

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

JUDICIAL WATCH, INC.,)
425 Third Street, S.W., Suite 800)
Washington, DC 20024,)
)
Plaintiff,)
)
v.)
)
U.S. DEPARTMENT OF ENERGY,)
1000 Independence Ave., S.W.)
Washington, DC 20585,)
)
Defendant.)
_____)

Case: 1:11-cv-02140
Assigned To : Sullivan, Emmet G.
Assign. Date : 12/1/2011
Description: FOIA/Privacy Act

COMPLAINT

Plaintiff Judicial Watch, Inc. brings this action against Defendant U.S. Department of Energy to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). As grounds therefor, Plaintiff alleges as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.
2. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e).

PARTIES

3. Plaintiff is a non-profit, educational foundation organized under the laws of the District of Columbia and having its principal place of business at 425 Third Street, S.W., Suite 800, Washington, DC 20024. Plaintiff seeks to promote integrity, transparency, and accountability in government and fidelity to the rule of law. In furtherance of its public interest

mission, Plaintiff regularly requests access to the public records of federal, state, and local government agencies, entities, and offices, and disseminates its findings to the public.

4. Defendant is an agency of the United States Government headquartered at United States Department of Energy, 1000 Independence Ave., S.W., Washington, DC 20585.

Defendant has possession, custody, and control of records to which Plaintiff seeks access.

STATEMENT OF FACTS

5. On September 6, 2011, Plaintiff sent a FOIA request to Defendant, seeking access to the following:

1. Any and all records regarding, concerning or related to the issuance of loan guarantees to Solyndra LLC, Solyndra Inc., Solyndra Fab 2 LLC, and/or 360 Degree Solar Holdings Inc.
2. Any and all records of communication between any official, officer, or employee of the Department of Energy and any official, officer or employee of any other government agency, department or office regarding concerning or related to Solyndra LLC, Solyndra Inc., Solyndra Fab 2 LLC, and/or 360 Degree Solar Holdings Inc.
3. Any and all records of communications between any official, officer or employee of the Department of Energy and any official, officer or employee of the following entities regarding concerning or related to Solyndra LLC, Solyndra Inc., Solyndra Fab 2 LLC, and/or 360 Degree Solar Holdings Inc.:
 - a. Argonaut Private Equity LLC
 - b. Madrone Capital Partners LLC
 - c. U.S. Venture Partners (USVP) LLC
 - d. Rockport Capital Partners LLC.

6. Defendant acknowledged receipt of Plaintiff's FOIA request by letter dated September 12, 2011. However, Defendant's acknowledgment letter did not state when Plaintiff could expect to receive a substantive response to its request.

7. Plaintiff subsequently received a second letter from Defendant dated September 13, 2011 stating that Plaintiff's request had been assigned to Defendant's Loan Programs Office. However, Defendant's September 13, 2011 letter also did not state when Plaintiff could expect to receive a substantive response to its request.

8. Plaintiff subsequently received a third letter from Defendant dated October 7, 2011. Included with this letter were 2 (two) compact discs containing a partial response to Plaintiff's September 6, 2011 FOIA request. Defendant's October 7 letter stated that "[a]dditional responsive documents exist and are being reviewed in preparation for public release." However, Defendant's October 7 letter did not state when Plaintiff could expect to receive a complete response to its September 6, 2011 FOIA request.

9. Pursuant to 5 U.S.C. § 552(a)(6)(A), Defendant was required to respond to Plaintiff's FOIA request within twenty (20) working days or by October 19, 2011.

10. As of the date of this Complaint, Defendant has failed to provide Plaintiff with a full production of documents responsive to its September 6, 2011 FOIA request. Nor has it indicated when any remaining responsive records will be produced.

11. Because Defendant failed to comply with the time limit set forth in 5 U.S.C. § 552(a)(6)(A), Plaintiff is deemed to have exhausted any and all administrative remedies with respect to its FOIA request, pursuant to 5 U.S.C. § 552(a)(6)(C).

COUNT 1
(Violation of FOIA, 5 U.S.C. § 552)

12. Plaintiff realleges paragraphs 1 through 11 as if fully stated herein.

13. Defendant is unlawfully withholding records requested by Plaintiff pursuant to 5 U.S.C. § 552.

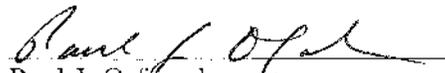
14. Plaintiff is being irreparably harmed by reason of Defendant's unlawful withholding of requested records, and Plaintiff will continue to be irreparably harmed unless Defendant is compelled to conform its conduct to the requirements of the law.

WHEREFORE, Plaintiff respectfully requests that the Court: (1) order Defendant to conduct a search for any and all responsive records to Plaintiff's FOIA request and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive to Plaintiff's FOIA request; (2) order Defendant to produce, by a date certain, any and all non-exempt records responsive to Plaintiff's FOIA request and a *Vaughn* index of any responsive records withheld under claim of exemption; (3) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to Plaintiff's FOIA request; (4) grant Plaintiff an award of attorneys' fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and (5) grant Plaintiff such other relief as the Court deems just and proper.

Dated: December 1, 2011

Respectfully submitted,

JUDICIAL WATCH, INC.


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