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



FREEDOM OF INFORMATION ACT ANNUAL REPORT

FISCAL YEAR 2011

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 Reports on the agency Web site. http://www.ibwc.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.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 United States Section, International Boundary and Water Commission, United States and Mexico (USIBWC) is a federal agency and the United States component of the International Boundary and Water Commission, United States and Mexico (IBWC), a bi-national commission 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 and delivery of waters, and flood control for the United States-Mexico border region. The most frequent reason for some requests not being granted during fiscal year 2011 was that the agency's search did not locate documents responsive to the request.

III Acronyms, Definitions and Exemptions

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

USIBWC	United States Section, 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 entireties 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.
- 1. **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

Statute	Type of Information Withheld	Case Citation	Component	# Times relied upon per component	Total # times relied upon by Agency
n/a	n/a	n/a	n/a	n/a	0

V. FOIA REQUESTS / A. Received, Processed and Pending FOIA Requests

Number of	Number of	Number of	Number of
requests pending	requests	requests	requests pending
as of start of	received during	processed during	as of end of
fiscal year	fiscal year	fiscal year	fiscal year
1	24	23	2

V. FOIA REQUESTS / B. (1) Disposition of FOIA Requests – All Processed Requests

Number of full grants	Number of partial grants/partial denials	Number of full denials based on exemptions	Number of full denials based on reasons other than Exemptions									
			No	All records	Request	Fee-	Records	Improper	Not	Duplicate	Other	
			Records	referred to	withdrawn	Related	not	FOIA	agency	request		
				other		reason	reasonably	request	record			
				agency			described	for				Total
				component				other				
								reason				
5	3	1	14	0	0	0	0	0	0	0	0	23

V. FOIA REQUESTS / B. (2) Disposition of FOIA Requests – Other Reasons

Description of "Other reasons for denials from chart B(1) and number of times reasons were relied upon	Total
0	0

V. FOIA REQUESTS / B. (3) Disposition of FOIA Requests – Number of Times Exemptions Applied

Ex. 1	Ex. 2	Ex. 3	Ex. 4	Ex. 5	Ex. 6	Ex.7(A)	Ex.7(B)	Ex.7(C)	Ex.7(D)	Ex.7 (E)	Ex.7 (F)	Ex. 8	Ex. 9
0	1	0	2	0	1	0	0	0	0	0	0	0	0

VI. ADMINISTRATIVE APPEALS / A. Received, Processed and Pending Administrative Appeals

Number of appeals	Number of appeals	Number of appeals	Number of appeals
pending as of start	received in fiscal	processed in fiscal	pending as of
of fiscal year	year	year	end of fiscal year
0	2	2	0

VI. ADMINISTRATIVE APPEALS / B. Disposition of Administrative Appeals – All Processed Appeals

Number affirmed on appeal	Number partially affirmed & partially reversed/remanded on appeal	Number completely reversed/remanded on appeal	Number of appeals closed for other reasons	Total
1	1	0	0	2

VI. ADMINISTRATIVE APPEALS / C. (1) Reasons for Denial on Appeal – Number of Times Exemptions Applied

Ex. 1	Ex. 2	Ex. 3	Ex. 4	Ex. 5	Ex. 6	Ex.7(A)	Ex.7(B)	Ex.7(C)	Ex.7(D)	Ex.7(E)	Ex.7 (F)	Ex. 8	Ex. 9
0	1	0	0	0	1	0	0	0	0	0	1	0	0

VI. ADMINISTRATIVE APPEALS / C. (2) Reasons for Denial on Appeal – Reasons Other than Exemptions

No	Records	Request	Fee-	Records	Improper	Not	Duplicate	Request	Appeal	Other
Records	referred at	withdrawn	related	not	request	Agency	Request	in	based	*Explain
	initial		reason	reasonably	for	record	Ōr	Litigation	solely on	in chart
	request level			described	other		appeal	-	denial of	below
					reasons				request for	
									expedited	
									processing	
1	0	0	0	0	0	0	0	0	0	0

VI. ADMINISTRATIVE APPEALS / C. (3) Reasons for Denial on Appeal – Other Reasons

Description of "Other" reasons	Number of times "Other"	
for denial on appeal from chart C(2)	reason was relied upon	Total
0	0	0

VI. ADMINISTRATIVE APPEALS / C. (4) Response Time for Administrative Appeals

	Median no. of days	Average no. of days	Lowest no. of days	Highest no. of days
ĺ	20.5	20.5	10	31

VI. ADMINISTRATIVE APPEALS / C. (5) Ten Oldest Administrative Appeals

	Oldest peal	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Appeal
Date	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Days	0	0	0	0	0	0	0	0	0	0

VII. A. Processed Requests - Response Time for All Processed Perfected Requests

	Sim	ple			Com	plex		Expedited Processing			
Median	Average	Lowest	Highest	Median	Average	Lowest	Highest	Median	Average	Lowest	Highest
number	number	number	number								
of days	of days	of days	of days								
		-	-		-		-	-	-	-	-
0	0	0	0	29	27.3	12	71	4	4.4	1	7

VII. B. Processed Requests - Response Time for Perfected Requests in Which Information Was Granted

	Sim	nple		Complex				Expedited Processing				
Median	Average	Lowest	Highest	Median	Average	Lowest	Highest	Median	Average	Lowest	Highest	
number	number	number	number									
of days	of days	of days	of days									
		-	-		-	-	-	-	-	-	-	
0	0	0	0	28	32.1	14	71	4	4	4	4	

VII. C. (1) Processed Requests - Response Time in Day Increments - Simple Requests

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

VII. C. (2) Processed Requests - Response Time in Day Increments - Complex Requests

1-20	21-40	41-60	61-80	81-100	101-	121-	141-	161-	181-	201-	301-	401+	Total
days	days	days	days	days	120	140	160	180	200	300	400	days	
					days								
8	9	1	1	0	0	0	0	0	0	0	0		19

VII. C. (3) Processed Requests - Response Time in Day Increments - Requests Granted Expedited Processing

Ī	1-20	21-40	41-60	61-80	81-100	101-	121-	141-	161-	181-	201-	301-	401+	Total
	days	days	days	days	days	120	140	160	180	200	300	400	days	
						days								
	5	0	0	0	0	0	0	0	0	0	0	0		5

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	
	art y s	aa j			22,5		uu jo	uu ja	
0	0	0	1	11	11	1	3	3	

VII. E. Pending Requests – Ten Oldest Pending Perfected Requests

10 th olde	est request	9 th	8 th	7 th	6 th	5 th	4 th	3 rd	2 nd	Oldest Request
Date of Receipt	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	9/23/2011	8/29/2011
No. of Days Pending	0	0	0	0	0	0	0	0	3	11

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
6	0	1	1	6

VIII. B. Requests for Fee Waiver

Number Granted	Number Denied	Median number of days to Adjudicate	Average number of days to Adjudicate
10	0	1	1

IX. FOIA Personnel and Costs

	Personnel			Costs	
Number of	Number of	Total	Processing	Litigation-	Total
"full-time	"equivalent	number of	costs	related	Costs
FOIA	full-time	Full-time		costs	
Employees"	FOIA	FOIA Staff			
	Employees"				
0	.50	.50	\$40,250	0	\$40,250

X. Fees Collected for Processing Requests

Total Amount of Fees Collected (in dollars)	Percentage of Total Costs
0	0

XI. FOIA Regulations

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

XII. A. Backlogs of FOIA Requests and 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, and Pending Consultations

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

XII. C. Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies Pending at Your Agency

	10 th oldest	9 th	8 th	7 th	6 th	5 th	4^{th}	3^{rd}	2 nd	Oldest
	consultation									consultation
Date of										
Receipt	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
1										
No. of										
Days										
Pending	0	0	0	0	0	0	0	0	0	0

XII. D. (1) Comparison of Numbers of Requests from Previous and Current Annual Report

Number of Rec	quests Received	Number of Requests Processed		
Number received	Number received	Number Processed	Number Processed	
during fiscal year	during fiscal year	during fiscal year	from fiscal year	
from last year's	from current annual	from last year's	from current annual	
annual report	report	annual report	report	
27	24	29	23	

XII. D. (2) Comparison of Backlogged Requests from Previous and Current Annual Report

Number of Backlogged Requests as End	Number of Backlogged Requests as End
of the Fiscal Year from Previous Annual	of the Fiscal Year from Current Annual
Report	Report
1	0

XII. E. (1) Comparison of Numbers of Administrative Appeals from Previous and Current Annual Report

Number of Ap	peals Received	Number of Appeals Processed		
Number Received	Number Received	Number Processed	Number Processed	
during fiscal year	from fiscal year	during fiscal year	from fiscal year	
from last year's	from current annual	from last year's	from current annual	
annual report	report	annual report	report	
1	2	1	2	

XII. E. (2) Comparison of Backlogged Administrative Appeals from Previous and Current Annual Report

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