

EPA stall, deny, redact to avoid public review of actions

EPA PLAYS 'HIDE THE BALL':

SLF FILES FOIA LAWSUIT IN FEDERAL COURT

Southeastern Legal Foundation (SLF) today filed a lawsuit in U.S. District Court in Atlanta against the U.S. Environmental Protection Agency (EPA) for alleged repeated violations of the Freedom of Information Act (FOIA) in failing to produce complete documents, nearly complete redactions, delays in producing documents at all, and denials of fee waiver requests that have historically been granted over the past four decades. Click [here](#) for copy of filed complaint.

In 2014, SLF won a U.S. Supreme Court decision against the EPA challenging its wholesale unilateral changes to the Clean Air Act to justify the Obama administration's climate change energy regulations. *Utility Air Regulatory Group, et al. v. United States Environmental Protection Agency, et al.*, 573 U.S. ____ (2014). Many of the FOIA requests issued by SLF during the period since 2009 relate to the EPA's efforts to enact these regulations.

"The EPA has engaged in a regular pattern of stall, deny, stall, deny, and ultimately produce some of the requested documents that have been so thoroughly redacted as to be useless," said Shannon Goessling, SLF executive director and chief legal counsel. "According to Congress, Americans are entitled to the information as part of the full exercise of First Amendment rights under the Constitution. To deny and play 'hide the ball' confirms that, far from being the 'most transparent administration in U.S. history,' as President Obama declared, his administration is in fact the least transparent in history."

Under the FOIA, the federal government can limit the information it discloses for purposes of national security, personnel employment matters, or ongoing deliberative processes prior to final decisions. None of these exceptions relates to the EPA's dedicated climate change policies that became the subject of Supreme Court litigation. In some cases, the documents requested by SLF under the FOIA were for copies of public documents issued as annual reports and similar, which were also redacted or denied.

SLF's survey of documents that were produced by the EPA reveals that 96 percent of the content of the documents was redacted. SEE ATTACHED PHOTOS. **"What was produced by EPA was essentially worthless in terms of revealing any substantive information to which the American people are entitled," added Goessling.** See Table below.

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	Total Records Produced	Records Redacted	Percentage Redacted	Records Unredacted	Percentage Unredacted
1	4	0	0%	4	100%
2	130	127	98%	3	2%
3	143	138	97%	5	3%
4	206	203	99%	3	1%
5	2725	2615	96%	110	4%
6	11	11	100%	0	0%
Total	3219	3094	96%	125	4%

Further, in an unprecedented step, the EPA denied repeated fee waiver requests to cover the costs of the documents produced – something that has never been done in SLF's 38-year history of cases and inquiries involving presidential administrations of both political parties. And, EPA ignored SLF when it agreed to accept documents electronically to avoid any production costs to the EPA. SLF is a non-profit constitutional public interest law firm and policy center.

In the context of the pre-litigation administrative actions on the so-called Endangerment Finding and Cause-and-Contribute Finding, in which the EPA laid out its case for justifying and enforcing wholesale changes to the Clean Air Act without Congressional review and approval, the FOIA requests relate not only to past regulations that have been struck down by the Supreme Court, but also to current and future regulations being developed by the EPA. The Supreme Court's 2014 decision is arguably the most stinging rebuke of the Obama administration's exercise of executive overreach during his presidency.

On the day President Obama assumed the office of the presidency in January 2009, the White House website declared that the administration would be "the most open and transparent in history." Within days, Obama issued orders pledging an "unprecedented level of openness" to the American people about the workings of the federal government. He reinforced his promise on Feb. 13, 2013, when he said that the Obama administration is "the most transparent administration in U.S. history."

Southeastern Legal Foundation, founded in 1976, is a constitutional public interest law firm and policy center that regularly appears before the U.S. Supreme Court and has been involved in more than three dozen landmark Supreme Court decisions on issues including property rights, free speech, government accountability, economic liberty, and the Census.

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