



Evlondo Cooper
Checks and Balances Project
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October 11, 2016

Via U.S. Mail and Email

Nikki N. Gramian
Acting Director
Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road - OGIS
College Park, MD 20740-6001

Complaint RE: FOIA Request USCG–2005–21650

Dear Director Gramian,

My name is Evlondo Cooper, and I'm a Senior Fellow at Checks and Balances Project. We're a public watchdog blog focused on bringing greater accountability to government officials, corporate managers and lobbyists.

I am writing to ask the Office of Government Information Services (OGIS) to provide mediation services on behalf of Checks and Balances Project in accordance with the Administrative Dispute Resolution Act of 1996, 5 USC §§ 571-84 to enforce the Coast Guard's (USCG) compliance with our lawful records requests under the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA").

Background

President Obama made the development of an offshore wind energy industry a fast-track priority in 2009. Today, the U.S. has only one wind farm – Block Island – with new four terminals off the coast of Rhode Island.

American Waterways Operators (AWO) is an association of tugboat, towboat, and barge companies that derives substantial income from transporting chemicals and petroleum products. It is affiliated with some of the largest oil and gas polluters in the world and it expressed concern about offshore wind and its potential effects on the shipping industry more than 18 months before the U.S. Coast Guard chartered the [Atlantic Coast Port Access Route Study](#) (ACPARS).

Once the Coast Guard's ACPARS Working Group convened on May 11, 2011 to determine how a potential offshore wind energy industry could be safely integrated with the shipping industry off the Eastern Seaboard, our research shows that AWO leveraged its close, 20-year partnership with the Coast Guard to [exercise pervasive influence over the study](#). The study was released on March 11, 2016. Ultimately, the 18-person "Working Group" that authored ACPARS recommended that the U.S. dramatically limit space for wind energy installations on the Outer Continental Shelf. This included setbacks from shipping lanes that are five times greater than those used by Europe, a recommendation that would significantly reduce the size of areas *currently leased* for wind energy development. If ACPARS becomes reality, it will effectively block the widespread development of offshore wind energy in the U.S.

In addition to partnering with the Coast Guard "to develop recommended safe distances for these operations along the Atlantic Coast," AWO also provided the Coast Guard with [a blueprint for implementing setbacks in an April 13, 2016, comment letter](#).

Checks and Balances Project began to report on this issue in February 2016 to advance the public's understanding of this vital, taxpayer-funded work product.

The Coast Guard has been consistently uncooperative in fulfilling our FOIA requests or acknowledging our appeals. The pertinent information we did obtain came from a source on the Working Group. Based on information provided by these sources and our research, Checks and Balances Project learned the following:

- None of the Working Group members traveled to Europe or conferred with industry or government officials there to learn about its robust offshore wind industry that now [pumps 13 gigawatts into the electrical grid from 3,344 offshore turbines](#). That industry has grown among far-denser shipping lanes than those in the U.S.
- There was no meaningful effort to engage the expertise of offshore wind industry officials about their needs and ability to scale offshore wind development here.
- Despite the Coast Guard's claims to the contrary, the Working Group worked closely with shipping industry lobbyists and executives during the ACPARS study, even using AWO's outdated data.

Unfortunately, the Coast Guard has obfuscated our attempts to obtain lawful public records, a pattern detailed in last year's OGIS [Compliance Review of the Coast Guard's Freedom of Information Act Program](#). The Coast Guard won't even tell us the names of 13 of 18 Working Group members.

To ensure OGIS has all of the available information it needs to assure a fair mediation, please find the following timeline below:

Timeline of Checks and Balances Project's FOIA Requests and Related Communications

- [On February 22, 2016](#), Checks and Balances Project submitted a FOIA request asking for the names of the members of the Atlantic Coast Port Access Route Study (ACPARS) Working Group under docket number USCG–2005–21650.
- [On April 11, 2016](#), the Coast Guard responded by refusing to disclose the vast majority of the Working Group members' names under FOIA Exemption 6, which "exempts from disclosure personnel and medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy."
- [On May 4, 2016](#), ROCK Attorneys at Law filed an appeal on behalf of Checks and Balances Project appealing the Coast Guard's decision to withhold 90 percent of the names of the ACPARS Working Group.
- [On June 1, 2016](#), after the Coast Guard failed to acknowledge receipt of our appeal, ROCK Attorneys at Law sent a follow-up letter on behalf of Checks and Balances Project demanding immediate action on our appeal.
- As of the date of this letter, the Coast Guard still has not responded to our appeal.
- On June 21, 2016, Checks and Balances Project submitted a FOIA request for [Dana Goward's](#), [Gary Rasicot's](#) and [Emile Benard's](#) communications with other members of the Working Group and outside stakeholders regarding the ACPARS study. Both Goward and Rasicot served as co-chairs of the study, and Benard served as Project Manager.
- [On June 28, 2016](#), the Coast Guard (via third-party contractor EGlobaltech) acknowledged receipt of our FOIA request, alleging our request was too broad.
- On July 14, 2016, I spoke with EGlobaltech Contractor Auburn Finney who informed me the Coast Guard denied my request because neither Dana Goward nor Gary Rasicot were employed with the Coast Guard during the time of our request.
- [On July 15, 2016](#), Checks and Balances Project submitted an amended FOIA request for Mr. Goward and Mr. Rasicot's communications, which also included supporting documentation showing they were both employed by the Coast Guard during the time of my request.
- As of today's date, the Coast Guard has not acknowledged receipt of my amended FOIA request despite repeated inquiries.

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Thank you for taking the time to resolve this complaint. The actions of the Coast Guard, and all federal agencies, must be transparent to ensure public accountability. If we are unable to obtain relief from OGIS, Checks and Balances Project reserves the right to pursue legal action under the Freedom of Information Act to obtain these lawful public records. We hope OGIS is able to bring this matter to a conclusion that preserves the public's right to obtain vital information about our government.

Regards,

A handwritten signature in black ink, appearing to read "Evlondo Cooper". The signature is fluid and cursive, with a long horizontal stroke at the end.

Evlondo Cooper
Senior Fellow
Checks and Balances Project

Enclosures (9)