

**UNITED STATES SECTION
INTERNATIONAL BOUNDARY & WATER COMMISSION
UNITED STATES AND MEXICO (USIBWC)**



**FREEDOM OF INFORMATION ACT
ANNUAL REPORT**

**FISCAL YEAR
2009**

I. BASIC INFORMATION REGARDING REPORT

1. Name, title, address, and telephone number of person(s) to be contacted with questions about the Report.

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2. Electronic link for access to the Report on the agency Web site.
<http://www.ibwc.state.gov/Organization/FOIA.html>
3. How to obtain a copy of the Report in paper form.
The report may be obtained via the above phone number or email address.

II. MAKING A FOIA REQUEST

1. Names, addresses, and telephone numbers of all individual agency components that receive FOIA requests.

For contact information of the individuals who receive FOIA requests, the website can be visited at <http://www.ibwc.state.gov/Organization/FOIA.html>.

2. Brief description of why some requests are not granted and an overview of certain general categories of the agency's records to which the FOIA exemptions apply.

The USIBWC is a federal agency and the United States component of the International Boundary and Water Commission (IBWC), a bi-national organization responsible for applying various boundary and water related treaties between the United States and Mexico. The mission of the USIBWC includes boundary demarcation, sanitation, water quality, national ownership of waters, and flood control for the U.S.-Mexico border region. The most frequent reason for some requests not being granted during fiscal year 2009 was that the agency search could not locate documents responsive to the request. The FOIA has also been applied to protect information protected by the civil discovery privileges.

III ACRONYMS, DEFINITIONS AND EXEMPTIONS

1. Agency-specific acronyms or terms used in this Report.

USIBWC	United States Section, International Boundary & Water Commission
IBWC	International Boundary & Water Commission (United States and Mexico)

2. Definitions of terms used in this Report:

- a. **Administrative Appeal** – a request to a federal agency asking that it review at a higher administrative level a FOIA determination made by the agency at the initial request level.
- b. **Average Number** – the number obtained by dividing the sum of a group of numbers by the quantity of numbers in the group. For example, of 3, 7, and 14, the average number is 8.
- c. **Backlog** – the number of requests or administrative appeals that are pending at an agency at the end of the fiscal year that are beyond the statutory time period for a response.
- d. **Component** – for agencies that process requests on a decentralized basis, a “component” is an entity, also sometimes referred to as an Office, Division, Bureau, Center, or Directorate, within the agency that processes FOIA requests. The FOIA now requires that agencies include in their Annual FOIA Report data for both the agency overall and for each principal component of the agency.
- e. **Consultation** – the procedure whereby the agency responding to a FOIA request first forwards a record to another agency for its review because that other agency has an interest in the document. Once the agency in receipt of the consultation finishes its review of the record, it responds back to the agency that forwarded it. That agency, in turn, will then respond to the FOIA requester.
- f. **Exemption 3 Statute** – a federal statute that exempts information from disclosure and which the agency relies on to withhold information under subsection (b)(3) of the FOIA.
- g. **FOIA Request** – a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a “third-party” request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e.,

“first-party” requests) when those requesters are not subject to the Privacy Act, such as non-U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act “systems of records” or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report.

Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report.)

- h. Full Grant** – an agency decision to disclose all records in full in response to a FOIA request.
- i. Full Denial** – an agency decision not to release any records in response to a FOIA request because the records are exempt in their entirety under one or more of the FOIA exemptions, or because of a procedural reason, such as when no records could be located.
- j. Median Number** – the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.
- k. Multi-Track Processing** – a system in which simple requests requiring relatively minimal review are placed in one processing track and more voluminous and complex requests are placed in one or more other tracks. Requests granted expedited processing are placed in yet another track. Requests in each track are processed on a first in/first out basis.
 - i. Expedited Processing** – an agency will process a FOIA request on an expedited basis when a requester satisfies the requirements for expedited processing as set forth in the statute and in agency regulations.
 - ii. Simple Request** – a FOIA request that an agency using multi-track processing places in its fastest (non-expedited) track based on the low volume and/or simplicity of the records requested.

iii. Complex Request – a FOIA request that an agency using multi-track processing places in a slower track based on the high volume and/or complexity of the records requested.

l. Partial Grant/Partial Denial – in response to a FOIA request, an agency decision to disclose portions of the records and to withhold other portions that are exempt under the FOIA, or to otherwise deny a portion of the request for a procedural reason.

m. Pending Request or Pending Administrative Appeal – a request or administrative appeal for which an agency has not taken final action in all respects.

n. Perfected Request – a request for records which reasonably describes such records and is made in accordance with published rules stating the time, place, fees (if any) and procedures to be followed.

o. Processed Request or Processed Administrative Appeal – a request or administrative appeal for which an agency has taken final action in all respects.

p. Range in Number of Days – the lowest and highest number of days to process requests or administrative appeals.

q. Time Limits – the time period in the statute for an agency to respond to a FOIA request (ordinarily twenty working days from receipt of a perfected FOIA request).

3. Concise descriptions of the nine FOIA exemptions:

a. **Exemption 1:** classified national defense and foreign relations information

b. **Exemption 2:** internal agency rules and practices

c. **Exemption 3:** information that is prohibited from disclosure by another federal law

d. **Exemption 4:** trade secrets and other confidential business information

e. **Exemption 5:** inter-agency or intra-agency communications that are protected by legal privileges

- f. **Exemption 6:** information involving matters of personal privacy
- g. **Exemption 7:** records or information compiled for law enforcement purposes, to the extent that the production of those records (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions, or (F) could reasonably be expected to endanger the life or physical safety of any individual
- h. **Exemption 8:** information relating to the supervision of financial institutions
- i. **Exemption 9:** geological information on wells

IV. EXEMPTION 3 STATUTES

Exemption 3 was not applied to any requests received during Fiscal Year 2009.

V.A. FOIA REQUESTS -- RECEIVED, PROCESSED AND PENDING FOIA REQUESTS

Number of requests pending as of start of fiscal year	Number of requests received during fiscal year	Number of requests processed during fiscal year	Number of requests pending as of end of fiscal year
0	27	24	3

Complex Requests													
1-20 days	21-40 days	41-60 days	61-80 days	81-100 days	101-120 days	121-140 days	141-160 days	161-180 days	181-200 days	201-300 days	301-400 days	401+ days	Total
0	0	0	0	0	0	0	0	0	0	0	0	0	0

Requests Granted Expedited Processing													
1-20 days	21-40 days	41-60 days	61-80 days	81-100 days	101-120 days	121-140 days	141-160 days	161-180 days	181-200 days	201-300 days	301-400 days	401+ days	Total
0	0	0	0	0	0	0	0	0	0	0	0	0	0

VII.D. PENDING REQUESTS -- ALL PENDING PERFECTED REQUESTS

Simple			Complex			Expedited Processing		
Number Pending	Median number of days	Average number of days	Number Pending	Median number of days	Average number of days	Number Pending	Median number of days	Average number of days
3	30	19	0	0	0	0	0	0

VII.E. PENDING REQUESTS -- TEN OLDEST PENDING PERFECTED REQUESTS

10 th oldest request and no. of days pending	9 th	8 th	7 th	6 th	5 th	4 th	3 rd	2 nd	Oldest request and no. of days pending	
Date	N/A	N/A	N/A	N/A	N/A	N/A	N/A	9/30/2009	9/29/2009	9/15/2009
Days	0	0	0	0	0	0	0	23	32	5

VIII.A. REQUESTS FOR EXPEDITED PROCESSING

Number Granted	Number Denied	Median number of days to Adjudicate	Average number of days to Adjudicate	No. adjudicated within 10 calendar days
0	0	0	0	0

VII.B. REQUESTS FOR FEE WAIVER

Number Granted	Number Denied	Median number of days to Adjudicate	Average number of days to Adjudicate
6	0	1	1

IX. FOIA PERSONNEL AND COSTS

Personnel			Costs		
Number of “full-time FOIA Employees”	Number of “equivalent full-time FOIA Employees”	Total number of Full-time FOIA Staff	Processing costs	Litigation-related costs	Total Costs
0	.49	.49	33,304	0	33,304

X. FEES COLLECTED FOR PROCESSING REQUESTS

Total Amount of Fees Collected (in dollars)	Percentage of Total Costs
97.30	.29 %

XI. FOIA Regulations

http://www.access.gpo.gov/nara/cfr/waisidx_07/22cfr1102_07.html

XII.A. BACKLOGS OF FOIA REQUESTS & ADMINISTRATIVE APPEALS

Number of Backlogged Requests as of End of Fiscal Year	Number of Backlogged Appeals as of End of Fiscal Year
0	0

XII.B. CONSULTATIONS ON FOIA REQUESTS -- RECEIVED, PROCESSED & PENDING CONSULTATIONS

No. of consultations received from other agencies that were pending as of start of the fiscal year	Number of consultations received from other agencies during the fiscal year	No. of consultations received from other agencies that were processed during the fiscal year	No. of consultations received from other agencies that were pending as of the end of fiscal year
0	0	0	0

XII.C. CONSULTATIONS ON FOIA REQUESTS -- TEN OLDEST PENDING CONSULTATIONS RECEIVED FROM OTHER AGENCIES AND PENDING AT THE AGENCY

10 th oldest consultation and number of days pending	9 th	8 th	7 th	6 th	5 th	4 th	3 rd	2 nd	Oldest consultation and number of days pending
0	0	0	0	0	0	0	0	0	0

XII.D. COMPARISON OF NUMBERS OF REQUESTS FROM PREVIOUS AND CURRENT ANNUAL REPORTS -- REQUESTS RECEIVED AND PROCESSED

Number of Requests Received		Number of Requests Processed	
Number received during fiscal year from last year's annual report	Number received during fiscal year from current annual report	Number Processed during fiscal year from last year's annual report	Number Processed from fiscal year from current annual report
24	27	24	24

XII.D(II). COMPARISON OF NUMBERS OF REQUESTS FROM PREVIOUS AND CURRENT ANNUAL REPORTS – BACKLOGGED REQUESTS

Number of Backlogged Requests as End of the Fiscal Year from Previous Annual Report	Number of Backlogged Requests as End of the Fiscal Year from Current Annual Report
0	0

XII.E. COMPARISON OF NUMBERS OF ADMINISTRATIVE APPEALS FROM PREVIOUS AND CURRENT ANNUAL REPORT -- APPEALS RECEIVED AND PROCESSED

Number of Appeals Received		Number of Appeals Processed	
Number Received during fiscal year from last year's annual report	Number Received from fiscal year from current annual report	Number Processed during fiscal year from last year's annual report	Number Processed from fiscal year from current annual report
0	0	0	0

XII.E(II). COMPARISON OF NUMBERS OF ADMINISTRATIVE APPEALS FROM PREVIOUS AND CURRENT ANNUAL REPORT -- BACKLOGGED APPEALS

Number of Backlogged Appeals as End of the Fiscal Year from Previous Annual Report	Number of Backlogged Appeals as End of the Fiscal Year from Current Annual Report
0	0