

June 30, 2023

FOIA Officer
Headquarters
Department of Energy
1000 Independence Avenue SW.
Washington, DC 20585.

**Re: Request Under The Freedom Of Information Act For Records Concerning
The Department Of Energy's Efforts To Develop A Framework For
Differentiated LNG**

This is a request on behalf of Friends of the Earth pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, for information concerning the Department of Energy’s (“DOE” or “the Department”) Office of Fossil Energy and Carbon Management’s (“FECM”) actions in connection with efforts to develop a framework for the marketing and sale of so-called “clean”, “differentiated”, or “certified” liquified natural gas (“LNG”). This request first provides background that illustrates the importance of the information at issue and then specifically identifies the information being requested. This request also demonstrates that Friends of the Earth is entitled to a fee waiver.

I. BRIEF FACTUAL BACKGROUND

On February 24, 2022, Russia invaded Ukraine, marking a steep escalation of hostilities between the two nations. Western nations, including the United States, have responded to the ensuing crisis by escalating arms shipments to Ukraine and imposing increasingly severe economic sanctions on Russia, as well as on its political leaders and oligarchs. In turn, Russia retaliated with economic measures of its own. In particular, Russia leveraged European reliance on Russian natural gas to strike back at Western sanctions.¹

¹ In late March 2022, President Putin announced that “unfriendly” nations would have to purchase Russian gas using Russian currency. *See* Jake Horton et al, *How Reliant is the World on Russia for Oil and Gas?*, BBC NEWS (May 4, 2022). In April 2022, upon the expiration of long-term contracts with the Russian-state-owned energy company, Gazprom, Poland and Bulgaria refused to comply with Russia’s demand. As a result, Gazprom cut off gas supplies to Poland and Bulgaria and stated that it would not resume supply until payments are made in rubles. *See* Joe Hernandez et al., *What Russia cutting off energy to Poland and Bulgaria means for the world*, NPR (Apr. 28, 2022), <https://tinyurl.com/3kbvnxz9>. In late May, Gazprom cut off gas supplies to Finland just days after Finland formally applied to join NATO. Terje Solsvik, *Russia stops gas flows to Finland over payments dispute*, REUTERS (May 22, 2022), <https://tinyurl.com/ytnxe422>. Finland also refused to pay for Russian gas in rubles. *See* Nina Chestney, *As deadlines loom, Russia says EU gas clients open payment accounts*, REUTERS (May

Natural gas currently represents around a quarter of the European Union’s overall energy consumption.² Prior to the war, over 40% of the European Union’s natural gas came from Russia.³ Gas imports from Russia into Europe are now a quarter of what they were prior to the Russo-Ukrainian War, and the European Union plans to phase out imports from Russia entirely by 2030.⁴ To make up the shortfall, the European Union has turned to the United States, the world’s largest producer and exporter of liquified natural gas (“LNG”).⁵

The impacts of the Russo-Ukrainian War and ensuing energy crisis have reverberated across borders and oceans. Russia’s unprovoked invasion of Ukraine “has roiled the markets and geopolitics of energy, driving oil and gas prices to their highest levels in nearly a decade and forcing many countries to reconsider their energy supplies.”⁶ To address the resulting energy crisis, the Biden Administration pledged to expand the United States-EU natural gas trade by “at least 50 bcm per year by 2030.”⁷ The Biden Administration also pledged to “maintain[] an enabling regulatory environment with procedures to review and expeditiously act upon applications to permit any additional export LNG capacities.”⁸

Consistent with these goals, the United States has dramatically increased LNG exports bound for Europe and the United Kingdom. By December 2022, United States LNG exports to the region had increased to more than 42% of total LNG imports to Europe.⁹ In total, the United States added 37 billion cubic meters (“bcm”) to Europe’s supply, more than all other sources of

19, 2022), <https://tinyurl.com/d3rrphan>. Gazprom eventually stopped shipments to companies supplying the Netherlands, Denmark, Latvia, and Germany on the grounds that those countries refused to pay in rubles. Emre Gürkan Abay, *Putin Allows Western Countries to Pay Gas Debts in Foreign Currencies*, ANADOLU AGENCY (Dec. 12, 2022), <https://tinyurl.com/bde9cxva>. Although this policy later changed to allow Gazprom to accept foreign currencies, Russian gas shipments did not resume. In fact, following sabotage in September 2022, gas flows through the controversial Russian pipeline Nord Stream 1 ceased entirely. Leslie Palti-Guzman et al., Ctr. for Strategic & Int’l Studies, *U.S. LNG Remapping Energy Security* (Jan. 17, 2023), <https://tinyurl.com/35bkpw5a>.

² See European Commission, *Liquified Natural Gas*, <https://tinyurl.com/3vye86uw> (last visited May 11, 2022).

³ See Jarrett Renshaw & Timothy Gardner, *U.S. Push to Export LNG Amid Ukraine Crisis Slowed by Climate Concerns, Sources Say*, REUTERS (Mar. 11, 2022), <https://tinyurl.com/334zy35k>.

⁴ See Lexie Ryan, Cong. Res. Serv., *U.S. Measures to Provide Liquified Natural Gas for the European Union* (Mar. 6, 2023), <https://tinyurl.com/4rfb9r43>.

⁵ Clifford Krauss, *Europe’s Quest to Replace Russian Gas Faces Plenty of Hurdles*, NY TIMES (May 5, 2022), <https://tinyurl.com/bdzjwazj>.

⁶ Jeff Tollefson, *What the War in Ukraine Means for Energy, Climate and Food*, NATURE (Apr. 5, 2022), <https://tinyurl.com/w22dsrwf>.

⁷ Press Release, White House, Joint Statement on U.S.-EU Task Force on Energy Security (Apr. 3, 2023), <https://tinyurl.com/y3m8yx7b> (emphasis added).

⁸ *Id.*

⁹ Leslie Palti-Guzman et al., *supra* note 1.

LNG combined.¹⁰ U.S. LNG has become the second-largest source of gas imports to Europe, after pipeline gas from Norway, following accelerated Russian pipeline cuts over the summer of 2022.¹¹ The strong demand for U.S. LNG means these facilities are being run close to or above maximum capacity.¹² The demand for U.S. LNG will only increase; as explained, the United States has pledged to expand the United States-EU natural gas trade by “*at least 50 bcm per year by 2030.*”¹³

The potential expansion of natural gas extraction and new LNG infrastructure comes at a time that is critical to determining the course of the planet’s future. As the International Panel on Climate Change (“IPCC”) warned with “extremely high confidence, “[t]he cumulative scientific evidence is unequivocal: Climate change is a threat to human well-being and planetary health. Any further delay in concerted anticipatory global action on adaptation and mitigation will miss a brief and rapidly closing window of opportunity to secure a livable and sustainable future for all.”¹⁴ Indeed, projected greenhouse gas emissions over the lifetime of existing and currently planned fossil fuel infrastructure will push global warming past 1.5 degrees Celsius, the generally accepted threshold that will avoid the worst impacts of climate change.¹⁵ The IPCC warned that averting climate disaster requires immediate and deep reductions across all sectors; it “cannot be achieved through incremental change.”¹⁶ The International Energy Agency (“IEA”) has likewise concluded that to limit the long-term increase in global temperatures to 1.5 degrees Celsius, there must be “a complete transformation of how we produce, transport and consume energy.”¹⁷ The IEA determined that to achieve climate goals, there can be no new investments in fossil fuel supplies beyond those committed as of 2021.¹⁸ Instead, the United States (and other nations) must move to reduce emissions to *zero as soon as possible*.¹⁹ Accordingly, all fossil fuels—including natural gas—must be phased out to meet global emissions targets.²⁰

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ Press Release, White House, *supra* note 7 (emphasis added).

¹⁴ IPCC, *Climate Change 2022: Impacts, Adaptation and Vulnerability, Summary for Policymakers* 35 (2022).

¹⁵ IPCC, *Climate Change 2022: Mitigation of Climate Change* SPM-19 (2022).

¹⁶ *Id.* at TS-32.

¹⁷ IEA, *Net Zero by 2050: A Roadmap for the Global Energy Sector* 2 (May 2021).

¹⁸ *Id.* at 11.

¹⁹ See, e.g., David Roberts, *More Natural Gas Isn’t A “Middle Ground”—It’s A Climate Disaster*, VOX (Mar. 30, 2019), <https://tinyurl.com/ecn95ht8>.

²⁰ Because natural gas is less carbon-intensive than coal, it has been heralded as a “cleaner” energy source. However, this is a false perception. There is simply too much carbon in the natural gas we have discovered to meet climate targets; in other words, the carbon content of the “developed reserves” of fossil fuels around the world, i.e., “already-operating or under-construction fields and mines,” far exceeds the emissions targets that will limit global warming to 1.5 degrees Celsius. See David Roberts, *supra* note 19. Additionally, the production and transportation of natural gas emits methane, a greenhouse gas that is more than 25 times as potent as carbon dioxide at trapping heat in the atmosphere. See U.S. EPA, *Importance of Methane*, <https://tinyurl.com/mrz8vv2p> (last visited May 10, 2022).

Despite the overwhelming evidence that fossil fuel extraction must end immediately to avoid the direst consequences of climate change, government and market forces continue to push for the expansion of LNG production. Recently, however, the buyers of LNG have become increasingly concerned with the amount of greenhouse gases that are released into the atmosphere during the production and transportation of LNG from leaky pipes and wells.²¹ To address concerns over greenhouse gas emissions by gas buyers—particularly those in the European Union, where new legislation regarding import standards for LNG is being considered—DOE has begun to explore frameworks for vetting the greenhouse gas emissions intensity of some LNG supplies.²² These frameworks would assist in the creation of a market for the sale of so-called “clean”, “differentiated”, or “certified” LNG.²³ These terms all refer to an LNG product that is distinguished from others on the basis of emissions intensity, allegedly making such a product more attractive in an emissions trading market.²⁴ DOE’s efforts to develop a framework are based upon the premise that domestic utilities and foreign buyers of U.S. LNG might eventually pay a premium for LNG that is identified as having fewer emissions during production and transportation.²⁵

DOE has reportedly held several closed-door meetings with gas producers, exporters and third-party methane assessors.²⁶ Indeed, as reported by several outlets, FECM official Brad Crabtree “organized October discussions with industry representatives regarding certified gas standards.”²⁷ “The DOE also held discussions with oil and gas companies, environmental organizations, and analysts at the CERAWEEK conference in March 2023.”²⁸ Attendees there were informed of the Biden Administration’s goal to develop an approach to the emissions issue before the COP28 UN climate summit in November.²⁹ The FECM has also reportedly met with representatives (EU, Japan, Norway, the UAE, Britain, and others) to discuss methods of reducing energy industry emissions.³⁰ Additionally, the Department is alleged to be working with the Differentiated Gas Coordinating Council (DGCC), an industry trade group, to establish

²¹ See Ben Cahill & Allegra Dawes, Ctr. for Strategic & Int’l Studies, *Transatlantic Efforts to Cut Methane Emissions* (June 2023), <https://tinyurl.com/3r5pwk8v>.

²² *Id.*

²³ THE DIFFERENTIATED GAS COORDINATING COUNCIL, *Frequently Asked Questions*, <https://www.dgccouncil.com/faqs> (last visited June 28, 2023).

²⁴ *Id.*

²⁵ See Jennifer A. Dlouhy, *Biden Officials Meet With Energy Leaders on Green Gas Standards*, BLOOMBERG (Mar. 9, 2023), <https://tinyurl.com/bd6avv2u>.

²⁶ See U.S. Dep’t of Energy, Press Release, Office of Fossil Energy and Carbon Management Issues Full Suite of Action on LNG Exports and Methane Emissions Mitigation (Apr. 21, 2023), <https://tinyurl.com/27srxwac>; see also Ben Cahill & Allegra Dawes, *supra* note 21 (discussing DOE’s efforts to develop a framework for differentiated gas); Jennifer A. Dlouhy, *supra* note 25 (same); BIOSQUEEZE, *Natural Gas: Certified Clean* (Mar. 13, 2023), <https://tinyurl.com/5tft4sj8> (same).

²⁷ BIOSQUEEZE, *supra* note 26.

²⁸ Ben Cahill & Allegra Dawes, *supra* note 21.

²⁹ See Jennifer A. Dlouhy, *supra* note 25.

³⁰ BIOSQUEEZE, *supra* note 26.

standards for emissions reporting.³¹ However, to date, these discussions have all been closed to the public. The lack of transparency has raised serious concerns that DOE may be subject to undue influence and pressure from fossil fuel industry representatives who may push for the adoption of lenient certification standards that fail to account for the true scale of the irreversible environmental and socio-economic destruction wrought by the extraction and consumption of fossil fuels.

II. REQUESTED RECORDS

Pursuant to FOIA, 5 U.S.C. § 552(a)(3), Friends of the Earth requests information from DOE's Office of Fossil Energy and Carbon Management ("FECM") concerning efforts to develop a framework for so-called "clean" LNG (also called "differentiated" or "certified" LNG). Specifically, Friends of the Earth requests the following:

- Any and all records mentioning, discussing, addressing, explaining, describing, referring to, containing, dealing with, or otherwise citing to, either in whole or in part, directly or indirectly, the application of the Federal Advisory Committee Act ("FACA") to conversations, meetings, interactions, deliberations and/or discussions about the development and/or implementation of "clean", "differentiated", and/or "certified" LNG frameworks;
- All calendar entries from the official calendars of the following five employees of FECM from February 1, 2022 until the date the search is conducted:
 - Brad Crabtree;
 - Amy Sweeny;
 - Ryan Peay;
 - Tom Curry; and
 - Suzie Waltzer;
- Communications, meeting materials, and other records generated or received by or for the aforementioned five employees (Brad Crabtree, Amy Sweeny, Ryan Peay, Tom Curry, and Suzie Waltzer) that mention, discuss, address, explain, describe, refer to, contain, deal with, or otherwise cite to, either in whole or in part, directly or indirectly, the development and/or implementation of clean, differentiated, and/or certified LNG frameworks with individuals and entities outside of the federal government, including both public (e.g., foreign government officials) and private (e.g., industry officials) individuals and entities.
 - A *non-exhaustive* list of outside entities includes, but again, *is not limited to* employees, agents, affiliates, and representatives of the following corporate entities:
 - EQT;

³¹ *Id.*

- Akin Gump Strauss;
- The Partnership to Address Global Emissions (“PAGE”);
- Sempra;
- Freeport LNG;
- Natural Allies; and
- The European Commission.

For this request, the term “records” refers to, but is not limited to, correspondence of any kind, memoranda, letters, notes, schedules, electronic mail, telephone logs, minutes of meetings, peer review comments, work papers, reports, studies, and/or data, as well as any other information regarding the foregoing types of records. Additionally, the terms “information” and “communication” encompasses records and documents (handwritten, typed, electronic or otherwise produced, reproduced, or stored) in DOE’s possession or control that were generated, received, obtained, held, or created by or for the agency by any entity, agent, consultant, affiliate, or representative within or outside the federal government.

Because FOIA provides that if portions of a document are exempt from release, the remainder must nevertheless be segregated and disclosed, 5 U.S.C. § 552(b), we request that you provide us with all non-exempt portions of the requested information, along with an explanation of which documents, if any, may be privileged or exempt from disclosure and the basis for any exemption applied.

FOIA states that “[e]ach agency, upon any request for records made under paragraph . . . (3) . . . shall determine within 20 [working] days . . . whether to comply with such request and shall immediately notify the person making such request of . . . such determination and the reasons therefor.” 5 U.S.C. § 552(a)(6)(A)(i). “[I]n order to make a determination,” an agency must, inter alia, “determine and communicate the scope of the documents it intends to produce and withhold, and the reasons for withholding any documents.” *Citizens for Responsibility & Ethics in Wash. v. Fed. Election Comm’n*, 711 F.3d 180, 188 (D.C. Cir. 2013). Accordingly, for any documents or portions of documents that you block release due to specific exemption(s) from the requirements of FOIA, please provide an index itemizing and describing the documents or portions of documents withheld. The index should provide a detailed justification for claiming a particular exemption that explains why each such exemption applies to the document or portion of a document withheld. See *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), *cert. denied*, 415 U.S. 977 (1974)

III. REQUEST FOR A FEE WAIVER

Regarding fee waivers, FOIA provides that “[d]ocuments shall be furnished without any charge or at a charge reduced below the [regular fee schedule] if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii). DOE’s regulations specify that it will provide a full or partial fee waiver if the requester demonstrates “that disclosure is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and disclosure is not primarily in the commercial interest of the requester.” 10

C.F.R. § 1004.9(a)(8). DOE’s regulations implementing FOIA enumerate several factors that will be considered when determining whether disclosure of the requested information is in the public interest:

- (A) . . . Whether the subject of the requested records concerns the operations or activities of the government;
- (B) . . . Whether the disclosure is “likely to contribute” to an understanding of government operations or activities;
- (C) The contribution to an understanding by the general public of the subject likely to result from disclosure; and
- (D) . . . Whether the disclosure is likely to contribute “significantly” to public understanding of government operations or activities.

Id. To demonstrate that the requested disclosure is not primarily in the commercial interest of the requester, the Department will consider “[w]hether the requester has a commercial interest that would be furthered by the requested disclosure; and, if so . . . [w]hether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure.” *Id.* Significantly, a “[r]equest for records supporting the news dissemination function of the requester will not be considered to be a request for a commercial use.” *Id.* § 1004.9(b).

A. The FOIA Request Directly Concerns The Activities Or Operations Of The Federal Government.

It is beyond legitimate dispute that this request directly concerns the activities or operations of the federal government. 10 C.F.R. § 1004.9(a)(8)(i)(A). The request involves records relating to the actions, communications, and activities of federal officials in their official capacity, and thus clearly relates to the activities or operations of the federal government. Indeed, FECM’s decisions and efforts to further the United States’ policy goals with respect to global energy markets are taken at the direction of the Biden Administration, and thus are direct actions taken by the DOE or its representatives. As such, this request directly concerns the activities or operations of the federal government

B. The FOIA Request Is Likely To Contribute To The Public Understanding Of Those Activities and Operations

This FOIA request is likely to contribute to the public understanding of the activities and operations of the Federal Government in several distinct ways. The requested information has not been publicly disclosed and is therefore both new and will help to confirm or clarify information that has been made public. In particular, the requested information will help clarify the federal government’s efforts to encourage or facilitate the expansion of domestic natural gas production through the development of frameworks for the marketing and sale of low-emissions LNG. The requested information will also help clarify the influence of special interest groups on

DOE's decisions and actions. These crucial pieces of information will contribute to the public's understanding of the federal government's decision-making process regarding the energy crisis, particularly as it relates to the unprecedented climate crisis. Specifically, the records requested will be meaningfully informative as to the types of communications between DOE officials, fossil fuel industry, and potentially European Union officials; the types of policy decisions that are being made; and whether/how those decisions are being considered. The records may also shed light on DOE's support of ongoing and expanded fossil fuel extraction in the United States, as well as what—if any—processes the federal government has undertaken to protect communities and the stability of our financial system from this industry.

Scientists' warnings regarding the impacts of climate change have become increasingly dire, and the need to immediately reduce greenhouse gas emissions to zero has never been clearer. The question of whether to address the short-term energy crisis by increasing fossil fuel production despite the long-term risks is fraught and is of increasing importance in light of global events. Hence, there has been considerable public interest in the various efforts by federal agencies—including DOE—to support (or curtail) domestic fossil fuel production. To that end, through these records, Friends of the Earth expects to significantly increase the public's understanding of whether so-called "clean", "differentiated", or "certified" LNG constitutes a viable pathway to a zero-carbon future; DOE's role in the development and implementation of a novel market to facilitate the sale of so-called "clean" LNG; and whether and to what extent the fossil fuel industry is influencing the United States' policy goals. A broad sector of the public is concerned that the federal government is legitimizing and supporting ongoing and expanded fossil fuel extraction despite the array of harms that this industry poses on the ecosystem, public health, and even the financial system. Additionally, as demonstrated by various news articles, *see, e.g.*, Attach. F, the public is deeply concerned about the effects of increasing natural gas extraction on climate change, as well as the undue influence the fossil fuel industry may exercise over the development and implementation of United States energy policy. Accordingly, information concerning the federal government's consideration of the long-term risks to public health and the environment posed by fossil fuel is essential to the public's understanding of the federal government's response to the energy crisis. The contents of the request are therefore meaningfully informative, and will contribute to the understanding of a reasonably broad audience because they relate to information about the actions of a federal agency on matters that directly affect the everyday lives of Americans and have a nexus to environmental, energy, geopolitical, and economic impacts.

The public is always well-served when it knows how the government conducts its activities, particularly matters touching on important questions about how agencies are implementing their statutory duties. The records produced from this FOIA request will produce the most reliable information available to the public on these important matters ongoing within the agency, and, indeed, in most cases, this is the only way that the public has to gain insight. Hence, there can be no dispute that disclosure of the requested records to the public will significantly contribute to educating the public about DOE operations, activities, and decisionmaking. We will utilize the released records and our organizational expertise to help our members, lawmakers, activists, the general public, and the media to increase their understanding of these important issues.

C. **Disclosure Will Contribute To The Understanding Of A Reasonably Broad Audience Of Interested Persons**

Pursuant to DOE regulations implementing FOIA, when evaluating a fee waiver request, the Department must consider the information’s “contribution to an understanding by the general public of the subject likely to result from disclosure.” 10 C.F.R. § 1004.9(a)(8)(i)(C). As extensively explained above, the disclosure of the information requested will contribute to the understanding of a reasonably broad audience because it concerns issues that are controversial and highly impactful to Americans’ daily lives, including on decisions to encourage and facilitate the expansion of natural gas extraction, production, and transportation despite the risks of climate change. The public will benefit from the broad disclosure of the requested information by better understanding the federal government’s assessment of the risks presented by various responses to the energy crisis, policy choices, and decisionmaking processes.

This factor is further supported by Friends of the Earth’s position as a representative of the news media with considerable expertise in the subject matter and possesses the intent and the proven ability to disseminate the information to a very broad audience. DOE’s regulations implementing FOIA define “representative of the news media” to mean “any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.” 10 C.F.R. § 1004.2(m). When determining whether a person or entity qualifies as a representative of the news media, “DOE may also consider the past publication record of the requester.”

It is beyond dispute that Friends of the Earth “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.” See 5 U.S.C. § 552(a)(4)(A)(ii); *Nat’l Sec. Archive v. U.S. Dep’t of Def.*, 800 F.2d 1381, 1387 (D.C. Cir. 1989). Friends of the Earth’s primary objective is disseminating information relevant to environmental concerns. Indeed, one of Friends of the Earth’s primary missions is “to change the perception of the public, media, and policymakers—and effect policy change—with hard-hitting, well-reasoned policy analysis and advocacy campaigns that describe what needs to be done.”³² To that end, a key aspect of Friends of the Earth’s recent work is investigation and publication of how the fossil fuel industry continues to benefit from the fossil fuel export boom that threatens our climate and puts our oceans at risk.³³ Prior to the Russo-Ukrainian War, Friends of the Earth was a prominent opponent of federal subsidies for the expansion of LNG exports, and worked to compile and disseminate information to the general public, Congress, and policymakers highlighting the risk to the climate, communities, and investors of allowing export facilities to qualify for tax incentives.³⁴

³² Friends of the Earth, *What We Do*, <https://foe.org/about-us/> (last visited May 10, 2022).

³³ See, e.g., Friends of the Earth, *Fossil Fuels*, <https://foe.org/projects/fossil-fuels/?issue=5> (last visited May 10, 2022); Friends of the Earth et al., *Big Oil’s Wartime Bonus* (Apr. 5, 2022), <https://tinyurl.com/432w67vz>.

³⁴ See, e.g., Alleen Brown, *Biden Subsidies for Liquid Natural Gas Could Doom International Climate Goals*, THE INTERCEPT (June 21, 2021), <https://tinyurl.com/2zur9zdp> (citing Friends of the Earth’s research).

Particularly relevant here, Friends of the Earth has been at the forefront of efforts to ensure that the humanitarian and energy crises in Ukraine and Europe at large must not be used by self-serving opportunists in the fossil fuel industry to roll back climate commitments or delay efforts to move beyond fossil fuels. The organization has continued to compile, synthesize, and disseminate information relevant to the fossil fuel industry's efforts to exploit the Russo-Ukrainian War and resulting energy crisis to garner short-term profits and/or long-term policy concessions.³⁵ For example, Friends of the Earth recently co-authored a report detailing how U.S. methane gas exports have “skyrocketed in recent years, and are poised to boom in the wake of the war in Ukraine, threatening to push up prices for consumers and unleash massive climate-warming emissions.”³⁶ Friends of the Earth's analyses have informed the reporting of national news media outlets like Yahoo! News, the Washington Post, and Time Magazine, and have been explicitly referenced by members of Congress in various fora.³⁷ The information sought by Friends of the Earth's FOIA request will further its efforts to inform the public about the dangers of the United States' current energy policy by providing information relevant to DOE's engagement with the European Union and the fossil fuel industry regarding one such response to the ongoing energy crisis—i.e., efforts to “rebrand” LNG as “clean” or “low-emissions” to climate-conscious buyers and the public—and the fossil fuel industry's efforts to influence the development and implementation of the United States' responses.

In addition to its demonstrated expertise in the subject of energy policy, Friends of the Earth has the intent and ability to disseminate this information broadly as it has a large member base of individuals with a strong interest in matters that concern the environmental and energy policy of the United States. Friends of the Earth has over 1.7 million members and activists across the United States who place a priority on ensuring that the federal government takes proper considerations for the impacts of its actions on the environment and public health. This starts with knowing what the government is doing, who they are in communications with, and what is being asked of policymakers.

³⁵ See, e.g., Friends of the Earth, *Biden Sides With Big Oil Barons and Wall Street In EU Gas Deal* (Mar. 25, 2022), <https://tinyurl.com/yxzvm5ee>; Friends of the Earth et al., *All-American Oligarchs: The Big Oil CEOs Profiting From War In Ukraine* (Mar. 10, 2022), <https://tinyurl.com/mr3w5zvn>.

³⁶ Friends of the Earth et al., *Liquified Natural Cash* (2023), <https://tinyurl.com/y6txnft6>.

³⁷ See, e.g., Ben Adler, *Biden Pledges To Help Europe Kick Its Dependence On Russian Energy*, YAHOO! NEWS (Mar. 25, 2022), <https://tinyurl.com/mrytac29>; Maxine Joselow, *Big oil companies are using wartime profits to enrich investors, report says*, WASH. POST (Apr. 5, 2022), <https://tinyurl.com/355rkxwv>; Shant Shahrigian, *Big Oil's gushing profits call for government crackdown, says Sen. Schumer*, NY DAILY NEWS (Apr. 24, 2022), <https://tinyurl.com/mhbbn2zr>; Emily Barone, *Oil Companies Posted Huge Profits. Here's Where The Cash Will Go (Hint: Not Climate)*, TIME (May 11, 2022), <https://tinyurl.com/ysrne9nw>; Mark DeGeuring, *5 Oil Execs Cashed Out \$99 Million in Stock During Ukraine Invasion*, GIZMODO (Aug. 11, 2022), <https://tinyurl.com/mrxuj7s2>; Amy Westervelt, *US energy firms use Ukraine war to lock in long-term gas contracts, report says*, THE GUARDIAN (Feb. 22, 2023), <https://tinyurl.com/2s3czkksk>.

To that end, Friends of the Earth utilizes various means of communication to update our members and activists, as well as the media and general public, on government activities that may impact human health and the environment. These methods include, but certainly are not limited to, providing essential information in easy-to-read reports, a quarterly news magazine, fact sheets, press statements, public hearings and events, phone calls, letters to the editor, blogs, email alerts, and webpage updates. *See, e.g.*, Attach. K; Attach. M; Attach. O. Specifically for this request, Friends of the Earth plans to alert the public, members of Congress, policymakers, and activists as to recent government meetings and activities undertaken as part of federal programs that legitimize and support fossil fuel extraction, especially amid the Russo-Ukrainian War and ensuing energy crisis and its impacts on the global climate crisis. As a result of its partnerships with other non-profit organizations and journalists, and its respected role in public education, Friends of the Earth is well-positioned to disseminate the requested information to its partners and the media, who will in turn disseminate the information across their networks of members and supporters, amplifying the organization’s reach.

In summary, as a well-known non-profit organization with a large following, experience in news dissemination, and multiple partnerships with other non-profit groups, the news media, and Congressional offices, Friends of the Earth will most certainly have the ability to disseminate this information to a reasonably broad audience. As Friends of the Earth is a non-profit committed “to chang[ing] the perception of the public, media, and policymakers—and effect[ing] policy change—with hard-hitting, well-reasoned policy analysis and advocacy campaigns that describe what needs to be done,”³⁸ including through the investigation and publication of how the fossil fuel industry continues to benefit from the fossil fuel export boom that threatens our climate and puts our oceans at risk,³⁹ actions taken by a federal agency to encourage and facilitate the expansion of the fossil fuel industry are directly correlated both with the expertise of Friends of the Earth and with the interests of its supporters and partners.

D. The Disclosure Will Enhance The Public’s Understanding Of The Subject To A Significant Extent

As exhaustively detailed above, the information requested is of high importance to all American people and certainly Friends of the Earth’s large member base, who have interests in environmental and energy policy. The information requested is new and would help clarify the government’s decisionmaking process and rationale with respect to highly consequential decisions and actions related to the United States’ responses to the current energy crisis and how that response will impact global climate change. The contents of the request are therefore meaningfully informative, and Friends of the Earth intends to take the information disclosed and compile, distill, and disseminate policy analyses, news alerts, reports, and articles to inform the public, members of Congress, policymakers, and activists as to recent government meetings and activities undertaken as part of federal programs and activities that legitimize and support fossil fuel extraction, especially amid the Russo-Ukrainian War and ensuing energy crisis. In light of Friends of the Earth’s established record of significantly contributing to the public’s

³⁸ Friends of the Earth, *What We Do*, <https://foe.org/about-us/> (last visited May 10, 2022).

³⁹ Friends of the Earth, *Fossil Fuels*, <https://foe.org/projects/fossil-fuels/?issue=5> (last visited May 10, 2022).

understanding of and discourse on closely related subjects, there is no reason to doubt a similar outcome will occur here. Accordingly, considering the foregoing, Friends of the Earth has more than adequately demonstrated that disclosure will significantly enhance the public's understanding of the United States' responses to the Russo-Ukrainian War and ensuing energy and climate crises. *See* 10 C.F.R. § 1004.9(a)(8)(i)(D).

E. Friends Of The Earth Does Not Have A Commercial Interest That Would be Furthered By The Requested Disclosure

Friends of the Earth is a not-for-profit charitable organization with no commercial interest in or use for the information requested. 10 C.F.R. § 1004.9(a)(8)(ii). There is no “existence” or “magnitude” to any commercial interest associated with this request, and Friends of the Earth’s “primary interest in disclosure” is simply to benefit the public interest by informing the public and other members of the media as to government activities. *Id.* § 1004.9(a)(8)(ii)(A). The organization’s 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.⁴⁰ The requested information will be broadly disseminated to the public, and will be used to educate and inform the public regarding the federal government’s decisionmaking processes and actions responding to the energy crisis. Thus, Friends of the Earth’s request is not rooted in a purpose that furthers its commercial, trade or profit interests. *See* Off. Mgmt. & Budget, *Uniform Freedom of Information Act Fee Schedule and Guidelines*, 52 Fed. Reg. 10,012, 10,017-18 (Mar. 27, 1987); 10 C.F.R. § 1004.9(a)(8)(ii). Accordingly, Friends of the Earth does not have a commercial interest in the disclosure of the requested information.

For the reasons outlined above, Friends of the Earth is entitled to a fee waiver for this request. As a non-profit, public interest organization, Friends of the Earth has extremely limited financial resources with which to cover the copying and search expenses of this request. If the request for a fee waiver is denied and any expenses associated with this request are in excess of \$25.00, please obtain Friends of the Earth’s approval before any such charges are incurred.

CONCLUSION

We look forward to receiving the agency’s final response within 20 working days. Thank you for your prompt attention to this matter. Please email me at lizzie@eubankslegal.com with any questions about this FOIA request. Please also include Lukas Ross at lross@foe.org on all correspondence.

⁴⁰ As explained above, *supra* at 9-11, Friends of the Earth also qualifies as a “representative of the news media,” and is further entitled to document search and review without charge (as well as the first 100 pages of paper copies free of charge). *See* 10 C.F.R. § 1004.9(b)(3) (“The DOE will provide documents to requesters in this category for the cost of reproduction only, excluding charges for the first 100 pages.”); *id.* § 1004.2(m) (“Representative of the news media refers to any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.”).

Respectfully submitted,

/s/Elizabeth L. Lewis

Elizabeth L. Lewis

Associate Attorney