



Department of Energy
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DEC 17 2009

**VIA FEDERAL EXPRESS:
7982-3420-9038**

Stefan Franzen
Dept. of Chemistry
North Carolina State University
Raleigh, NC 27695-8204

Subject: Freedom of Information Act Request ("FOIA") Docket No. CH-10-03

Dear Dr. Franzen:

This is in response to the electronic FOIA request you submitted via your October 27, 2009, e-mail addressed to Patrick Burke of this office. I am writing you in my capacity as authorizing official responsible for making the determination required by Section 1004.5 of the U.S. Department of Energy ("DOE") regulations found at 10 CFR 1004.5, which implements the FOIA, 5 U.S.C. § 552.

Scope of Request

In your October 27 e-mail, you requested photocopies of all laboratory notebook pages related to studies and experiments conducted in connection with a series of Transmission Electron Microscopy (TEM) micrographs that we had previously made available to you. In your request you also stated that, in lieu of notebook pages, you would accept specific answer to a list of question set out in the e-mail.

On November 18, 2009, responding to an e-mail Mr. Burke sent you earlier that day, you agreed to pay up to \$100.00 for the cost of responding to your FOIA request.

Response to Your Request for Information

After reviewing your request, the Laboratory concluded that providing the notebook pages would be more practical than responding to your list of questions. To that end, we are providing you with the notebooks pages of Drs. Virginia Altoe and Sungwook Chung, in their entirety. It is our understanding that there are no other notebook entries that would be relevant to your records request. Dr. DeYoreo believes that he does not have any other notebook entries or related documents that would be responsive to your request. However, he has indicated that he cannot be certain that he has no electronic files on his computer or other electronic media, that pertain to

the request, without going through all of them one by one. He estimates that such an effort would take 150 hours. Under DOE's FOIA regulations, the charge for such an effort would be well over \$20,000.

To the extent that your request is related to an article in *Scanning*, I have been informed that no work was carried out at the Lawrence Berkeley National Laboratory (LBNL) for that and all notes pertaining to work done at the Lawrence Livermore National Laboratory (LLNL) for that publication are held by LLNL. Neither Dr. DeYoreo nor the post doc who did the work has access to them. Moreover, none of the TEM images collected at LBNL are connected in any way to the *Scanning* publication and thus, all we can provide is the notes held at LBL by either Virginia Altoe or Sungwook Chung pertaining to those TEM images.

In as much as the cost of responding to you FOIA request has already exceed the amount you approved (\$100.00) we will suspend further action on the request pending further guidance from you. Mr. Burke will contact you shortly to discuss the fee issue.

You are advised of your right to appeal the adequacy of the search within 30 days of your receipt of this letter, by writing to the Director, Office of Hearings and Appeals, HQ-1, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C., 20585. Both the letter and the envelope should be clearly marked "FREEDOM OF INFORMATION APPEAL". You are further advised that judicial review will thereafter be available within the district in which you reside, have a principal place of business, where the records are located, or in the District of Columbia.

If you have any questions or are in need of additional information, please contact Mr. Patrick M. Burke at (510) 486-7203.

Sincerely,



Aundra Richards
Site Office Manager

Enclosure

cf: M. Legan