



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

APR 10 2017

IN RESPONSE REFER TO:
FOIA/PA-2017-00139A
FOIA/PA-2017-00176

Julian Tarver (b) (6)

Dear Mr. Tarver:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter dated January 26, 2017, in which you appealed the agency's December 23, 2016, response related to your October 31, 2016 Freedom of Information Act (FOIA) request, FOIA/PA-2017-00176. You appealed the adequacy of search.

Acting on your appeal, I have considered the matter and have determined that the searches conducted by the offices of the Secretary to the Commission and Region IV (which covers the state of Washington) were proper and complete. These are the NRC offices likely to have communicated with the Governor of Washington. No records were found responsive to your request.

Moreover, as I informed you in responding to one of your prior appeals (FOIA-2016-0090A), the NRC does not have the automated tools to search the servers that house NRC staff emails in order to locate any emails that might have been sent to, or received from, a specified email address. Nor, would it be a reasonable burden on agency resources to search their respective emails to locate emails to/from a specified address, especially since you decline to incur any search fees.

The FOIA requires that a request for records "reasonably describe [] such records." 5 U.S.C. 552(a)(3)(A). Although your request did include a temporal limitation, it contained no subject matter. Courts have found that requests like yours, which are so broad and sweeping that they lack specificity, are not reasonably described. Courts have explained that "[t]he rationale for this rule is that FOIA was not intended to reduce government agencies to full-time investigators on behalf of requesters" or to allow requesters to conduct "fishing expeditions" through agency files. *Assassination Archives & Research Ctr. v. CIA*, 720 F. Supp. 217, 219 (D.D.C. 1979), *aff'd* in pertinent part, No. 89-5414, 1990 WL 123924 (D.C. Cir. Aug. 13, 1990) (per curiam).

Courts have also made clear that the FOIA does not require agencies to conduct "unreasonably burdensome" searches for records. See, e.g., *Van Strum v. EPA*, Nos. 91-35404, 91-35577, 1992 WL 197660 at *1 (9th Cir. 1991). Expecting all current NRC employees to search their own emails would place an unreasonable burden on agency resources.

Tarver, J.

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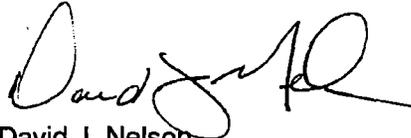
Therefore, I have denied your appeal.

This is the final agency decision. As set forth in the FOIA (5 U.S.C. 552(a)(4)(B)), you may seek judicial review of this decision in the district court of the United States in the district in which you reside or have your principal place of business. You may also seek judicial review in the district in which the agency's 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 nonexclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. You may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS
College Park, MD 20740
Email: ogis@nara.gov
Telephone: 202-741-5770
Toll-free: 1-877-684-6448
Fax: 202-741-5769

Sincerely,

A handwritten signature in black ink, appearing to read "David J. Nelson", written over a horizontal line.

David J. Nelson
Chief Information Officer
Office of the Chief Information Officer