



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

2002 0519 EPA001

OCT 7 2002

OFFICE OF  
ENVIRONMENTAL INFORMATION

RECEIVED OCT 11 2002

Mr. William Ferraggiaro  
The National Security Archive  
The George Washington University  
Gelman Library, Suite 701  
2130 H Street, N.W.  
Washington, D.C. 20037

RE: Freedom of Information Act Request HQ-RIN 02440-02

Dear Mr. Ferraggiaro,

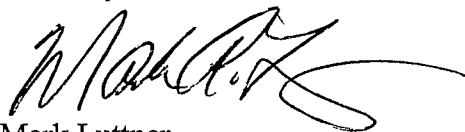
This is in response to your Freedom of Information Act request of September 4, 2002. Specifically, you requested categories of documents concerning the Agency's implementation of Attorney General Ashcroft's October 21, 2001 memorandum concerning the Freedom of Information Act (FOIA). This response is from the Office of Environmental Information. Other Agency offices will be responding separately.

Enclosed you will find copies of three documents responsive to your request. Non-responsive portions of two of the documents have been removed. We are unable to provide you with the documents which have been determined to be exempt from mandatory disclosure by virtue of the deliberative process and attorney-client privileges of 5 U.S.C. 552(b)(5). An itemized list of the documents which are being withheld, along with the basis for withholding, is provided on the enclosure to this letter.

You may appeal this partial denial by submitting a written appeal to the Freedom of Information Officer, United States Environmental Protection Agency, 1200 Pennsylvania Ave (2822T), N.W., Washington, D.C. 20460, within 30 days of receipt of this partial denial. Your appeal should refer to the RIN number listed above, the date of this determination, and my name, title and address.

You should refer to RIN 02440-02 in any further correspondence concerning this matter.  
If you have any questions, please contact Alan D. Margolis of my staff at 566-1644.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Luttner', with a large, sweeping flourish extending to the right.

Mark Luttner  
Director  
Office of Information Collection

Enclosures

cc: FOI Office

## Index of Withheld Documents – HQ-RIN- 02440-02

All documents are withheld pursuant to the **deliberative process privilege** of Exemption 5 of the Freedom of Information Act, 5 U.S.C. 552(b)(5). Additional privileges, as applicable, are listed next to the specific documents for which they are asserted.

### Briefing documents and drafts

1. Briefing Document entitled “Memorandum and Guidance Concerning the Safeguarding and Protection of Sensitive Homeland Security Information” prepared by Alan Margolis, Attorney-Advisor, Office of Environmental Information. (3 pages)
2. Briefing Document entitled “Use of FOIA Exemption 2 for the Protection of Sensitive Critical Infrastructure Information” prepared by Alan Margolis, Attorney-Advisor, Office of Environmental Information. (1 page)
3. Draft of #1 above with handwritten comments.
4. Draft of #2 above with handwritten comments.

Documents 1-4 are withheld pursuant to the **attorney-client privilege** of Exemption 5 of the Freedom of Information Act, 5 U.S.C. 552(b)(5).

5.-9. Drafts (undated) of transmittal memo from the Administrator re: New Attorney General Memorandum on the FOIA.

10-11. Drafts (undated) of Memorandum from Kimberly T. Nelson, Assistant Administrator and Chief Information Officer, Office of Environmental Information, entitled “Guidance on Homeland Security Information.” *Portions non-responsive to request*

12. Draft of Memorandum from Kim Nelson, Assistant Administrator, OEI, entitled “Andrew Card Memorandum on Homeland Security Information” with handwritten comments from Doreen Sterling, Office of Environmental Information. *Portions non-responsive to request*

13. Draft of Memorandum from Kim Nelson, Assistant Administrator, OEI, entitled “Andrew Card Memorandum on Homeland Security Information” with handwritten comments dated 4/8/02 from Rebecca Moser, Office of Environmental Information. *Portions non-responsive to request*

14. Draft of Memorandum from Kim Nelson, Assistant Administrator, OEI, entitled “Andrew Card Memorandum on Homeland Security Information” with comments dated 4/11/02 from Nancy Ketcham-Colwill, Office of General Counsel, Office of Environmental Information. *Portions non-responsive to request*

15. Draft of Memorandum from Kim Nelson, Assistant Administrator, OEI, entitled “Andrew Card Memorandum on Homeland Security Information” with handwritten comments dated

4/12/02 from Odelia Funke, Office of Environmental Information. *Portions non-responsive to request*

Documents 5-15 are withheld pursuant to the **attorney-client privilege** of Exemption 5 of the Freedom of Information Act, 5 U.S.C. 552(b)(5).

**E-mail messages** All e-mails are one page unless otherwise indicated.

16-19. Four E-mails from Betty Lopez, Agency FOIA Officer, dated 10/17/2001 and 10/18/2001, re: new FOIA policy.

20. E-mail from Alan Margolis dated 10/18/2001, re: New Attorney General FOIA Memorandum Issued.

Documents 20 are withheld pursuant to the **attorney-client privilege** of Exemption 5 of the Freedom of Information Act, 5 U.S.C. 552(b)(5).

21. E-mail from Oscar Morales, Office of Environmental Information, dated 10/18/2001, re: new FOIA Policy.

22. E-mail from Oscar Morales, Office of Environmental Information, dated 10/18/2001, re: new FOIA Policy (two pages).

23. E-mail from Robert Friedrich, Office of General Counsel, dated 10/18/2001, re: New Attorney General FOIA Memorandum issued.

24. E-mail from Alan Margolis dated 10/19/2001 transmitting draft cover memo for the Administrator.

25. E-mail dated 10/22/2001 from Patricia Hirsch, Office of General Counsel, transmitting comment on draft transmittal memo

Documents 23 and 25 are withheld pursuant to the **attorney-client privilege** of Exemption 5 of the Freedom of Information Act, 5 U.S.C. 552(b)(5).

26. E-mail from Betty Lopez dated 10/22/2001 transmitting comment on draft transmittal memo.

27. E-mail from Alan Margolis dated 10/22/2001, re: revised transmittal memo.

28.-29. E-mails from Oscar Morales dated 10/22-23/2001, re: revised transmittal memo.

30. E-mail from Robert Friedrich dated 10/23/2001, re: new draft.

31. E-mail from Alan Margolis dated 10/24/2001 transmitting draft final version of transmittal memo.

32. E-mail from Mark Luttner dated 10/24/2001 transmitting comment on draft transmittal memo.

33. E-mail from Alan Margolis dated 10/31/2001, re: FYI Att'y Gen'l Ashcroft Issues Memorandum on FOIA.

34. E-mail from Alan Margolis dated 11/06/2001, re: revised draft of Administrator's memo transmitting the Ashcroft FOIA memo.

35-37. E-mails from Robert Friedrich dated 11/6-7/2001, re: revised draft of Administrator's memo transmitting the Ashcroft FOIA memo"

Documents 36-37 are withheld pursuant to the **attorney-client privilege** of Exemption 5 of the Freedom of Information Act, 5 U.S.C. 552(b)(5).

38. E-mail from Betty Lopez dated 11/09/2001, re: Transmittal Memo (Ashcroft)

39. E-mail from Patricia Hirsch, OGC, dated 11/13/2001, re: Ashcroft memo

This document is withheld pursuant to the **attorney-client privilege** of Exemption 5 of the FOIA, 5 U.S.C. 552(b)(5).