



Randall Luthi
President

02/27/17

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VIA EMAIL (BSEEFOIA@BSEE.GOV)

BSEE FOIA Officer
Bureau of Safety and Environmental Enforcement
Mail Stop: VAE-BSEE FOIA
45600 Woodland Road
Sterling, VA 20166

Re: Freedom of Information Act Request No. BSEE-2017-00001

Dear BSEE FOIA Officer:

I am writing on behalf of the National Ocean Industries Association ("NOIA") in furtherance of our multiple conversations regarding the above referenced Freedom of Information Act ("FOIA") request submitted to the Bureau of Safety and Environmental Enforcement ("BSEE") on October 3, 2016. Specifically, the BSEE FOIA office requested by response letter dated November 17, 2016 that NOIA narrow the original requests in order to streamline and expedite the processing and compilation of responsive material. We have been discussing how best to narrow our requests with your office since early December, and we propose the following changes to our original information requests, which we believe more narrowly describe the records sought and provide sufficient detail to allow an agency employee to locate the requested records in a reasonable amount of time.

1. Documents identifying the algorithm and methodology utilized by BSEE to estimate decommissioning costs in the Gulf of Mexico OCS Region ("GOM"), including but not limited to those costs involved in any and all of the various tasks necessary to decommission wells, platforms, pipelines, and/or other facilities in both shallow waters and deep waters. If BSEE does not utilize an algorithm, then please provide documents identifying the model or methodology BSEE uses to estimate the costs involved in these tasks.
 - a. **Proposed narrowing of scope:** For the purpose of this request for information, the term "documents" does not include emails.
2. Documents identifying the decommissioning cost assumptions used by BSEE for well abandonment, platform/facility removal, site clearance and verification, and pipeline segment decommissioning.
 - a. **Proposed narrowing of scope:** After conversing with BSEE FOIA officers, NOIA understands that the same set of documents is likely responsive to Request Nos. 2 and 3. Accordingly, NOIA agrees to consolidate both questions as follows: "Documents identifying the decommissioning cost assumptions used by BSEE or showing the basis for the decommissioning cost assumptions used by BSEE for well abandonment, platform/ facility removal, site clearance and

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verification, and pipeline segment decommissioning.” For Requests for Information 2 and 3, NOIA agrees that the term “documents” does not include emails.

3. Documents showing the basis for decommissioning cost assumptions as identified in response to Request No. 2.
 - a. **Proposed narrowing of scope:** See *supra* proposed narrowing of scope for Request for Information No. 2.
4. Documents (whether internally or externally generated) regarding the development of the algorithm and/or model, including but not limited to:
 - a. BSEE commissioned studies;
 - i. **Proposed narrowing of scope:** BSEE has directed NOIA to the Agency’s online compilation of decommissioning research records available at <https://www.bsee.gov/listing-page/tap-research-records> under the category “Decommissioning.” BSEE has further indicated that no additional documents, other than those that are available on the BSEE website, exist. Accordingly, NOIA confirms that this Request for Information has been fulfilled.
 - b. Industry publications and academic research;
 - i. **Proposed narrowing of scope:** For purposes of this Information Request No. 4b, NOIA specifically requests copies of the two Deloitte models referenced on page 8 of the Bureau of Ocean Energy Management’s report entitled “Evaluation of a Lessee’s Ability to Carry Out Present and Future Obligations,” available at <https://www.boem.gov/Evaluation-of-a-Lessee-s-Ability-to-Carry-out-Present-and-Future-Obligations/>.
 - c. Operator presentations to bankers/analysts; and
 - i. **Proposed narrowing of scope:** In an effort to expedite the processing of these FOIA requests, NOIA agrees to withdraw Request for Information No. 4c at this time, as responsive documents will likely be captured in BSEE’s response to No. 4d.
 - d. Data gathered from operators and relied upon by BSEE in creating its algorithms/methodologies.
 - i. **Proposed narrowing of scope:** For purpose of this Information Request No. 4d, NOIA requests any documents that contain data from operators and relied upon by BSEE in devising its decommissioning liability algorithms /methodologies, excluding emails and data that is subject to FOIA exemption 4, which protects “trade secrets and commercial or financial information ...that is privileged or confidential.”

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5. Documents showing the basis for BSEE's conclusion that if BSEE were responsible for decommissioning liabilities, that the final cost to BSEE would be higher than if decommissioning liability fell to an operator or lessee.
 - a. **Proposed narrowing of scope:** For the purpose of this request for information, the term "documents" does not include emails and applies only to final or decisional documents not subject to the deliberative process FOIA exemption.
6. Documents generated while developing BSEE's decommissioning estimates that discuss BSEE's decision to use or not to use decommissioning cost information provided to BSEE by operators showing actual decommissioning costs for past projects.
 - a. **Proposed narrowing of scope:** After further discussions with the BSEE FOIA Office, NOIA understands and agrees that information that would be responsive to this request will be captured in the information responsive to Request Nos. 1 and 2.
7. To the extent BSEE retained third parties to assist in developing BSEE's decommissioning estimates, documents regarding the process used to select such third parties and the qualifications of such third parties.
 - a. **Proposed narrowing of scope:** For the purpose of this request for information, the term "documents" does not include emails.
8. To the extent BSEE retained third parties to assist in developing BSEE's decommissioning estimates, documents in BSEE's care, custody, or control that were generated by these third parties in developing BSEE's decommissioning estimates.
 - a. **Proposed narrowing of scope:** For the purpose of this request for information, the term "documents" does not include emails.
9. To the extent BSEE retained third parties to assist in developing BSEE's decommissioning estimates, documents identifying the names of such third parties and the fees paid to such third parties for their work in assisting BSEE to develop BSEE's decommissioning estimates.
 - a. **Proposed narrowing of scope:** We agreed that this request is already sufficiently narrow.
10. All correspondence, emails, and other communications between any BSEE official or employee and any BOEM or Department of Interior or employee concerning BSEE's decommissioning assessments.
 - a. **Proposed narrowing of scope:** In an effort to expedite the processing of this FOIA request, NOIA requests that the BSEE FOIA office conduct targeted searches for emails or correspondence from the BSEE Director, GOM Regional Director, and division chiefs or heads of BSEE departments with decommissioning oversight responsibility regarding or discussing 1) the accuracy of BSEE's decommissioning liability estimates (i.e., discussing whether such estimates are too high or too low); 2) discussing whether BSEE's

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costs to perform the decommissioning activities in lieu of an operator would be higher or lower than an operator's costs; and 3) discussing the reasons for the difference between industry decommissioning cost projections or actual plugging and abandonment costs versus BSEE's estimated costs if BSEE was to perform the required work or hire a third party to do so.

11. All correspondence, emails, and other communications between any BSEE official or employee and any BOEM or Department of Interior official or employee concerning the GAO report number GA0-16-40 published December 18, 2015 and entitled "Actions Needed to Protect Against Billions of Dollars in Federal Exposure to Decommissioning Liabilities."

- a. **Proposed narrowing of scope:** In an effort to expedite the processing of this FOIA request, NOIA requests that the BSEE FOIA office conduct targeted, "key word" searches for the GAO report referenced in Request No. 11 in the emails of the following BSEE offices: Office of the BSEE Director, GOM Regional Director, and in the emails of division chiefs or heads of BSEE departments with decommissioning oversight responsibility. In particular, NOIA is seeking emails or other correspondence that shed light on the commissioning or authorizing of the GAO investigation and subsequent reporting (outside or inside of BSEE).

In order to streamline and expedite the processing and compilation of responsive material, NOIA agrees to exclude the following types of information from the above requests: 1) information that was submitted to BSEE as confidential commercial information that would be subject to Executive Order 12,600 and the FOIA regulations requiring the Agency to notify the submitter; 2) correspondence containing information covered by the attorney client privilege and/or the attorney work product, and/or the deliberative process privilege; 3) correspondence transmitting or discussing news media articles or press releases; 4) meeting invitations, meeting acceptances, and correspondence that solely arranges for meetings.

This letter is intended to amend NOIA's original FOIA requests. However, in the event that the BSEE FOIA Office has closed the file associated with FOIA Request No. BSEE-2017-00001, then this letter shall serve as a new FOIA request made pursuant to 5 U.S.C. § 552 and the Department of the Interior's implementing regulations under 42 C.F.R. Part 2. The date range for the request remains January 1, 2014 through the present. As we stated in our original FOIA request, we would be pleased to pay all reasonable reproduction and search fees provided by regulation. We request that you notify us before proceeding, however, if you anticipate that such expenses will exceed \$2,000.

We would be happy to accept the documents in electronic form (Microsoft word or Adobe pdf) or in hard copy. Please direct your response to this FOIA request to the undersigned with a copy to counsel Anne Harrington (anne.harrington@squirepb.com). Thank you for your prompt attention, and please

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let me know if you have any questions or require further information about the above changes.

Sincerely,



Randall Luthi
President, NOIA

Attachment

cc: Ashley Rychak (ashley.rychak@bsee.gov)
Anne Harrington, Esq. (anne.harrington@squirepb.com)