



IN REPLY REFER TO:

FOIA NM 2010-038  
FOIA BLM 2010-961  
1278 (9170)

## United States Department of the Interior

BUREAU OF LAND MANAGEMENT  
New Mexico State Office  
P.O. Box 27115  
Santa Fe, New Mexico 87502-0115  
[www.blm.gov/nm](http://www.blm.gov/nm)



August 26, 2010

Ms. Mandy Smithberger  
National Security Investigator  
Project on Government Oversight  
1100 G St., NW, Ste. 900  
Washington, DC 20005

Dear Ms. Smithberger:

Your Freedom of Information Act (FOIA)/Privacy Act request dated July 21, 2010, was received via email on the same date. You requested various records pertaining to former employee Steve Henke and the New Mexico Oil and Gas Association.

On July 27, 2010, you clarified your request for Item 5 and stated that the time frame you are seeking is from January 1, 2009, till Steve Henke's last day (May 21, 2010) with the Bureau of Land Management (BLM). Your request became perfected on July 27, 2010.

The following is provided in response to your itemized request:

**1. A copy of BLM's conflict of interest policy government employment and post-employment practices of political appointees, including but not limited to 18 U.S.C. § et seq., 5 C.F.R. Part 2600 et seq., 5 C.F.R. part 6701 et seq., as would have pertained to former government employee Steve Henke.**

The BLM does not have a specific policy on post-Government employment; however, the following regulations and Department of the Interior (DOI) policy apply to all BLM employees. Enclosed is a copy of a summary of post-employment restrictions which includes citations to 18 U.S.C. Section 207 (9 pages), along with a copy of 18 U.S.C. 208 (2 pages). Also enclosed is a portion of the Standards of Ethical Conduct for Employees of the Executive Branch, Subpart B, which discusses Conflicting Financial Interests and Subpart F – Seeking Other Employment (18 pages). In addition, enclosed is a portion of the Ethics Guide for DOI Employees which discusses post employment (7 pages).

**2. Any exit plans or other documents that detail restriction or prohibitions on Mr. Henke's move to the private sector.**

Enclosed are three email messages with enclosures between Steve Henke and Patrycia Sanchez, New Mexico State Office Assistant Ethics Counselor (13 pages).

**3. A copy of any opinion and/or waiver provided by the Solicitor's office or ethics officials setting out the agency's approval, partial approval, or disapproval of Mr. Henke's post-government job search.**

See response to Item 2. In addition, we do not have any records in response to opinions and/or waivers provided by the Solicitor's Office.

**4. A copy of Mr. Henke's phone log registering calls to and from New Mexico Oil and Gas Association from January 2009 to his last day at BLM, including calls received by Mr. Henke and any members of his staff.**

We do not maintain telephone logs; therefore, no records exist in response to this portion of your request.

**5. All other communications, including but not limited to e-mails, memoranda, notes, meeting notes and transcripts, or other similar correspondence, between Mr. Henke and any member of his staff and the New Mexico Oil and Gas Association. As stated above, on July 27, 2010, you clarified your request for Item 5 and stated that the time frame you are seeking is for January 1, 2009, till Steve Henke's last day (May 21, 2010).**

Enclosed is a copy of various emails with enclosures between BLM Farmington District staff, including Steve Henke, and the New Mexico Oil and Gas Association (8 pages). Eight of the enclosed pages are partially withheld under Exemption 6 of the FOIA (5 U.S.C. 552(b)(6)). These pages contain Steve Henke's home address; home telephone number; place and date of birth; marital status; family information; volunteer information not related to qualifications for position; award information not related to qualifications for position; names, contact information, and affiliations of references for position; names of unsuccessful applicants interviewed for the position; and personal cellular telephone number for Carolyn McCormick.

Exemption 6 allows an agency to withhold personal information whose release "would constitute a clearly unwarranted invasion of personal privacy." The Bureau of Land Management (BLM) has determined that after reviewing the balancing process, the release of certain personal information in the documents you requested would not shed light on the Government's activities and are of no public interest. Therefore, the privacy interest of the individuals concerned outweighs any public interest in that information.

**6. Any correspondence and other communications sent to and from the New Mexico Oil and Gas Association from January 2007 and July 2010.**

We do not have any official correspondence sent to and from the New Mexico Oil and Gas Association for January 2007. See response to Item 5 for any communications between Steve Henke and any member of his staff and the New Mexico Oil and Gas Association from January 1, 2009, till Steve Henke's last day (May 21, 2010). Also enclosed are four email strings for the month of July 2010 (5 pages).

**7. Any documents regarding warnings or administrative or disciplinary actions against Mr. Henke.**

No records exist in response to this portion of your request.

For those records which do not exist, under 43 CFR 2.7(d)(1)(2009), the BLM is not required to create or compile a record to respond to a FOIA request. The Act applies only to records in existence at the time the request is made.

The persons responsible for this partial denial under Exemption 6 of the FOIA and this partial no records found response are Eileen Griego-Vigil, State FOIA Officer, and Linda S.C. Rundell, State Director, New Mexico State Office, BLM, Santa Fe, New Mexico, in consultation with Michael Williams, DOI, Office of the Solicitor, Santa Fe Field Office, Santa Fe, New Mexico.

Under 43 CFR 2.28(a)(2)(2009), you may appeal this partial denial under Exemption 6 of the FOIA and this partial no records found response to the DOI FOIA Appeals Officer. The FOIA Appeals Officer must receive your FOIA appeal no later than 30 workdays from the date of this final letter responding to your FOIA request. Appeals arriving or delivered after 5 p.m. EDT, Monday through Friday, will be deemed received on the next workday. Your appeal must be in writing and addressed to:

Freedom of Information Act Appeals Officer  
U.S. Department of the Interior  
Office of the Solicitor  
1849 C Street, NW, MS 6556  
Washington, DC 20240

You must include with your appeal copies of all correspondence between you and our office concerning your FOIA request, including a copy of your original FOIA request and this denial letter. Failure to include this documentation with your appeal will result in the Department's rejection of your appeal. The appeal should be marked, both on the envelope and the face of the letter, with the legend "FREEDOM OF INFORMATION APPEAL." Your letter should include in as much detail as possible any reason(s) why you believe the Bureau's response is in error. To ensure timely receipt of your appeal, it is recommended that you fax a copy of your notice of appeal to the FOIA Appeals Officer at (202) 208-6677.

Although you are entitled to pursue the appeal rights process, we encourage you to contact this office beforehand to try to resolve this matter.

Cost recovery fees are not charged since costs for these records (142 pages) do not exceed the collectible threshold of \$30.00 (43 CFR 2.16(b)(2)(2009)).

Questions pertaining to the enclosed records may be referred to Patrycia at (505) 954-2084, or Bill Papich, Community Relations Specialist, Farmington District Office, at (505) 599-6324. Questions pertaining to FOIA matters may be directed to Eileen at (505) 954-2129.

Sincerely,

A handwritten signature in cursive script that reads "Linda S.C. Rundell".

Linda S.C. Rundell  
State Director

Enclosures