated FOIA;
- ii. order Defendants to conduct a reasonable search for records responsive to the requests;
- iii. order Defendants to produce all non-exempt requested records or portions of records promptly;
- iv. enjoin Defendants from withholding non-exempt public records under FOIA;
- v. award TOBIAS attorneys' fees and costs; and
- vi. award such other relief the Court considers appropriate.

Dated: July 26, 2022

RESPECTFULLY SUBMITTED,

/s/ Matthew V. Topic

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