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



### FREEDOM OF INFORMATION ACT ANNUAL REPORT

FISCAL YEAR 2010

#### 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 the Report on the agency Web site. <a href="http://www.ibwc.gov/Organization/FOIA.html">http://www.ibwc.gov/Organization/FOIA.html</a>
- 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 USIBWC is a federal agency and the United States component of the International Boundary and Water Commission (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 of waters, and flood control for the U.S.-Mexico border region. The most frequent reason for some requests not being granted during fiscal year 2010 was that the agency search could not locate documents responsive to the request. The FOIA has also been applied to protect information related to protection of critical infrastructure, privacy related information, or information protected by the civil discovery privileges.

#### 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.
- **I. 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

Exemption 3 was not applied to any requests received during Fiscal Year 2010.

### V.A. FOIA REQUESTS - 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
3	27	29	1

### V.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 Records	Records referred to withdrawn Related not FOIA ag					Not agency record	Duplicate request	Other	Total
16	6	1	6	0	0	0	0	0	0	0	0	29

### V.B.(2). DISPOSITION OF FOIA REQUESTS - "OTHER" REASONS FOR "FULL DENIALS BASED ON REASONS OTHER THAN EXEMPTIONS"

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

### V.B.(3). DISPOSITION OF FOIA REQUESTS – NUMBER OF TIMES EXEMPTIONS APPLIED

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

### VI.A. ADMINISTRATIVE APPEALS OF INITIAL DETERMINATIONS OF FOIA REQUESTS -- RECEIVED, PROCESSED AND PENDING ADMINISTRATIVE APPEALS

Number of appeals	Number of appeals	Number of appeals processed in fiscal year	Number of appeals
pending as of start of	received in fiscal		pending as of
fiscal year	year		end of fiscal year
0	1	1	0

### VI.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
0	0	0	1	1

### VI.C.(1). REASONS FOR DENIAL ON APPEAL -- NUMBER OF TIMES EXEMPTIONS APPLIED

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

### VI.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	
	initial		reason	reasonably	for	record	Or	Litigation	solely on	*explain
	request level			described	other		appeal	-	denial of	in chart
					reasons				request for	below
									expedited	
									processing	
0	0	0	0	0	0	0	0	0	0	0

### VI.C.(3). REASONS FOR DENIAL ON APPEAL --"OTHER" REASONS

Description of "other" reasons for denial on appeal from chart C(2) and number of times those exemptions were relied upon	TOTAL
0	0

### VI.C.(4). RESPONSE TIME FOR ADMINISTRATIVE APPEALS

Median no. of days	Average no. of days	Lowest no. of days	Highest no. of days
20	20	20	20

### VI.C.(5). TEN OLDEST PENDING ADMINISTRATIVE APPEALS

10th (	10th Oldest 9th		8th	7th	6th	5th	4th	3rd	2nd	Date of Receipt
Appeal										of Oldest Appeal
• •										and Number of
										Days Pending
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. FOIA 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								
	-				-		-	-			
17	15.6	2	34	0	0	0	0	0	0	0	0

### VII.B. PROCESSED REQUESTS -- RESPONSE TIME FOR PERFECTED REQUESTS IN WHICH INFORMATION WAS GRANTED

	Sim	nple			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								
	, i		, ,	·		•	•			•	Ÿ
18	15.4	2	34	0	0	0	0	0	0	0	0

### VII.C. PROCESSED REQUESTS -- RESPONSE TIME IN DAY INCREMENTS

	Simple 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								
24	5	0	0	0	0	0	0	0	0	0	0	0	29

	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								
0	0	0	0	0	0	0	0	0	0	0	0		0

	Requests Granted Expedited Processing												
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								
0	0	0	0	0	0	0	0	0	0	0	0		0

### VII.D. PENDING REQUESTS -- ALL PENDING PERFECTED REQUESTS

	Simple			Complex		Ex	pedited Process	ing
Number	Median	Average	Number	Median	Average	Number	Median	Average
Pending	number of	number of	Pending	number of	number of	Pending	number of	number of
	days	days		days	days		days	days
1	27	27	0	0	0	0	0	0

### VII.E. PENDING REQUESTS -- TEN OLDEST PENDING PERFECTED REQUESTS

10 <sup>t</sup>	<sup>th</sup> oldest	9 <sup>th</sup>	8 <sup>th</sup>	7 <sup>th</sup>	6 <sup>th</sup>	5 <sup>th</sup>	4 <sup>th</sup>	3 <sup>rd</sup>	2 <sup>nd</sup>	Oldest
reque	est and no.									request and
of day	ys pending									no. of days
										pending
Date	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	9/8/2010
Days	0	0	0	0	0	0	0	0	0	27

### 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
0	0	0	0	0

### VII.B. REQUESTS FOR FEE WAIVER

Number Granted	Number Denied	Median number of days to Adjudicate	Average number of days to Adjudicate
11	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	33,825	0	33,825

### X. FEES COLLECTED FOR PROCESSING REQUESTS

Total Amount of Fees Collected (in dollars)	Percentage of Total Costs
170.40	.50

### **XI.** FOIA Regulations

http://www.access.gpo.gov/nara/cfr/waisidx\_07/22cfr1102\_07.html

### XII.A. BACKLOGS OF FOIA REQUESTS & ADMINISTRATIVE APPEALS

Number of Backlogged Requests as of	Number of Backlogged Appeals as of End
End of Fiscal Year	of Fiscal Year
1	0

### XII.B. CONSULTATIONS ON FOIA REQUESTS -- RECEIVED, PROCESSED & PENDING CONSULTATIONS

No. of consultations	Number of	No. of consultations	No. of consultations
received from other	rom 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 PENDING CONSULTATIONS RECEIVED FROM OTHER AGENCIES AND PENDING AT THE AGENCY

10 <sup>th</sup> oldest consultation and number of days pending	9 <sup>th</sup>	8 <sup>th</sup>	7 <sup>th</sup>	6 <sup>th</sup>	5 <sup>th</sup>	4 <sup>th</sup>	3 <sup>rd</sup>	2 <sup>nd</sup>	Oldest consultation and number of days pending
0	0	0	0	0	0	0	0	0	0

# XII.D. COMPARISON OF NUMBERS OF REQUESTS FROM PREVIOUS AND CURRENT ANNUAL REPORTS -- REQUESTS RECEIVED AND PROCESSED

Number of Rec	uests 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 report annual report		report	
27	27	24	29	

### XII.D(II). COMPARISON OF NUMBERS OF REQUESTS FROM PREVIOUS AND CURRENT ANNUAL REPORTS – BACKLOGGED REQUESTS

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
0	1

## XII.E. COMPARISON OF NUMBERS OF ADMINISTRATIVE APPEALS FROM PREVIOUS AND CURRENT ANNUAL REPORT -- APPEALS RECEIVED AND PROCESSED

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	
0	1	0	1	

### XII.E(II). COMPARISON OF NUMBERS OF ADMINISTRATIVE APPEALS FROM PREVIOUS AND CURRENT ANNUAL REPORT --BACKLOGGED APPEALS

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	