



August 8, 2022

*Sent via email and Federal Express*

National Freedom of Information Act Office, AFN-400  
Federal Aviation Administration  
800 Independence Avenue, SW  
Washington, DC 20591  
[7-awa-arc-foia@faa.gov](mailto:7-awa-arc-foia@faa.gov)

**Re: Freedom of Information Act Request**

To Whom it May Concern:

This is a request under the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA"), on behalf of the Center for Constitutional Rights ("CCR") ("the Requester") to the Federal Aviation Administration ("FAA"). We ask that the FAA please direct this request to all appropriate offices, departments, and sub-entities within the agency.

**A. Purpose of Request**

This request pertains to how and from who the FAA has gathered information regarding the permitting for the proposed Starship/SuperHeavy Launch Vehicle Program at the Boca Chica Launch Site in Cameron County, Texas.<sup>1</sup> Approval of this launch site will, and has already, had dramatic and damaging effects on both the local environment as well as impacting the local communities in its proposed vicinity. As an organization with a history of working on environmental and racial justice issues and supporting local transparency and organizing work across the country, the Center for Constitutional Rights has an interest in how federal agencies like the FAA go about approving permits for massive projects such as Starship/Superheavy. Because CCR disseminates policy and educational materials to the public at no cost, information

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<sup>1</sup> For more information, see [https://www.faa.gov/space/stakeholder\\_engagement/spacex\\_starship](https://www.faa.gov/space/stakeholder_engagement/spacex_starship). Starship/Super Heavy is a project of SpaceX, the Space Exploration Technologies corporation run by Elon Musk: <https://www.spacex.com/vehicles/starship/>

obtained from this FOIA request will better enable communities we represent as well as the general public in understanding the consequential effects of this project.

## **B. Definitions**

- Record(s). In this request the term “record(s)” includes, but is not limited to, all Records or communications preserved in electronic (including metadata) or written form, such as correspondences, emails, documents, data, videotapes, audio tapes, faxes, files, guidance, guidelines, evaluations, instructions, analyses, memoranda, agreements, notes, orders, policies, procedures, legal opinions, protocols, reports, rules, talking points, technical manuals, technical specifications, training manuals, studies, or any other Record of any kind.
- Agreement(s). In this request the term “agreement(s)” refers to any agreement, written or otherwise; communications; contracts and/or supplements, modifications or addendums to contracts or agreements.
- Communication(s). In this request the term “communication” means the transmittal of information (in the forms of facts, ideas, inquiries or otherwise).

## **C. Records Sought in this Request**

CCR seeks the following information:

1. All “321 comments” received by the Federal Aviation Administration (FAA) between December 22, 2020, and January 26, 2021, for the SpaceX Starship/SuperHeavy Launch Vehicle Program at the SpaceX Boca Chica Launch Site in Cameron County, per the Draft Programmatic Environmental Assessment for the SpaceX Starship/Super Heavy Launch Vehicle Program at the SpaceX Boca Chica Launch (“Draft PREA”) at page 9.<sup>2</sup>
2. A copy of the November 23, 2020 email sent by the FAA to “interested parties,” per the Draft PREA at page 9. This includes, at a minimum, the domain names of each of email addresses in the “Recipient,” “Sender,” “CC” and “BCC” fields of the email, as well as any attachments and associated metadata.
3. The full names and organizations of each of the “interested parties” which the November 23, 2020 email was sent to.

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<sup>2</sup> Available at

[https://www.faa.gov/sites/faa.gov/files/space/stakeholder\\_engagement/spacex\\_starship/Summary\\_Draft\\_PEA\\_for\\_SpaceX\\_Starship\\_Super\\_Heavy\\_at\\_Boca\\_Chica.pdf](https://www.faa.gov/sites/faa.gov/files/space/stakeholder_engagement/spacex_starship/Summary_Draft_PEA_for_SpaceX_Starship_Super_Heavy_at_Boca_Chica.pdf)

4. A copy of the December 22, 2020 email sent by the FAA, per the Draft PREA at page 9. This includes, at a minimum, the domain names of each of email addresses in the “Recipient,” “Sender,” “CC” and “BCC” fields of the email, as well as any attachments and associated metadata.
5. A list of any federal, state and/or local agencies who were contacted by the FAA between November 1, 2020 and March 1, 2021 regarding the SpaceX Starship/Super Heavy Launch Vehicle Program at the SpaceX Boca Chica Launch.
6. A list of any private individuals, corporations, academic institutions, non-profits or other non-governmental agencies who were contacted by the FAA between November 1, 2020 and March 1, 2021 regarding the SpaceX Starship/Super Heavy Launch Vehicle Program at the SpaceX Boca Chica Launch.

#### **D. Format of Production**

Please search for responsive records regardless of format, medium, or physical characteristics, and including electronic records. Please provide the requested documents in the following format:

- Provided via email or on a CD, DVD, hard drive, or other hardcopy media;
- In PDF format wherever possible;
- Electronically searchable wherever possible;
- Each paper record in a separately saved file;
- "Parent-child" relationships maintained, meaning that the Requester must be able to identify the attachments with emails;
- Any data records in native format (i.e. Excel spreadsheets in Excel);
- Emails should include BCC and any other hidden fields; and
- With any other metadata preserved.

#### **E. Requester**

The Center for Constitutional Rights (“CCR”) is a non-profit, public interest legal and advocacy organization that engages in the fields of civil and international human rights. CCR’s diverse issue areas include litigation and advocacy around environmental and economic justice, as well as racial and ethnic profiling. One of CCR’s primary activities is the publication of newsletters, know-your-rights handbooks, legal analysis of current environmental justice issues, and other similar materials for public dissemination. These and other materials are available through CCR’s Development, Communications, and Advocacy Departments. CCR operates a website, <http://ccrjustice.org>, which addresses the issues on which the Center works. CCR staff members often serve as sources for journalists and media outlets, including on issues related to environmental and racial justice. In addition, CCR regularly issues press releases, has an active

social media presence with thousands of followers, and also issues regular email updates sent to over 50,000 supporters about developments and news pertaining to CCR's work.

#### **F. Request for Fee Waiver**

The Requester is entitled to a fee waiver pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) on the grounds that "disclosure of the requested records is in the public interest because it is likely to contribute significantly to the public understanding of the activities or operations of the government and is not primarily in the commercial interest of the requester." 5 U.S.C. § 552(a)(4)(A)(iii). Requester meets the requirements for a fee waiver because the subject of the request concerns the operations or activities of the government, the disclosure of the information is likely to contribute to a significant public understanding of government operations or activities, the Requester's primary interest is in disclosure, and they have no commercial interest in the information. *See* 49 C.F.R. § 7.43(c).

As described above, CCR is a non-profit organization dedicated to educating the public and advocating for civil rights, human rights, and immigrant rights, and has undertaken this work in the public interest and not for any private commercial interest. Similarly, the primary purpose of this FOIA request is to obtain information to further the public's understanding of how FAA grants permits to large private corporations, in this case SpaceX. Access to this information is crucial for Requester as well as the organizations we partner with, and the communities CCR serves, to evaluate government procedures and actions as well as their potential detrimental effects.

CCR will make any information that we receive as a result of this FOIA request available to the public, including the press, at no cost. Disclosure in this case, therefore, meets the statutory criteria, and a fee waiver would fulfill Congress' legislative intent in amending FOIA. *See Judicial Watch Inc. v. Rossotti*, 326 F.3d 1309,1312 (D.C. Cir. 2003) ("Congress amended FOIA to ensure that it be 'liberally construed in favor of waivers of noncommercial requesters.'") (citing *McClellan Ecological Seepage Situation v. Carlucci*, 835 F.2d 1282, 1284 (9th Cir. 1987)).

In the alternative, if no fee waiver is granted and the fees exceed \$250.00, please contact the Requester to obtain consent to incur additional fees. Processing fees should be limited pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) ("[F]ees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by ... a representative of the news media.").

#### **G. Request for Expedited Processing**

Expedited processing of this request is required because there is a “compelling need” for the information. *See* 5 U.S.C. § 552(a)(6)(E)(i)(I). A “compelling need” may exist where there is an “urgency to inform the public concerning actual or alleged Federal Government activity,” and the requesting party is “primarily engaged in disseminating information.” 49 C.F.R. § 7.31(c)(1)(ii).

On June 13, 2022, the FAA released its “Final Programmatic Environmental Assessment”<sup>3</sup> which issued a finding that SpaceX could move forward with the launch site for Starship/SuperHeavy and that the environmental impact would be minimal. While there are several additional steps the corporation must take before being able to launch its rocket, the time frame for activists, state officials and especially directly impacted community members in the area to raise concerns and potentially slow and/or stop the environmental and economic effects of Starship/Superheavy is getting increasingly shorter. Accessing all of the information and input gathered by the FAA in order to make this finding as soon as possible is critical to the ability of CCR and the community members we support in our advocacy. Furthermore, the ongoing story of SpaceX and Starship/Superheavy in east Texas has drawn national and international attention from outlets such as the Washington Post, National Geographic and the Guardian.<sup>4</sup> Finally, as stated previously, one of CCR’s key functions as an organization is regularly disseminating information to the public, and as such, we are entitled to prompt and efficient responses to the request for information.

## **H. Conclusion**

CCR certifies that the above information is true and correct to the best of the Requester’s knowledge. If this Request is denied in whole or in part, we ask that the FAA justify all deletions by reference to specific exemptions of FOIA. CCR expects the FAA to release all segregable portions of otherwise exempt material. Additionally, we reserve the right to appeal a decision to withhold any records or a decision to deny this application for expedited processing and fee waiver.

If you have any questions regarding the processing of this request, please contact Ian Head at:

Ian Head  
ihead@ccrjustice.org (preferred)

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<sup>3</sup> Available here: [https://www.faa.gov/sites/faa.gov/files/2022-06/Final\\_PEA\\_Executive\\_Summary.pdf](https://www.faa.gov/sites/faa.gov/files/2022-06/Final_PEA_Executive_Summary.pdf)

<sup>4</sup> *See* “FAA will allow SpaceX to launch Starship from Texas, but with a catch,” *Washington Post*, June 13, 2022, available at <https://www.washingtonpost.com/technology/2022/06/13/spacex-starship-faa-boca-chica/>; “SpaceX’s Starship gets closer to launch—but the future of its Texas Starbase is in doubt,” *National Geographic*, June 14, 2022, available at: <https://www.nationalgeographic.com/science/article/spacex-starship-gets-closer-to-launchbut-the-future-of-its-texas-starbase-is-in-doubt>; “Elon Musk’s SpaceX launch site threatens wildlife, Texas environmental groups say,” *The Guardian*, September 5, 2021, available at: <https://www.theguardian.com/environment/2021/sep/05/texas-spacex-elon-musk-environment-wildlife>

Center for Constitutional Rights  
PO Box 31001  
Los Angeles, CA 90031

Thank you,

A handwritten signature in black ink, appearing to read 'I. Head', with a stylized flourish at the end.

Ian Head  
Senior Legal Worker and  
Open Records Project Coordinator  
Center for Constitutional Rights