



April 26, 2013

By: U.S. Mail, Certified Return Receipt Requested & Facsimile

Chief, Requestor Liaison Division
Office of Information Programs and Services
U.S. Department of State, SA-2
Washington, DC 20522-8100
(202) 261-8579 (facsimile)

Re: Appeal of State Department Denial of Expedition of Freedom of Information Act
Request, Case Control Number F-2013-06560

To Whom It May Concern:

Friends of the Earth (Appellant) files this appeal pursuant to 5 U.S.C. § 552(a)(6)(E) and 22 C.F.R. §§ 171.12(c), 171.50, concerning the U.S. Department of State's (State Department) April 19, 2013 refusal to grant expedition of Appellant's Freedom of Information Act (FOIA) request, Case Control Number F-2013-06560.

In light of the public's significant recognized interest in ensuring that public officials discharge their obligations in a fair and impartial manner, *see* Memorandum for the Heads of Executive Departments and Agencies, 74 Fed. Reg. 4683 (2009), on April 15, 2013, Appellant submitted a FOIA request to the State Department seeking documents, records, and materials pertaining to communications between the State Department and the lobbyists or other individuals representing TransCanada; Environmental Resources Management; the Province of Alberta, Canada; CardnoEntrix; Exxon Mobil; McKenna, Long & Aldridge; Bryan Cave LLP; Van Ness Feldman; Nelson, Mullins et al; DLA Piper; Goldwyn Global Strategies; Mehlman, Vogel, Castagnetti Inc.; Rasky Baerlein Strategic Communications; Canadian American Business Council; Goldwyn Global Strategies; and SKDKnickerbocker (hereinafter referred to collectively as "lobbyists or other individuals") regarding the Keystone XL pipeline from October 7, 2011 to the present. Appellant received a letter dated April 19, 2013 and signed by Mary Therese Casto, Chief, Requestor Communications Branch, notifying Appellant of the State Department's denial of expedition of our request. A copy of this letter and our original FOIA request are enclosed for your convenience. The State Department's refusal to grant expedited processing of Appellant's FOIA request violates FOIA, 5 U.S.C. § 552 *et seq.* Appellant hereby appeals the denial of expedition.

I. Factual Background

Appellant is seeking disclosure of communications between the State Department and lobbyists or other individuals from lobbying firms, governments, oil companies and consultants, and

TransCanada regarding the Keystone XL pipeline. TransCanada is seeking to build a transboundary oil pipeline, the Keystone XL tar sands oil pipeline, between Canada and the United States. Pursuant to Executive Order 13337, before TransCanada can begin construction on the Keystone XL pipeline, the company must obtain a Presidential Permit. 69 Fed. Reg. 25299 (2004). The State Department is the agency designated to receive Presidential Permit applications and issue such permits if the agency determines that issuance of a Presidential Permit would be in the national interest. *Id.* As part of the permitting process, the State Department, as the lead agency, must conduct environmental review pursuant to the National Environmental Policy Act (NEPA).

Prior to lobbying for TransCanada and the Province of Alberta, a number of lobbyists in the aforementioned law and public relations firms worked for Secretary John Kerry while he was in the Senate or for his presidential campaign, or worked for former Secretary of State Hillary Clinton for her presidential campaign, or worked for or supported Barack Obama's election and re-election campaigns. These lobbyists are now lobbying the State Department and Obama administration in support of the Keystone XL pipeline project or other tar sands projects. The information requested seeks to determine whether the relationship between the lobbyists and State Department officials, or between the lobbyists and President Obama, might inappropriately influence the decision whether to grant TransCanada a Presidential Permit for the Keystone XL pipeline.

Expedited processing of Appellant's FOIA request is urgently needed to inform the public about, and to enable the public to meaningfully participate in the regulatory process during the decisionmaking period, prior to the State Department's final decision on the Keystone XL pipeline project including the Presidential Permit and final environmental review documents.

II. Appellant's FOIA Request Qualifies for Expedition

To meet the standard for expedition, the requestor must demonstrate the existence of a "compelling need" for the information. 5 U.S.C. § 552(a)(6)(E)(i); 22 C.F.R. § 171.12(b). A "compelling need" exists where the requester is "primarily engaged in disseminating information" and can demonstrate that "[t]he information is urgently needed ... in order to inform the public concerning actual or alleged Federal Government activity." 22 C.F.R. § 171.12(b)(2); *see also* 5 U.S.C. § 552(a)(6)(E)(v) ("with respect to a request made by a person primarily engaged in disseminating information, [compelling need means] urgency to inform the public concerning actual or alleged Federal Government activity").

Appellant qualifies for expedited processing because Appellant "urgently need[s]" the information requested. Courts have determined whether a requestor "urgently need[s]" information based on three factors: (1) whether the request concerns a matter of current exigency to the American public; (2) whether the consequences of delaying a response would compromise a significant recognized interest; and (3) whether the request concerns federal government activity. *See, e.g., American Civil Liberties Union v. U.S. Dept. of Justice*, 321 F.Supp.2d 24, 29 (D.D.C. 2004); *Al-Fayed v. CIA*, 254 F.3d 300, 310 (D.C. Cir. 2001).

Appellant, a non-profit organization primarily engaged in disseminating information, meets all three factors of the standard for urgent need. Thus Appellant has a compelling need for the information and its FOIA request qualifies for expedition.

A. Appellant is “primarily engaged in disseminating information.”

FOIA requestors can meet the standard for expedition by “demonstrat[ing] that their primary activity involves publishing or otherwise disseminating information to the public, not just a particular segment or group.” *See, e.g., ACLU v. Dep’t of Justice*, 321 F.Supp.2d 24, 30 (D.D.C. 2004); *EPIC v. Dep’t of Defense*, 241 F.Supp.2d 5, 11 (D.D.C. 2003) (standard met by organization that “gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw material into a distinct work, and distributes that work to an audience”) (citation and quotation omitted). In *Leadership Conference on Civil Rights v. Gonzales*, the Court concluded that plaintiff organization was “primarily engaged in disseminating information” where the organization’s “mission w[as] to serve as the site of record for relevant and up-to-the minute civil rights news and information” and where it disseminated information on civil rights and voting rights “to educate the public, promote effective civil rights laws, and ensure their enforcement by the [agency in question].” 404 F.Supp.2d 246, 260 (D.D.C. 2005). The court noted that, where an organization disseminated information relating to the upcoming reauthorization of the Voting Rights Act, “expedition of these documents could advance the current debate over the Voting Rights Act,” and the organization’s FOIA request “could have a vital impact on development of the substantive record in favor of re-authorizing ... the special provisions of the Voting Rights Act.”). *Id.*

Appellant Friends of the Earth is a non-profit organization primarily engaged in information dissemination, public education and advocacy on environmental issues. Friends of the Earth “seeks to change the perception of the public, media and policy makers – and effect policy change – with hard-hitting, well-reasoned policy analysis and advocacy campaigns that describe what needs to be done, rather than what is seen as politically feasible or politically correct.” Friends of the Earth, About Us - What We Do, www.foe.org/about-us (last visited April 25, 2013). Friends of the Earth disseminates information to educate the public on current environmental policy issues. Almost all of the organization’s staff is engaged in disseminating information to the public in one form or another. In addition to press releases, Friends of the Earth disseminates information through numerous press briefings, radio interviews, and television interviews. Friends of the Earth has a regularly updated website that disseminates information about key environmental issues. Friends of the Earth responds to questions from the public about environmental issues and disseminate its expert analysis through verbal and written means. Friends of the Earth distributes emails with information on environmental issues several times per week and letter mailings multiple times per year, publishes a quarterly “Newsmagazine,” and distributes information through multiple social networking sites and pages, and through attendance at public events.

Like the appellants in *Leadership Conference* with respect to civil rights and voting rights issues, Appellant is a known resource for current news and information with respect to environmental and political issues. With respect to the Keystone XL pipeline, Appellant educates the public on the environmental and human health impacts of tar sands extraction and transport and promotes

effective environmental regulation of tar sands pipelines that import tar sands crude oil into the U.S. *See, e.g.,* Friends of the Earth, Tar sands & Keystone XL pipeline, <http://www.foe.org/projects/climate-and-energy/tar-sands> & <http://www.foe.org/projects/climate-and-energy/tar-sands/keystone-xl-pipeline> (last visited April 25, 2013); Appellant’s FOIA request “could have a vital impact on development of the substantive record” used to inform the State Department’s decision whether to finalize the Environmental Impact Statement and grant a Presidential Permit for the Keystone XL pipeline. *See Leadership Conference on Civil Rights v. Gonzales*, 404 F.Supp.2d at 260; *see also ACLU v. Dep’t of Justice*, 321 F. Supp. 2d at 30. Expedition of these documents could advance the current debate over the Keystone XL project.

B. Appellant “urgently needs” the information requested.

1. *The request concerns a matter of current exigency to the American public.*

The State Department’s regulations state that information is “urgently needed” when it “has a particular value that will be lost if not disseminated quickly.” 22 C.F.R. § 171.12(b)(2)(i); *see also Long v. Dep’t of Homeland Security*, 436 F.Supp.2d 38, 43 (D.D.C. 2006) (expedition not required where there was no showing of “an imminent action indicating that the requested information will ‘not retain its value if procured through the normal FOIA channels’”) (quoting *Al-Fayed v. CIA*, Civil Action No. 00-2092, 2000 WL 34342564, at *5 (D.D.C. Sept. 20, 2000)). The regulations further clarify that “[o]rordinarily this means a breaking news story of general public interest” and not “[i]nformation of historical interest only,” “information sought for litigation or commercial activities,” or “a news media publication or broadcast deadline unrelated to the breaking nature of the story.” 22 C.F.R. § 171.12(b)(2)(i).

Appellant urgently needs this information because the particular value of the information “will be lost if not disseminated quickly.” 22 C.F.R. § 171.12(b)(2)(i). The public comment period has already closed as of April 22, 2013 for the draft supplementary EIS for the project. The latest estimate is that the State Department will issue the final EIS for the project by June—less than two months from now. At that point, the National Interest Determination process will begin and is likely to last 90 days. In the past, it has taken the State Department more than six months, if not more, to respond to FOIA requests. Appellant urgently needs the information requested in order to participate meaningfully in the permitting and environmental review process for the project. Thus the particular value of the information and documents sought will be lost if not disseminated before the close of the State Department’s NEPA decisionmaking process. *See Long v. Dep’t of Homeland Security*, 436 F. Supp. 2d at 43.

It is also clear, based on the State Department’s supplemental environmental review of the proposed pipeline and the public and Congressional interest in this matter—including more than one million public comments submitted on the Keystone XL draft supplementary Environmental Impact Statement, that Appellant’s request “concerns a matter of current exigency to the American public.” Moreover, this information directly relates to an action the State Department will take in the near future regarding the next phase of the environmental review process and Presidential Permit, and is thus not “[i]nformation of historical interest only,” or “a news media publication or broadcast deadline unrelated to the breaking nature of the story.” 22 C.F.R. § 171.12(b)(2)(i). *See also ACLU v. Dep’t of Justice*, 321 F.Supp.2d at 29 (finding exigency with respect to “ongoing debate regarding the renewal and/or amendment of the Patriot Act”);

Al-Fayed v. CIA, 254 F.3d 300, 310 (D.C. Cir 2001) (request not “a matter of a current exigency to the American public” because events occurred two or three years prior to the date of request for expedition); *Tripp v. Dep’t of Defense*, 193 F.Supp.2d 229, 242 (D.D.C. 2002) (no “urgent need” where “[t]he events at issue occurred over three years ago”).

Because the information and documents sought relate to an “ongoing public controversy associated with a specific time frame,” they concern a matter of current exigency to the American public. *Long v. Dep’t of Homeland Security*, 436 F.Supp.2d at 43; *see also Leadership Conference on Civil Rights v. Gonzales*, 404 F.Supp.2d at 260; *ACLU v. Dep’t of Justice*, 321 F.Supp.2d at 30-31.

2. The consequences of delaying a response would compromise a significant recognized interest.

Failing to expedite Appellant’s request would likely result in the State Department’s decision whether to grant a Presidential Permit for the Keystone XL pipeline project prior to disclosure to the public of information pertaining to whether the permitting decision was inappropriately influenced due to Secretary Kerry or President Obama’s prior relationships with individuals named in the FOIA request. The public has a significant recognized interest in participating in an informed and meaningful way in the permitting and supplemental environmental review process, and in ensuring that public officials discharge their obligations in a fair and impartial manner. *See* 40 C.F.R. § 1500.1 (policy of NEPA to “encourage and facilitate public involvement in decisions which affect the quality of the human environment”); Memorandum for the Heads of Executive Departments and Agencies, 74 Fed. Reg. 4683 (2009) (emphasizing FOIA’s purpose in encouraging “accountability through transparency” and that accountability to the citizenry is “at the heart of” the commitment to an open Government). Failing to disclose important information to the public in advance of key decisions and actions by the State Department would severely compromise these interests.

The information sought is “required now to inform this debate, and ... if [Appellant’s] request is relegated to the ordinary processing queue, production of responsive information would not occur before” it will be too late for the public to bring to meaningfully participate in the supplemental environmental review process and for the State Department to consider the public’s input on this issue. *See ACLU v. Dep’t of Justice*, 321 F. Supp.2d at 30-31.

3. The information requested concerns “actual or alleged Federal Government activity.”

“Concerning actual or alleged Federal Government activity” means “[t]he information concerns some actions taken, contemplated, or alleged by or about the government of the United States, or one of its components or agencies, including the Congress.” 22 C.F.R. § 171.12(b)(2)(ii). Here the documents sought concern an “[a]ctual or alleged Federal Government activity” as they pertain to the State Department’s decision whether to grant a Presidential Permit for the Keystone XL project. The State Department’s permitting decision is an action “taken, contemplated or alleged by or about” the State Department, an agency of the U.S. Government. 22 C.F.R. § 171.12(b)(2)(ii).

III. The State Department Must Respond to Appellant's Request.

The State Department must provide a written response to this appeal of the denial of expedition within 10 days after the date of receipt of the appeal. 5 U.S.C. § 552(a)(6)(E)(i); 22 C.F.R. § 171.50(b). If this appeal is denied or the State Department's response is not forthcoming within 10 working days, Appellant reserves the right under FOIA to seek judicial review, including the award of attorney's fees. 5 U.S.C. § 552(a)(6)(E)(iii) ("failure by an agency to respond in a timely manner to such a request shall be subject to judicial review"); 5 U.S.C. § 552(a)(4); *see also Edmonds v. F.B.I.*, 417 F.3d 1319 (D.C. Cir. 2005) (awarding attorney's fees following court-ordered expedition of FOIA request).

In addition, even if Appellant's request for expedition is denied, the State Department must inform Appellant within 20 days whether the agency has responsive documents. 5 U.S.C. § 552(a)(6)(A); *S. Yuba River Citizens League v. Nat'l Marine Fisheries Serv.*, CIVS-06-2845 LKK/JFM, 2008 WL 2523819 (E.D. Cal. June 20, 2008) ("Although the statute in terms provides that an agency must merely notify the requester within twenty days of whether to respond to the request, courts consistently treat the twenty-day deadline as the agency's deadline to provide the responsive documents."). The State Department has failed to provide such notification. If Appellant does not receive within 10 days a substantive response indicating whether the State Department possesses documents that are responsive to Appellant's request, Appellant will consider filing suit for violations of the Freedom of Information Act.

We await your prompt reply.

Sincerely,



Marcie Keever
Friends of the Earth
1100 15th Street, NW, 11th Floor
Washington, DC 20005
510-900-3144
mkeever@foe.org

Enclosures (2):

FOIA request letter from Friends of the Earth to U.S. State Dept. (April 15, 2013)

Letter from U.S. State Dept. to Friends of the Earth (April 19, 2013)



April 15, 2013

Office of Information Programs and Services
A/GIS/IPS/RL
U. S. Department of State
Washington, D.C. 20522-8100
Facsimile: (202) 261-8579

Re: *Freedom of Information Act Request – Expedited Processing Requested*

Dear Freedom of Information Act Officer:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, Friends of the Earth requests documents, records, and materials pertaining to communications between the State Department and the lobbyists or other individuals representing TransCanada; Environmental Resources Management; the Province of Alberta, Canada; CardnoEntrix; Exxon Mobil; McKenna, Long & Aldridge; Bryan Cave LLP; Van Ness Feldman; Nelson, Mullins et al; DLA Piper; Goldwyn Global Strategies; Mehlman, Vogel, Castagnetti Inc.; Rasky Baerlein Strategic Communications; Canadian American Business Council; Goldwyn Global Strategies; and SKDKnickerbocker regarding the Keystone XL¹ pipeline from October 7, 2011 to the present. This request includes documents regarding meetings or communications or other contacts—including meeting minutes and scheduling notes—that any individual from any of the entities listed above arranged or attended with the State Department or that the State Department arranged or attended with any of the listed entities.

Our request includes but is not limited to communications with or by the following individuals employed by or contracted by the above listed entities regarding the Keystone XL pipeline:

Paul Elliot, TransCanada
Anita Dunn, SKDKnickerbocker
Susan Carter, Exxon Mobil
David Castagnetti, Mehlman, Vogel, Castagnetti Inc
Kelly Bingel, Mehlman, Vogel, Castagnetti Inc
Alex Vogel, Mehlman, Vogel, Castagnetti Inc
Gordon Giffin, McKenna, Long & Aldridge
Alex McGee, McKenna Long & Aldridge
Bandelee McQueen, McKenna Long & Aldridge
David Pollak, McKenna Long & Aldridge
Andrew Shaw, McKenna Long & Aldridge

¹ For purposes of this FOIA request 'Keystone XL' refers to the oil pipeline that would run from the Canadian border to the Texas Gulf Coast.

Mary Scott Greenwood, McKenna, Long & Aldridge
David Russell, Bryan Cave LLP
Brandon Pollak, Bryan Cave LLP
Jeff Berman, Bryan Cave LLP
Jennifer Stewart, Bryan Cave LLP
Broderick Johnson, Bryan Cave LLP
Lisa Epifani, Van Ness Feldman
Curtis Moffat, Van Ness Feldman
Thomas Roberts, Van Ness Feldman
Jonathan Simon, Van Ness Feldman
Justin Meyers, Nelson, Mullins et al
Tom Sullivan, Nelson, Mullins et al
David Wilkins, Nelson, Mullins et al
Graham Shalgian, Rasky Baerlein Strategic Communications
David Tamasi, Rasky Baerlein Strategic Communications
Benjamin Nguyen Wexler, Rasky Baerlein Strategic Communications
Jim Blanchard, DLA Piper
David Goldwyn, Goldwyn Global Strategies

For purposes of this request, “documents, records, and materials” should be interpreted to include copies of all correspondence, including, but not limited to, internal memoranda, memoranda and correspondence with any other federal, state or foreign agencies or individuals, papers, maps, data, scientific (clinical and nonclinical) studies, samples, schematics, field notes/reports, telephone logs, briefing/application documents, electronic mail, scheduling notes, meeting minutes, other correspondence between meeting attendees or those who scheduled meetings, and notes documenting any communication (regardless of physical form or characteristics) concerning the specific requests above.

Expedited Processing Request

Pursuant to 5 U.S.C. § 552(a)(6)(E)(i) and 22 C.F.R. § 171.12(b), *Friends of the Earth requests expedited processing of this FOIA request due to our compelling need for the information requested.* A “compelling need” exists where the requester is “primarily engaged in disseminating information” and can demonstrate that “[t]he information is urgently needed ... in order to inform the public concerning actual or alleged Federal Government activity.” 22 C.F.R. § 171.12(b)(2); *see also* 5 U.S.C. § 552(a)(6)(E)(v). Friends of the Earth is a non-profit organization primarily engaged in information dissemination, public education and advocacy on environmental issues. Friends of the Earth will be taking numerous steps to disseminate the requested information to the public, and have a demonstrated and longstanding capacity to do so. We typically disseminate similar information through direct communication to journalists and other members of the media, through press releases, through newsletters to all of our members, through our web sites, through public meetings, and through other legislative and executive fora. The “[a]ctual or alleged Federal Government activity” to which the requested information pertains is the State Department’s decision whether to grant a Presidential Permit for the Keystone XL project.

Friends of the Earth urgently needs this information because the particular value of the information “will be lost if not disseminated quickly.” 22 C.F.R. § 171.12(b)(2)(i). The State Department issued the draft supplemental environmental impact statement (EIS) for the Keystone XL project in March 2013, and the public comment period closes on April 22, 2013. The State Department will imminently decide whether to finalize the EIS and grant TransCanada the Presidential Permit to build the Keystone XL pipeline across the U.S.-Canada border. The information requested will lose value to Friends of the Earth if Friends of the Earth does not receive it in time to disseminate it to the public for its use in participating in the environmental review process. Friends of the Earth seeks to use this information in comments pertaining to the approval of the Keystone XL pipeline, including the current environmental review being conducted by State under the National Environmental Policy Act and any Presidential permit review and approval. The State Department’s permitting decision is an action “taken, contemplated or alleged by or about” the State Department, an agency of the U.S. Government. 22 C.F.R. § 171.12(b)(2)(ii). Friends of the Earth reserves the right to appeal any denial of our request for expedited processing of this request.

We ask that State’s response comply with the Attorney General’s March 2009 FOIA memorandum, reiterating President Obama’s directive that in “the face of doubt, openness prevails.” Attorney General, Memorandum for Heads of Executive Departments and Agencies at 1 (March 19, 2009) (Attorney General Memorandum). Accordingly, we expect that State will apply a presumption in favor of disclosure and consider that it “should not withhold information simply because it may do so legally.” *Id.*; *see also* 40 C.F.R. § 1506.6(f) (noting the intersection of the National Environmental Policy Act and FOIA). We also expect that State will act promptly, in keeping with the Attorney General’s admonition that the timely disclosure of information “is an essential component of transparency.” Attorney General Memorandum at 3.

Fee Waiver Request

As a non-profit organization, Friends of the Earth also requests a waiver of all fees incurred in providing these records. Disclosure of the requested information “is in the public interest because it is likely to contribute significantly to the public understanding of the operation or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552 (a)(4)(A) (iii)). If our request for a fee waiver is denied and any expenses associated with this request are in excess of \$25.00, please obtain our approval before any such charges are incurred.

Disclosure of the requested information would inform the public of governmental activities affecting their safety, health and environment. Friends of the Earth is a not-for-profit charitable organization with no commercial interest in the information requested and has relevant expertise in the areas of environment and human health and environmental law. Friends of the Earth has a long and active history in addressing threats to human health and the environment posed by the development, production, shipment and processing of oil and gas, including tar sands oil. Friends of the Earth also has additional relevant experience with the proper implementation of the National Environmental Policy Act and other relevant statutes governing the Obama administration’s consideration of the Keystone XL pipeline project request.

Because of the non-profit, public interest nature of Friends of the Earth, we have extremely limited financial resources with which to cover the copying and search expenses of this request. Our main purpose in requesting the documents is to increase public knowledge and participation in the government process so fundamental to the effective working of a democracy.

Timely Response and Request for Rolling Release

Pursuant to 5 U.S.C. § 552(a)(6)(E)(ii)(I), we expect a response within ten (10) working days of your receipt of this request. If this request is denied in whole or in part, we expect a detailed justification for withholding the records. We also request any segregable portions of records that are otherwise not expected to be disclosed by State in response to this request. **Finally, we request that any documents responsive to this request be released by State to Friends of the Earth on a rolling basis** rather than State holding all of the documents for a one-time release. Friends of the Earth reserves the right to appeal any denial of this request.

Please contact us at the number(s) or email(s) listed below with any questions you may have about the materials we are requesting. Thank you for your immediate attention to this matter.

Sincerely,

Ross Hammond, Senior Campaigner, (510) 900-3143, rhammond@foe.org
Damon Moglen, Climate & Energy Project Director, (202) 222-0708, dmoglen@foe.org
Friends of the Earth
1100 15th Street NW, 11th Floor
Washington, DC 20005



United States Department of State

Washington, D.C. 20520

APR 19 2013

Dear Requester:

RE: *Communications between the State Department & the Keystone Pipeline Lobbyists*

This is in response to your request dated April 15, 2013. We have assigned Case Control Number F-2013-06560 and will begin the processing of your request based upon the information provided in your communication.

The cut-off date is the date the search is initiated unless you have provided a specific timeframe.

Unusual circumstances (including the number and location of Department components involved in responding to your request, the volume of requested records, etc.) may arise that would require additional time to process your request.

Our published regulations regarding expedition, 22 C.F.R. 171.12(b), require a specific showing of a compelling need. **Expedited processing is granted only in the following situations: (1) imminent threat to the life or physical safety of an individual; (2) urgently needed by an individual primarily engaged in disseminating information in order to inform the public concerning actual or alleged Federal Government activity and the information is urgently needed in that a particular value of the information would be lost if not disseminated quickly; (3) substantial humanitarian reasons; and (4) loss of substantial due process rights.** Your request does not meet any of the established criteria. Regrettably, I must advise that you have not provided adequate justification for expedition. However, you may be assured that we will make every effort to process your request in as timely a manner as possible. For your convenience, I have enclosed a copy of the Department's expedited processing criteria.

If you wish to appeal the denial of expedition, you may write to the Chief, Requester Liaison Division, at the address below, within 30 days of receipt of this letter.

We will notify you as soon as responsive material has been retrieved and reviewed.

Should you want to contact us, you may call our FOIA Requester Service Center on (202) 261-8484 or send an email to FOIAstatus@state.gov. Please refer to the Case Control Number in any communication.

Sincerely,

Mary Therese Casto *MTC*
Chief, Requester Communications Branch

Expeditious Processing Information Sheet

Expedited processing shall be granted to a requester after the requester requests such and demonstrates a compelling need for the information. A compelling need is deemed to exist where the requester can demonstrate one of the following:

1. **A Compelling Need** means that the failure to obtain the records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual.

2. **A Compelling Need** means that the information is urgently needed by an individual primarily engaged in disseminating information in order to inform the public concerning actual or alleged Federal Government activity. An individual primarily engaged in disseminating information to the public. Representatives of the news media would normally qualify; however, other persons must demonstrate that their primary activity involves publishing or otherwise disseminating information to the public, not just to a particular segment or group.
 - (a) **Urgently Needed** means that the information has a particular value that will be lost if not disseminated quickly. Ordinarily this means a breaking news story of historical interest only, or information sought for litigation or commercial activities would not qualify nor would a news media publication or broadcast deadline unrelated to the news breaking nature of the information.

 - (b) **Actual or Alleged Federal Government Activity.** The information concerns some actions taken, contemplated, or alleged by or about the Government of the United States, or one of its components or agencies, including the Congress.

3. **Substantial Due Process** rights of the requester would be impaired by the failure to process immediately; or

4. **Substantial Humanitarian** concerns would be harmed by the failure to process immediately.

A demonstration of compelling need by a requester shall be made by a statement certified by the requester to be true and correct to the best of their knowledge.

Fee Waiver

Your request for a fee waiver has been granted; therefore, your request will be processed at no charge to you.