



# governmentattic.org

*"Rummaging in the government's attic"*

Description of document: Council on Environmental Quality (CEQ) records provided to Chairman Darrell Issa, House Oversight and Government Reform Committee, concerning the administration of the Freedom of Information Act (FOIA), 2011

Requested: 10-December-2011

Released date: 15-December-2011

Posted date: 12-March-2012

Source of document: Freedom of Information Officer  
Council on Environmental Quality  
722 Jackson Place, NW  
Washington, DC 20503  
Fax: (202) 456-0753  
Email: [efoia@ceq.eop.gov](mailto:efoia@ceq.eop.gov)

Note: This is one of several files on the same subject for various agencies available on governmentattic.org. See: <http://www.governmentattic.org/5docs/chairmanIssa.htm>

The governmentattic.org web site ("the site") is noncommercial and free to the public. The site and materials made available on the site, such as this file, are for reference only. The governmentattic.org web site and its principals have made every effort to make this information as complete and as accurate as possible, however, there may be mistakes and omissions, both typographical and in content. The governmentattic.org web site and its principals shall have neither liability nor responsibility to any person or entity with respect to any loss or damage caused, or alleged to have been caused, directly or indirectly, by the information provided on the governmentattic.org web site or in this file. The public records published on the site were obtained from government agencies using proper legal channels. Each document is identified as to the source. Any concerns about the contents of the site should be directed to the agency originating the document in question. GovernmentAttic.org is not responsible for the contents of documents published on the website.



EXECUTIVE OFFICE OF THE PRESIDENT  
COUNCIL ON ENVIRONMENTAL QUALITY  
WASHINGTON, D.C. 20503

December 15, 2011

*Via email*

**Re: FINAL RESPONSE TO FOIA REQUEST CEQ-2012-12**

This is a final response to your Freedom of Information Act (FOIA) request dated December 10, 2011, received December 12, 2011, seeking two types of records:

- 1) [A]n electronic copy of the records provided to the Honorable Chairman Darrell Issa, who had in January 2011 asked [CEQ] for various data concerning the administration of the Freedom of Information Act.
- 2) [A] copy of any correspondence whatsoever sent to Chairman Issa[']s office on the subject of the January 2011 inquiry, and any correspondence sent to Chairman Issa's office on the subject of FOIA.

In your email dated December 12, 2012, you confirmed that with respect to part two of your request, you are only seeking official, written correspondence sent by CEQ staff between January 25, 2011 and the date of CEQ's records search, December 12, 2012. With this response, we are partially granting your request.

CEQ's records search yielded three (3) responsive documents, totaling one hundred twenty-one (121) pages. We have determined that one document should be released to you in full, and two (2) documents should be released with partial redactions of the identities of first-party requesters and other contact information pursuant to FOIA Exemption 6, 5 U.S.C. § 552(b)(6). Today's release may be an exercise of agency discretion, despite the availability of additional exemptions under FOIA. CEQ's determination to release this information does not constitute a waiver of any privilege or exemption which may apply, in whole or in part. Release of this information does not foreclose CEQ from later claiming an exemption or privilege with regard to any similar documents in response to a subsequent FOIA request.

If you have any questions about CEQ's processing of your request, or if you require any additional information, please feel free to contact me at (202) 456-2464. If you are not satisfied with our action on this request, you may administratively appeal the decision within 45 days of the date of this letter by writing the FOIA Appeals Officer, Council on Environmental Quality,



EXECUTIVE OFFICE OF THE PRESIDENT  
COUNCIL ON ENVIRONMENTAL QUALITY  
WASHINGTON, D.C. 20503

722 Jackson Place, NW, Washington, DC 20503. Heightened security measures in force may delay mail delivery; therefore, we suggest that you also email your appeal to [efoia@ceq.eop.gov](mailto:efoia@ceq.eop.gov).

Sincerely,

A handwritten signature in black ink, appearing to read 'Katie M. Scharf', written in a cursive style.

Katie M. Scharf  
Deputy General Counsel  
Council on Environmental Quality  
Executive Office of the President

Enc. (3)



EXECUTIVE OFFICE OF THE PRESIDENT  
COUNCIL ON ENVIRONMENTAL QUALITY  
WASHINGTON, D.C. 20503

February 15, 2011

Honorable Darrell E. Issa  
Chairman  
House Committee on Oversight and Government Reform  
U.S. House of Representatives  
2157 Rayburn House Office Building  
Washington, DC 20515-6143

Dear Chairman Issa:

I am writing in response to your January 25, 2011, letter requesting information and records related to the Council on Environmental Quality's implementation of the Freedom of Information Act (FOIA) during the five years preceding the date of your letter.

The Council on Environmental Quality (CEQ) has taken significant steps to implement the President's January 21, 2009, Memorandum on Transparency and Open Government and the Attorney General's FOIA Guidelines, issued on March 19, 2009.<sup>1</sup> CEQ's General Counsel issued written FOIA procedures in October 2009, to streamline internal processing of FOIA requests. In November 2009, CEQ undertook a substantial revision of its FOIA regulations—the first revision since the regulations were promulgated in 1977—to reflect CEQ policies adopting a presumption in favor of disclosure. The revised regulations, which were finalized in August 2010, provide for creation of an online FOIA Requester Service Center and Reading Room (launched in January 2010);<sup>2</sup> designation of a Chief FOIA officer; and other measures to ensure that information is proactively disclosed to the public.

In addition to these improvements to CEQ's FOIA procedures and regulations, CEQ has taken steps to foster the proactive disclosure of information in specific FOIA requests. For example, following the release of the President's Memorandum on Transparency in 2009, we initiated a second review of responsive documents in a 2006 FOIA request submitted by Citizens for Responsibility and Ethics in Washington (CREW), seeking records relating to climate change science. The CREW request, which has been in

<sup>1</sup> Presidential Memorandum for Heads of Executive Departments and Agencies Concerning the Freedom of Information Act, 74 Fed. Reg. 4683 (Jan. 21, 2009); Attorney General Holder's Memorandum for Heads of Executive Departments and Agencies Concerning the Freedom of Information Act (Mar. 19, 2009), available at [www.usdoj.gov/ag/foia-memo-march2009.pdf](http://www.usdoj.gov/ag/foia-memo-march2009.pdf).

<sup>2</sup> CEQ's FOIA Requester Service Site is available at [www.whitehouse.gov/administration/eop/ceq/foia/](http://www.whitehouse.gov/administration/eop/ceq/foia/).

litigation since February 2007, involves more than 19,000 pages of documents.<sup>3</sup> By applying a presumption in favor of disclosure, our second review has resulted in the release of more than 800 pages of documents that were withheld from the requester prior to 2009. This review is still ongoing; these and other documents are being posted on the CEQ Proactive Disclosure Reading Room website. For a detailed summary of CEQ's transparency initiatives, we are pleased to refer you to CEQ's most recent Chief FOIA Officer Report, which is readily accessible on CEQ's online FOIA Requester Service Site.<sup>4</sup>

In response to the request in your January 25 letter for CEQ's FOIA logs (Items 1 & 2 in your letter), we are providing as an accompaniment to this letter a copy of CEQ's FOIA logs showing: the date of requests received; documents or records sought; any assigned tracking number; the date requests were closed; whether records were provided; and any additional number or code assigned to the request; and identifying those requests submitted more than 45 days prior to January 25, 2011, for which CEQ has not yet provided a complete and final response.

As we confirmed in a phone conversation with your staff members, Tegan Millspaw and Hudson Hollister, on Friday, February 11, 2011, we have interpreted the timeframe of your request to include all FOIA requests that were pending or received on or after January 26, 2006, up through January 25, 2011. The data provided in the spreadsheet reflects all of the information we have available in our files here at CEQ. Your staff also indicated that we need not undertake an archival search to provide you with a complete request. In some instances, where information was missing from the log and the retrieval of that information would require us to review records that have been archived or retired off CEQ premises, we have left those fields blank.

We respectfully request that the Committee treat CEQ's FOIA logs as confidential, as the names of some of the FOIA requesters should be protected from public disclosure under the Privacy Act if the documents they have requested are personal in nature, and so as not to deter prospective FOIA requesters from seeking access to government records. Should the Committee elect to publicly disclose CEQ's FOIA logs, we request advance notice of any intended disclosure, so that CEQ may notify any requester whose privacy interest may be affected.

In response to your request for all communications between CEQ and the requester in FOIA requests pending more than 45 days (Item 3), we are providing a copy of communications between CEQ and the requester regarding requests submitted more than 45 days prior to January 25, 2011, for which CEQ has not yet provided a complete and final response. Please note that, as we discussed with your staff, we are providing a snapshot of the correspondence for the CREW request described above. The CREW request dates to 2006 and has been in litigation for several years. Compilation of the

---

<sup>3</sup> *CREW v. Council on Env't'l Quality*, No. 07-365 (D.D.C.).

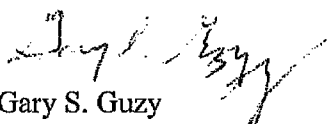
<sup>4</sup> CEQ's 2009 Chief FOIA Officer Report can be accessed through the Requester Service Site at [www.slideshare.net/whitehouse/2010-03-15-chief-foia-officer-report](http://www.slideshare.net/whitehouse/2010-03-15-chief-foia-officer-report).

extensive correspondence involving this request would require more time than has been provided to respond to your request.

Finally, in response to your requests regarding any federal judicial action in which CEQ has been ordered by the court to pay a requester's attorney's fees (Items 4 & 5), our records indicate that in the time period covered by your request, CEQ has not been ordered to pay attorneys' fees or other litigation costs incurred by a FOIA requester. CEQ has entered into one settlement agreement during this time period in which CEQ agreed to pay a requester's attorneys fees. If you believe that information regarding this settlement is needed to inform the Committee's understanding of CEQ's implementation of FOIA, we would be happy to discuss this matter with you.

Please feel free to contact Jessica Maher, CEQ Associate Director for Legislative Affairs, at (202) 395-5750 if you have any questions about this reply.

Respectfully,



Gary S. Guzy  
Deputy Director and General Counsel  
Council on Environmental Quality  
Executive Office of the President

cc:

Hon. Elijah E. Cummings, Ranking Member, House Committee on Oversight and Government Reform

David Ferriero, Archivist of the United States

Miriam Nisbet, Director, National Archives, Office of Government Information Services

Council on Environmental Quality FOIA Logs, 1/25/06-1/25/11

TRACKING #	REQUESTER	BRIEF DESCRIPTION OF INFORMATION REQUESTED	RECEIVED	CLOSED	RECORDS RELEASED?	ADD'L NUMBERS	SUBMITTED > 45 DAYS BEFORE 1/25/2011; COMPLETE AND FINAL RESPONSE NOT YET ISSUED
2007-38	National Resources Defense Council	Perchlorate	12/22/2003	1/25/2006	Yes	2004-09, 2005-46, 2006-31	
2007-02	Greenpeace	CEI CCSTP/CCSTI	7/1/2005	3/ /2010	No	2005-30, 2005-02, 2006-01	
2007-01	Greenpeace	Phil Cooney Recusal	7/1/2005	3/ /2010	No	2005-31, 2005-01, 2006-02	
2007-04	Greenpeace	Group of Eight	7/1/2005	6/12/2008	Yes	2005-02, 2005-32, 2006-03	
2007-03	Greenpeace	ExxonMobil	7/1/2005	6/6/2006	Yes	2005-33, 2006-04	
2007-05	National Resources Defense Council	Phil Cooney Recusal	7/11/2005	3/ /2010	Yes	2005-03, 2005-34, 2006-05	
2006-30	Unable to locate original request	Acid precipitation task force	8/12/2005	5/19/2006	Yes	2005-40	
2007-06	Palm Beach Post	Everglades Consent	2/3/2006	2/26/2008	Yes	2006-18, 2006-01	
2007-07	Mirant Corporation	Information related to Operation of Potomac River Generating Station	3/30/2006	10/1/2007	Yes	2006-19, 2006-02	
2007-08	Citizens for Responsibility and Ethics in Washington	Records related to climate change science and policy.	5/16/2006	Pending	Yes	2006-22, 2006-03	Pending; Several interim releases have been made to the requester
2007-09	Drinker Biddle & Reath LLP	Disposal of Spoil from the NY/NJ Habor	5/30/2006	10/16/2007	No	2006-24, 2006-04	
2006-13	<i>Original request not available in CEQ active files</i>	Information on potential Presidential candidates	12/1/2005	3/9/2006	No		
2006-14	Center for Public Integrity	Information on Hurricane Katrina	2/16/2006	2/16/2006	Yes		
2006-15	<i>Original request not available in CEQ active files</i>	WH Task force on Energy Streamlining	2/21/2006	4/28/2006	Yes		
2006-16	<i>Original request not available in CEQ active files</i>	Homeland Security Presidential Directive 7 (1)	2/22/2006	3/16/2006	No		
2006-17	<i>Original request not available in CEQ active files</i>	Homeland Security Presidential Directive 7 (2)	12/1/2005	3/9/2006	No		

Council on Environmental Quality FOIA Logs, 1/25/06-1/25/11

TRACKING #	REQUESTER	BRIEF DESCRIPTION OF INFORMATION REQUESTED	RECEIVED	CLOSED	RECORDS RELEASED?	ADD'L NUMBERS	SUBMITTED > 45 DAYS BEFORE 1/25/2011; COMPLETE AND FINAL RESPONSE NOT YET ISSUED
2006-20	Michael Ravnitzsky	Pres. IRS	4/19/2006	6/8/2006	No		
2006-21	Democratic Senatorial Campaign Committee		4/4/2006	4/28/2006	No		
2006-25	<i>Original request not available in CEQ active files</i>	Catch and Release Policy	6/13/2006	6/16/2006			
2006-23	<i>Original request not available in CEQ active files</i>	Flag info	5/17/2006	5/22/2006			
2006-26	<i>Original request not available in CEQ active files</i>	Flag info	5/17/2006	5/22/2006			
2006-27	Robert Thomas	Information on contamination of creek in Paducah, KY	8/31/2006	12/19/2006	No		
2007-01	Greenwire	Polar Bears	1/9/2007	11/6/2007	Yes	2007-18	
2007-02	Michael King	List of agency officials appointed to implement Executive Order 13423	2/1/2007	10/18/2007	Yes	2007-17	
2007-03	Competitive Enterprise Institute	Creation of US Climate Change Science Program	2/20/2007	4/16/2008	Yes		
2007-04	National Environmental Trust	IPCC working groups 2 & 3	3/19/2007	10/17/2007	No	2007-21	
2007-05	New York Committee for Occupational Safety and Health	EPA, WH, CEQ re: quality of ambient air and financial market	4/17/2007	7/12/2008	Yes	2007-22	
2007-06	Defenders of Wildlife	NEPA documentation needed for land mgmt. plans	4/24/2007	6/19/2009	Yes	2007-23	
2007-09	Attorney General of California	Executive Order 13432	5/30/2007	1/6/2008	Yes	2007-28	
2007-10	Robert Thomas	Information on contamination of creek in Paducah, KY	5/1/2007	5/22/2007	No		
2007-11	Earthjustice	Rapanos case	11/9/2006	12/11/2006	Yes		
2007-12	Environment & Energy Publishing, LLC	Correspondence with members of Congress, CBD RE: 2000 National Assessment of Potential Consequences of climate Variability and Change	11/17/2006	12/19/2006	No		
2007-12	Black Helterline LLP	Proposed EPA Guidance interpreting Rapanos v. US	7/10/2007	12/12/2007	No	2007-31	
2007-13	Business Decisions Info, Inc.	EEO investigations on contractors	11/15/2006	12/21/2006	No		
2007-14	Shields Mott Lund LLP	New Orleans Housing Developments	12/29/2006	1/18/2007	Yes		



Council on Environmental Quality FOIA Logs, 1/25/06-1/25/11

TRACKING #	REQUESTER	BRIEF DESCRIPTION OF INFORMATION REQUESTED	RECEIVED	CLOSED	RECORDS RELEASED?	ADD'L NUMBERS	SUBMITTED > 45 DAYS BEFORE 1/25/2011; COMPLETE AND FINAL RESPONSE NOT YET ISSUED
2007-15	Richard Cookson	List of meetings between CEQ/Clean and Safe Energy Coalition	12/4/2006	2/2/2007	No		
2007-15	Save Our Wild Salmon	Wild Salmon	7/27/2007	7/23/2008	No	2007-33	
2007-16	Competitive Enterprise Institute	CCSP/USGCRP & "Our Changing Planet"	2/21/2007	4/15/2008	Yes	2007-01	
2007-16	Olin Hale	Department of Labor and Nuclear Regulatory Commission records related to litigation involving Maine Yankee Nuclear Power Plant	9/8/2007	11/1/2007	No	2007-35	
2007-17	National Security Archives	Executive Order 13392	9/17/2008	2/21/2008	Yes		
2007-18	(b) (6)	Any records related to requestor	2/13/2007	5/11/2007	No		
2007-18	James Patterson	Landing gear malfunction of Air Force One	9/24/2007	10/9/2007	No	2007-19	
2007-19	Michael King	List of agency officials appointed to implement Executive Order 13423	2/1/2007	10/18/2007	Yes	2007-17	
2007-19	National Security Archives	Electronic Archiving	9/28/2008	11/9/2007	Yes		
2007-20	<i>Original request not available in CEQ active files</i>	9/11 Working group	4/6/2007	5/9/2007	Yes		
2007-24	Thomson West	Lexis/Nexis purchasing and contract information.	4/30/2007	5/29/2007	No		
2007-25	Adna Saldinger	All CEQ emails sent between 1-1-07 and 2-01-07 containing the phrase "global warming."	5/8/2007	7/16/2007	No		
2007-26	Aaron Gannon	All documents related to CEQ FOIA requests from FY2007	5/9/2007	5/22/2007	Yes		
2007-27	Thomas Sauder	Infectious Material	3/16/2007	5/22/2007	No		
2007-29	Wyatt, Tarrant & Combs, LLP	JETCO	6/4/2007	7/2/2007	No	2007-08	
2007-30	Austin-Tetra Inc.	Service Task Order/Statements of work FY2005-07	6/5/2007	6/29/2007	No	2007-09	
2007-32	Derek Barringer	All documents related to CEQ FOIA requests and list of requesters	7/20/2007	7/21/2007	No	2007-11	
2007-34	Faith Connelly	Racial breakdown data of CEQ employees	6/27/2007	8/2/2007	No		
2007-36	National Security Archives	Executive Order 13392	9/17/2007	2/21/2008	Yes		
2007-37	National Security Archives	Electronic Archiving Procedures	9/28/2007	9/9/2007	Yes		
2008-01	Sandra Robles	Strategic/Environmental Plan for the City of New York	10/8/2007	10/19/2007	No		

**Council on Environmental Quality FOIA Logs, 1/25/06-1/25/11**

<b>TRACKING #</b>	<b>REQUESTER</b>	<b>BRIEF DESCRIPTION OF INFORMATION REQUESTED</b>	<b>RECEIVED</b>	<b>CLOSED</b>	<b>RECORDS RELEASED?</b>	<b>ADD'L NUMBERS</b>	<b>SUBMITTED &gt; 45 DAYS BEFORE 1/25/2011; COMPLETE AND FINAL RESPONSE NOT YET ISSUED</b>
2008-02	Shirley Lee	Membership of Citizens' Advisory Committee of CEQ; CEQ's EJ Guidance policy	10/26/2007	11/2/2007	Yes		
2008-03	Michael Rutz	Global 2000 Report to the President	10/27/2007	10/29/2007	No		
2008-04	Skull Valley Band of Goshute Indians	Skull Valley Band of Goshute Indians; Nuclear fuel rod storage	10/31/2007	2/21/2008	Yes		
2008-05	Adam Faragelli	Key studies on human impact re: greenhouse gases/fossil fuel burning and global climate change	11/30/2007	12/6/2008	No		
2008-06	Jay Gourley	Information related to atrazine records	12/25/2007	1/10/2008	No		
2008-07	Michael Ravnitzky	All documents related to CEQ FOIA requests from FY 2005-present	12/28/2007	2/14/2008	Yes		
2008-08	Greenpeace	Auto Alliance	1/10/2008	1/30/2008	No		
2008-09	Greenpeace	Correspondence between CEQ and EPA re: state based regulation of carbon dioxide emissions AND copies of all records in CEQ files obtained from other agencies or that contain info obtained from other agencies re: state based regulation of carbon dioxide emissions from automobiles	1/10/2008	5/15/2008	Yes		
2008-10	Sunlight Foundation	Correspondence logs	1/17/2008	2/5/2008	No		
2008-12	Osha Davidson	California Waiver	1/24/2008	5/15/2008	Yes		
2008-11	Natalie Linton		1/31/2008	2/1/2008	Yes		
2008-13	Public Citizen	Documents from 2001-07 related to fuel economy standards and reducing greenhouse gas emissions	2/4/2008	5/15/2008	Yes		
2008-14	Sunlight Foundation		2/7/2008	3/27/2008	No		
2008-15	Michael Ravnitzky	Letter of request and final response to selected cases	3/4/2008	4/8/2008	Yes		
2008-16	Sunlight Foundation		3/4/2008	3/27/2008	No		
2008-17	M. Frandsen	Hiring employees using Schedule A certification process hiring authority for people with disabilities	3/7/2008	3/25/2008	No		
2008-18	Ken Buford	Donald Powell	3/19/2008	3/25/2008	No		
2008-19	Diamond Associates		4/8/2008	4/8/2008	No		

Council on Environmental Quality FOIA Logs, 1/25/06-1/25/11

TRACKING #	REQUESTER	BRIEF DESCRIPTION OF INFORMATION REQUESTED	RECEIVED	CLOSED	RECORDS RELEASED?	ADD'L NUMBERS	SUBMITTED > 45 DAYS BEFORE 1/25/2011; COMPLETE AND FINAL RESPONSE NOT YET ISSUED
2008-20	Public Citizen	Lobbyists	4/2/2008	7/2/2008	Yes		
2008-21	Sunlight Foundation		4/14/2008	4/15/2008	No		
2008-22	Columbia Research Corp	Tony Williams	4/17/2008	5/16/2008	Yes		
2008-23	Center for Biological Diversity		4/22/2008	7/17/2008	Yes		
2008-24	Governor Mark Warner of Virginia		5/12/2008	5/13/2008	No		
2008-25	Kenny Hulshof		5/14/2008	5/15/2008	No		
2008-26	A. Viscomi		5/20/2008	5/20/2008	No		
2008-27	Sunlight Foundation		5/28/2008	5/29/2008	No		
2008-28	Marriott		5/28/2008	5/29/2008	No		
2008-29	Public Citizen		6/20/2008	6/25/2008	Yes		
2008-30	Environment & Energy Publishing, LLC	CEQ FOIA requests re: global warming from Jan. 1, 2001 - July 24, 2008	7/25/2008	8/1/2008	No		
2008-31	Environment & Energy Publishing, LLC	EPA draft GHG findings	7/25/2008	8/1/2008	Yes		
2008-32	Sunlight Foundation	June 1-30, 2008 communications between Congress and CEQ	7/30/2008	8/1/2008	No		
2008-33	Mindy Strand	Cancer risk re: chlorinated water story	7/31/2008	7/31/2008	No		
2008-34	AGL Resources, Inc.	Powerpoint slides for 8/11 presentation on Energy and Climate Change by Honorable James Connaughton	8/19/2008	9/9/2008	Yes		
2008-35	Troy Martin	Education and Colleges, Federal Bonding, Re-Entry, Small Business Loans, Federal & Pell Grants, Fannie Mae, Freddie Mac, Homes from HUD, Gift Houses, Fed. Bureau of Prisons Statistics and Entrepreneur Programs	9/3/2008	9/9/2008	No		
2009-01	Center for Public Integrity	Coal Combustion waste & disposal	10/6/2008	10/17/2008	No		
2009-02	Jason Angell	Information on clean-up of methamphetamine labs	12/18/2008	12/18/2008	No		
2009-04	Cynthia O'Murchu	CEQ Staff Statistics	12/31/2008	1/5/2009	Yes		
2009-03	Richard Gold	Atomic Energy Commission	1/22/2009	1/23/2009	No	2009-05	
2009-06	Dan Bonham	Water Quality studies from Devil Lake, ND	1/27/2009	2/10/2009	Yes		
2009-07	Barbara Bliss	CEQ background data & achievements	1/29/2009	2/10/2009	Yes		

Council on Environmental Quality FOIA Logs, 1/25/06-1/25/11

TRACKING #	REQUESTER	BRIEF DESCRIPTION OF INFORMATION REQUESTED	RECEIVED	CLOSED	RECORDS RELEASED?	ADD'L NUMBERS	SUBMITTED > 45 DAYS BEFORE 1/25/2011; COMPLETE AND FINAL RESPONSE NOT YET ISSUED
2009-08	Alexander Cohen	PAS nominees Ethics agreements and background	2/5/2009	2/12/2009	Yes		
2009-09	Jeff Fisher	Report Request	2/9/2009	2/10/2009	No		
2009-10	Markey Pierre	CEQ Meetings	2/10/2009	2/12/2009	No		
2009-12	Congressional Quarterly	Sutley follow-up with Senate Environment and Public Works Committee Jan. 14, 2009 Hearing	2/12/2009	2/24/2009	No		
2009-13	Kristine Wilson	10 most recent lead agency determinations issued by CEQ in response to requests made under 40 CFR § 1501.5(e)	2/12/2009	3/6/2009	Yes		
2009-14	Associated Press	Sutley calendar of 1st day	2/20/2009	3/12/2009	Yes		
2009-15	B. Yakupzack	Hunting Heritage and Wildlife Conservation Brochure	3/4/2009	3/5/2009	No		
2009-16	Associated Press	Travel expenses by CEQ employees	3/26/2009	4/24/2009	Yes		
2009-17	Ivan White	Chairman's Email	3/29/2009	3/31/2009	Yes		
2009-18	Woody Voinche	Email regarding FBI surveillance, chemical releases, and lawsuits	3/31/2009	4/1/2009	No		
2009-19	Dow Jones News Service	Correspondence between CEQ and 1) Congressional offices 2) OMB on issues that relate to climate change/greenhouse gas/carbon dioxide policy positions, considerations and input.	4/7/2009	6/4/2009	Yes		
2009-20	Cliff Kincaid	Biography and CV of Van Jones	4/16/2009	5/9/2009	No		
2009-21	Namovitch	Craig Erdich	5/2/2009	5/12/2009	Yes		
2009-22	Cliff Kincaid	Van Jones hiring decision	5/8/2009	5/9/2009	No		
2009-23	Lynne Cohen	Presidential priorities in green technology	5/12/2009	5/21/2009	Yes	2009-22	
2009-24	Cliff Kincaid	Appointment of Van Jones	5/20/2009	6/16/2009	Yes	2009-23	
2009-25	Earthjustice & Save Our Wild Salmon	Communication with sovereign entities	5/26/2009	7/23/2009	Yes	2009-24	
2009-26	John Ross	Any general information on banking and creditors; information on state IDs	6/1/2009	6/8/2009	No	2009-25	
2009-27	Nicholas Howie	Any records and correspondence between CEQ and Robert F. McDonnell of Virginia	6/8/2009	7/8/2009	No	2009-25	

Council on Environmental Quality FOIA Logs, 1/25/06-1/25/11

TRACKING #	REQUESTER	BRIEF DESCRIPTION OF INFORMATION REQUESTED	RECEIVED	CLOSED	RECORDS RELEASED?	ADD'L NUMBERS	SUBMITTED > 45 DAYS BEFORE 1/25/2011; COMPLETE AND FINAL RESPONSE NOT YET ISSUED
2009-28	Service Employees International Union	Information related to any security contracts between CEQ and local security contractors excluding Federal Protective Services	6/15/2009	6/16/2009	No	2009-26	
2009-29	GSA Print Depot	IMPAC Purchase Card Holder List	6/22/2009	8/22/2009	No	2009-27	
2009-30	Brandi Cole	Any information related to the benefits of environmental education	6/24/2009	6/26/2009	No	2009-28	
2009-31	David Murray	Biographies of current CEQ staff	7/1/2009	7/7/2009	Yes	2009-29	
2009-32	Politico	Executive Order 13490	7/28/2009	8/20/2009	No	2009-30	
2009-33	VetSource, Inc.	Authorization of government credit cards	8/7/2009	8/24/2009	Yes	2009-31	
2009-34	Stanley Tromp	All information and documents related to Alberta Tar Sands	8/10/2009	9/23/2009	Yes	2009-32	
2009-35	Judicial Watch	All information and documents related to Van Jones	8/12/2009	8/19/2009	No	2009-33	
2009-36	Richard Telofski	Friends of the Earth FOIA request	8/12/2009	8/24/2009	No	2009-34	
2009-37	Politico	All information and documents related to ethics records of political appointees	8/13/2009	9/24/2009	Yes	2009-35	
2009-38	David Lewis	Schedule C Position	8/24/2009	11/20/2009	Yes	2009-36	
2009-39	Cliff Kincaid	All information regarding Glenn Beck and Van Jones	8/25/2009	9/23/2009	Yes	2009-37	
2009-40	US Chamber of Commerce	Creation of US Climate Change Science Program	8/25/2009	8/10/2010	Yes	2009-38	
2009-41	Nadia Badilla	FBI Surveillance	8/26/2009	9/21/2009	No	2009-39	
2009-42	Cliff Kincaid	All information related to the resignation of Van Jones	9/6/2009	10/23/2009	Yes	2009-40	
2009-43	Stephen Merrill	List of salaries for CEQ staff	9/6/2009	10/19/2009	Yes	2009-41	
2009-44	Julie Yeryung	Office of Energy and Climate Policy	9/8/2009	9/16/2009	No	2009-42	
2009-45	National Security Archives	Implementation of January 21, 2009 FOIA Memo	9/16/2009	10/19/2009	Yes	2009-43	
2009-46	Steven Hawley	Records pertaining to the Biological Opinion on endangered salmon in the Federal Columbia River Hydrosystem	9/18/2009	10/20/2009	Yes	2009-44	
2009-47	Leslie Barras	Information related to NEPA staffing capacity under the Stimulus Act	9/28/2009	10/21/2009	Yes	2009-45	
2010-00	Denise Hudson	Information related to the hiring decision and compensation of Van Jones	10/7/2009	10/20/2009	Yes		

Council on Environmental Quality FOIA Logs, 1/25/06-1/25/11

TRACKING #	REQUESTER	BRIEF DESCRIPTION OF INFORMATION REQUESTED	RECEIVED	CLOSED	RECORDS RELEASED?	ADD'L NUMBERS	SUBMITTED > 45 DAYS BEFORE 1/25/2011; COMPLETE AND FINAL RESPONSE NOT YET ISSUED
2010-01	Charles Duhigg, New York Times	2008-2009 records on arsenic	10/27/2009	12/4/2009	No	2010-02	
2010-02	Charles Duhigg, New York Times	2008-2009 records on arsenic	10/27/2009	11/4/2009	No		
2010-03	Damon Moglen, Greenpeace	Climate Change Science 2009 Compendium	11/5/2009	11/19/2010	No		
2010-04	Henry Schuck	Organization chart for CEQ	11/9/2009	11/19/2009	No		
2010-05	Ian Cairns, University of Washington	Citations of cases summarized in NEPA litigation surveys	12/1/2009	12/4/2009	Yes		
2010-06	George Sexton, Klamath-Siskiyou Wildlands Center	Any information related to fire suppression actions in wilderness areas within Region 5 of US Forest Service	12/22/2009	1/20/2010	No	2010-05	
2010-07	Michael Kroposki, Esq., Aviation Noise Consultants	Information related to the applicability of fees to search for environmental impact documents	1/14/2010	1/20/2010	No	2010-06	
2010-08	Khary Cauthen	Unable to locate original request	1/14/2010	1/20/2010	Yes	2010-07	
2010-09	Daniel Davenport, Ithaca College	All documents related to CEQ FOIA requests for 2007	1/22/2010	1/22/2010	Yes		
2010-10	Russ Germick, Repower USA Corp.	Any information on applications for clean energy manufacturing tax credit	1/26/2010	2/12/2010	No	2010-09	
2010-11	(b) (6)	Any documents pertaining to himself	1/28/2010	2/16/2010	No	2010-10	
2010-11a	Amy Gooden, Democratic Senatorial Campaign Committee	Any correspondence between CEQ and former U.S. Senator Daniel Coats	2/17/2010	2/23/2010	No		
2010-12	Patsy Brumfield, Northeast Mississippi Daily Journal	Information related to House and Senate members expressing support for candidates to be considered for US attorneys by the President	2/18/2010	3/10/2010	No		
2010-13	Bryan Myrick	Daily schedule of Van Jones from May 2009	2/26/2010	5/18/2010	Yes		
2010-14	Abigail Loren Madoff, Syracuse University	Records for CEQ Senior Executive Service employees	3/1/2010	3/12/2010	No		
2010-15	Ryan A. Kriegshauser, Graves Bartle Marcus & Garrett, LLC	Information related to Rep. Todd Tiahrt visits to the White House from 12/2009 - 1/2010	3/3/2010	3/5/2010	No		
2010-16	Jim McElhatton, Washington Times	Any information related to transition team reports and CEQ specific documents from 11/2/10 - 1/20/11	3/5/2010	5/18/2010	Yes		

Council on Environmental Quality FOIA Logs, 1/25/06-1/25/11

TRACKING #	REQUESTER	BRIEF DESCRIPTION OF INFORMATION REQUESTED	RECEIVED	CLOSED	RECORDS RELEASED?	ADD'L NUMBERS	SUBMITTED > 45 DAYS BEFORE 1/25/2011; COMPLETE AND FINAL RESPONSE NOT YET ISSUED
2010-17	Keisha Sedlacek	Records from stakeholders and experts from Climate Change Adaptaion Task Force listening sessions	3/17/2010	6/21/2010	Yes		
2010-18	Andrew Pederson	All documents related to CEQ FOIA requests for 2009	4/8/2010	4/9/2010	No		
2010-19	Paul Mortensen, Hanks & Mortensen, P.C.	CEQ communications with Southern Utah Wilderness Alliance and documents related to monument designations	5/11/2010	6/2/2010	Yes		
2010-20	Marian Wang, ProPublica	All documents and correspondence relating to Categorical Exclusions drilling permits in the Gulf of Mexico	5/14/2010	6/11/2010	Yes		
2010-21	J. Bloom, Washington Times	List of the five longest FOIA pending requests	6/1/2010	6/21/2010	Yes		
2010-22	Claudette Juska, Greenpeace	All communications between CEQ and BP representatives or contractors	6/8/2010	6/21/2010	No		
2010-23	Joe Stephens, Washington Post	All communications between CEQ and BP representatives or contractors	6/11/2010	7/21/2010	Yes		
2010-24	Miriam Liberatore	A copy of British Petroleum's response plan	6/14/2010	6/21/2010	No		
2010-25	Emily A. Plullgo, National Security Archives	All information and documents related to discussions of the 1994 departure of Haitian Dictator	6/25/2010	6/30/2010	Yes		
2010-26	James Coleman, Sidley Austin LLP	All correspondence between CEQ and EPA related to the promulgation of GHG rules	8/13/2010	Pending	Yes		Pending
2010-27	Dina Cappiello, Associated Press	All documents and correspondence related to President Obama's March 31, 2010 speech related to drilling in the Gulf of Mexico	8/30/2010	Pending	Yes		Pending; Interim release on 2/2/2011
2011-01	Nate Jones, National Security Archives	All documentation and information related to the implementation of FOIA at CEQ	10/1/2010	Pending			Pending
2011-02	James Mitchell, Food & Water Watch	All information and documents related to discussion of genetically-engineered salmon	10/13/2010	Pending	Yes		Pending; Interim release on 2/4/2011
2011-03	Sandy Taylor, Alliance to Protect Nantucket Sound	All information and documents related to the proposed wind farm at Cape Wind	10/18/2010	Pending	Yes		Pending; Interim release on 2/4/2011
2011-04	Aaron Price	A copy of the Climate Change Adaptation Task Force budget	10/19/2010	1/5/2011	Yes		

**Council on Environmental Quality FOIA Logs, 1/25/06-1/25/11**

<b>TRACKING #</b>	<b>REQUESTER</b>	<b>BRIEF DESCRIPTION OF INFORMATION REQUESTED</b>	<b>RECEIVED</b>	<b>CLOSED</b>	<b>RECORDS RELEASED?</b>	<b>ADD'L NUMBERS</b>	<b>SUBMITTED &gt; 45 DAYS BEFORE 1/25/2011; COMPLETE AND FINAL RESPONSE NOT YET ISSUED</b>
2011-05	Amy Woodward, Independence Institute	A copy of CEQ's FOIA log from July 1, 2010 to Jan. 1, 2011	1/24/2011	Pending			



#### NOTE

This document contains correspondence between the Council on Environmental Quality (CEQ) and FOIA requesters for those FOIA requests that were submitted to CEQ more than 45 days prior to January 25, 2011 and to which a complete and final response has not yet been issued. This material responds to Item 3 of the House Committee on Oversight and Government Reform's January 25, 2011 request for information about CEQ's FOIA implementation.

The bulk of this correspondence relates to a FOIA request submitted by Citizens for Responsibility and Ethics in Washington (CREW) on May 12, 2006, seeking records related to climate change science. This request has been in litigation since February 2007, and there is extensive correspondence relating to this request. CEQ is represented by the Department of Justice in this matter, and we would need to work with DOJ counsel to provide a comprehensive set of correspondence for this request. Therefore, as CEQ confirmed with Committee staffers Tegan Millspaw and Hudson Hollister by phone conversation on February 11, 2011, we are providing a snapshot of the correspondence in *CREW v. CEQ*, below, to supplement the CREW correspondence in the pages that follow.

#### Snapshot of CREW Correspondence

- May 12, 2006 – CREW submits FOIA request to CEQ.
- On or about October 27, 2006, CEQ and CREW reached an agreement on the proper scope of the FOIA Request.
- Between November 3, 2006 and February 20, 2007, CEQ released three sets of documents containing a total of approximately 1,500 pages of documents.
- February 20, 2007 – CREW filed suit in the United States District Court for the District of Columbia (1:07-cv-00365-RMU).
- Since February 20, 2007, CEQ, represented by DOJ, has continued communications with CREW to make additional releases of material as quickly as possible given CEQ's available resources.

**FACSIMILE COVER SHEET**

**Citizens for Responsibility and Ethics in Washington  
1400 Eye Street, N.W., Suite 450, Washington, D.C. 20005**

TO: KIMMY CAUTHER

FAX:

202 -

(b) (6)

~~202~~

(b) (6)

FROM: TIM MOONEY

PHONE:

202 -

(b) (6)

DATE: MAY 12, 2006

PAGES: 4 (including cover)

RE: FOIA REQUEST

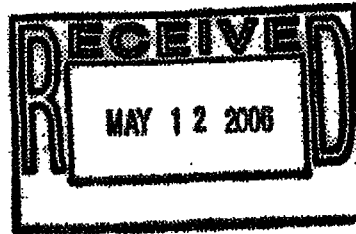
ORIGINAL SENT VIA USPS.

pages transmitted are privileged and confidential

# **CREW** | citizens for responsibility and ethics in washington

May 12, 2006

Khary Cauthen  
Chief of Staff  
Council on Environmental Quality  
722 Jackson Place, NW  
Washington, DC 20503



**Re: FOIA Request**

Dear Mr. Cauthen:

Citizens for Responsibility and Ethics in Washington ("CREW") makes this request for records, regardless of format, medium, or physical characteristics, and including electronic records and information, audiotapes, videotapes, and photographs, pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, *et seq.*

Specifically, CREW seeks any and all records from any office of the Council on Environmental Quality ("CEQ"), including any and all field offices, dating from January 1, 2001, to the present, that mention or relate to the causes associated with the increase in the average temperature of the Earth's atmosphere and oceans that has been observed in recent decades ("climate change" or "global warming"), including, but not limited to, all records relating to scientific and policy reports. Of particular interest are any and all of the aforementioned records of or references to communications with the following persons or entities, or any employees or representatives thereof: 1) President of the United States; 2) Vice President of the United States; 3) any United States cabinet official and cabinet-level agency; 4) any other federal agency; 5) any member of Congress or member's staff; and 6) The Coal Institute, American Petroleum Institute, and/or any lobbying group, trade association, or industry group affiliated with the energy or extractive resources industry.

In addition, CREW seeks any and all CEQ records, dating from January 1, 2001, to the present, that were part of the reviewing or drafting process for all reports by the Climate Change Science Program ("CCSP"), including but not limited to Our Changing Planet and Strategic Plan for the U.S. Climate Change Science Program. Please include any and all documents submitted to and/or examined by CEQ for that report, as well as any drafts submitted to the Chief of Staff's office prior to publication.

Please search for responsive records regardless of format, medium, or physical characteristics. We seek records of any kind, including electronic records, audiotapes, videotapes, photographs, and back-up tapes. Our request includes any telephone messages, voice mail messages, daily agenda and calendars, information about scheduled meetings and/or

discussions, whether in-person or over the telephone, agendas for those meetings and/or discussions, participants included in those meetings and/or discussions, minutes of any such meetings and/or discussions, the topics discussed at those meetings and/or discussions, e-mail regarding meetings and/or discussions, e-mail or facsimiles sent as a result of those meetings and/or discussions, and transcripts and notes of any such meetings and/or discussions to the extent they relate to the CEQ's evaluation of global climate change.

If it is your position that any portion of the requested records is exempt from disclosure, CREW requests that you provide an index of those documents as required under Vaughn v. Rosen, 484 F.2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1972). As you are aware, a Vaughn index must describe each document claimed as exempt with sufficient specificity "to permit a reasoned judgment as to whether the material is actually exempt under FOIA." Founding Church of Scientology v. Bell, 603 F.2d 945, 959 (D.C. Cir. 1979). Moreover, the Vaughn index must "describe each document or portion thereof withheld, and for each withholding it must discuss the consequences of supplying the sought-after information." King v. United States Dep't of Justice, 830 F.2d 210, 223-24 (D.C. Cir. 1987) (emphasis added). Further, "the withholding agency must supply 'a relatively detailed justification, specifically identifying the reasons why a particular exemption is relevant and correlating those claims with the particular part of a withheld document to which they apply.'" Id. at 224, citing Mead Data Central v. United States Dep't of the Air Force, 566 F.2d 242, 251 (D.C. Cir. 1977).

In the event that some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. See 5 U.S.C. § 552(b) ("Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt ..."); see also Schiller v. Nat'l Labor Relations Bd., 964 F.2d 1205, 1209 (D.C. Cir. 1992). If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt and how the material is dispersed throughout the documents. Mead Data Central, 566 F.2d at 261. Claims of non-segregability must be made with the same degree of detail as required for claims of exemption in a Vaughn index. If a request is denied in whole, please state specifically that it is not reasonable to segregate portions of the record for release.

#### Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii), CREW requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government and the disclosures will likely contribute to a better understanding of relevant government procedures by CREW and the general public in a significant way. This subject is of particular interest and importance to the public in light of the revelations that CEQ officials edited conclusions made by government climate experts based on political expediency rather than sound science. 60 Minutes: Rewriting The Science (CBS

television broadcast, Mar. 19, 2006). Moreover, the request is primarily and fundamentally for non-commercial purposes. 5 U.S.C. § 552(a)(4)(A)(iii). See, e.g., McClellan Ecological v. Carlucci, 835 F.2d 1282, 1285 (9th Cir. 1987). Specifically, these records are likely to contribute to the public's understanding of the manner and extent to which outside political forces may have affected and overridden the scientific judgments of the CCSP charged with reporting climate change data to Congress pursuant to The U.S. Global Change Research Act. 15 U.S.C. § 2921.

CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue code. CREW is committed to protecting the right of citizens to be aware of the activities of government officials and to ensuring the integrity of those officials. CREW is dedicated to empowering citizens to have an influential voice in government decisions and in the government decision-making process. CREW uses a combination of research, litigation, and advocacy to advance its mission. The release of information garnered through this request is not in CREW's financial interest. CREW will analyze the information responsive to this request and will likely share its analysis with the public, either through memoranda, reports, or press releases. CREW has an established record of carrying out these type of activities, as evidenced through its website, [www.citizensforethics.org](http://www.citizensforethics.org).

Under these circumstances, CREW satisfies fully the criteria for a fee waiver.

#### Conclusion

Please respond to this request in writing within 20 days as requested under 5 U.S.C. §552(a)(6)(A)(i). If all of the requested documents are not available within that time period, CREW requests that you provide it with all requested documents or portions of documents that are available within that time period.

If you have any questions about this request or foresee problems in releasing fully the requested records within the 20-day period, please call me within that time period. I can be reached at (202) 408-5565. Also, if CREW's request for a fee waiver is not granted in full, please contact me immediately upon making such a determination. Please send the requested documents to Tim Mooney, Citizens for Responsibility and Ethics in Washington, 1400 Eye Street, N.W., Suite 450, Washington, D.C. 20005.

Sincerely,



Tim Mooney  
Senior Counsel

Citizens for Responsibility and Ethics in Washington



EXECUTIVE OFFICE OF THE PRESIDENT  
COUNCIL ON ENVIRONMENTAL QUALITY  
WASHINGTON, D.C. 20503

October 27, 2006

Dan Roth  
Senior Counsel  
Citizens for Responsibility and  
Ethics in Washington  
1400 Eye Street, NW, Suite 450  
Washington, DC 20005

Re: Freedom of Information Act request regarding climate change science

Dear Mr. Roth:

This is to summarize our resolution of the scope of the May 12, 2006 Freedom of Information Act ("FOIA") request by Citizens for Responsibility and Ethics in Washington ("CREW") and its request for a fee waiver. As we discussed, based on letters exchanged between CREW and the Council on Environmental Quality ("CEQ"), the scope of CREW's request is as follows:

CREW requests copies of all CEQ documents (electronic or hard copy) that refer to climate change science issues, including activities of the Climate Change Science Program (CCSP), from January 20, 2001, to October 26, 2006. Excluded from the scope of this request are publicly available documents (e.g., newspaper clips that have not been annotated) and documents that only pertain to activities of junior CEQ staff (e.g., mail routing by administrative staff).

CREW requests and CEQ agrees to produce a Vaughn index identifying, document-by-document, all documents withheld under FOIA. Given the large volume of documents requested, CEQ intends to begin releasing documents during the week of October 30, 2006, and CREW agrees to accept the production of documents and Vaughn indices on a rolling basis.

Based on this clarification and CREW's August 11, 2006 letter regarding its fee waiver request, CEQ hereby grants CREW's request for a fee waiver. We thank you for your cooperation throughout this process.

Yours truly,

Edward A. Boling  
Deputy General Counsel  
Freedom of Information Officer



EXECUTIVE OFFICE OF THE PRESIDENT  
COUNCIL ON ENVIRONMENTAL QUALITY  
WASHINGTON, D.C. 20503

June 5, 2007

Scott Hodes, Esq.  
Citizens for Responsibility and  
Ethics in Washington  
1400 Eye Street, N.W., Suite 450  
Washington, D.C. 20005

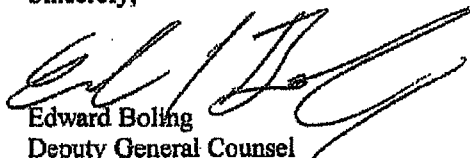
VIA FIRST CLASS MAIL

Re: *CREW v. CEQ*, No. 07-CV-365 (D.D.C) (RMU)

Dear Mr. Hodes

Pursuant to your request, enclosed please find approximately 1,000 pages of documents with bates No.'s 209 -546.

Sincerely,



Edward Boling  
Deputy General Counsel  
Freedom of Information Officer



EXECUTIVE OFFICE OF THE PRESIDENT  
COUNCIL ON ENVIRONMENTAL QUALITY  
WASHINGTON, D.C. 20503

June 11, 2007

Scott Hodes, Esq.  
Citizens for Responsibility and  
Ethics in Washington  
1400 Eye Street, N.W., Suite 450  
Washington, D.C. 20005

VIA FIRST CLASS MAIL

Re: *CREW v. CEQ*, No. 07-CV-365 (D.D.C) (RMU)

Dear Mr. Hodes

Pursuant to your request, enclosed please find approximately 1,000 pages of documents with  
bates No.'s 649-820.

Sincerely,

Edward Boling  
Deputy General Counsel  
Freedom of Information Officer





EXECUTIVE OFFICE OF THE PRESIDENT  
COUNCIL ON ENVIRONMENTAL QUALITY  
WASHINGTON, D.C. 20503

July 16, 2007

Scott Hodes, Esq.  
Citizens for Responsibility and  
Ethics in Washington  
1400 Eye Street, N.W., Suite 450  
Washington, D.C. 20005

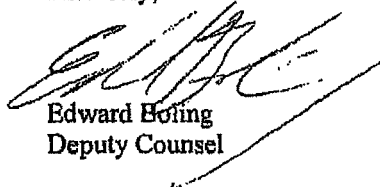
VIA FIRST CLASS MAIL

Re: *CREW v. CEQ*, No. 07-CV-365 (D.D.C) (RMU)

Dear Mr. Hodes:

Pursuant to your request, enclosed please find approximately 250 pages of documents with bates No.'s 836-1097. We are releasing documents with redactions pursuant to title 5 U.S.C. § 552(b)(5) and (b)(6). These and other documents, which were withheld pursuant to title 5 U.S.C. § 552(b)(5), will be identified on a *Vaughn* index at a later date.

Sincerely,



Edward Boiling  
Deputy Counsel



EXECUTIVE OFFICE OF THE PRESIDENT  
COUNCIL ON ENVIRONMENTAL QUALITY  
WASHINGTON, D.C. 20503

July 23, 2007

Scott Hodes, Esq.  
Citizens for Responsibility and  
Ethics in Washington  
1400 Eye Street, N.W., Suite 450  
Washington, D.C. 20005

VIA FIRST CLASS MAIL

Re: *CREW v. CEQ*, No. 07-CV-365 (D.D.C) (RMU)

Dear Mr. Hodes:

Pursuant to your request, enclosed please find approximately 450 pages of documents with bates No.'s 1101-1260. We are releasing documents with redactions pursuant to title 5 U.S.C. § 552(b)(5) and (b)(6). These and other documents, which were withheld pursuant to title 5 U.S.C. § 552(b)(5), will be identified on a *Vaughn* index at a later date.

Additionally we are providing copies of documents, (previously produced on June 5<sup>th</sup> and inadvertently copied incorrectly) referred to in your June 12<sup>th</sup> letter as -Adobe pages 170-91 and 486-505.

Sincerely,

Edward Boling  
Deputy Counsel



EXECUTIVE OFFICE OF THE PRESIDENT  
COUNCIL ON ENVIRONMENTAL QUALITY  
WASHINGTON, D.C. 20503

August 10, 2007

Scott Hodes, Esq.  
Citizens for Responsibility and  
Ethics in Washington  
1400 Eye Street, N.W., Suite 450  
Washington, D.C. 20005

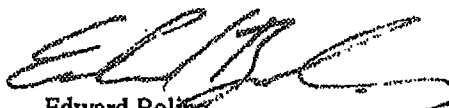
VIA FIRST CLASS MAIL

Re: *CREW v. CEQ*, No. 07-CV-365 (D.D.C) (RMU)

Dear Mr. Hodes:

Pursuant to your request, enclosed please find approximately 900 pages of documents with bates No.'s 1261-1320 and 1468-1654. We are releasing documents with redactions pursuant to title 5 U.S.C. § 552(b)(5) and (b)(6). These and other documents, which were withheld pursuant to title 5 U.S.C. § 552(b)(5), will be identified on a *Vaughn* index at a later date.

Sincerely,



Edward Boling  
Deputy Counsel



EXECUTIVE OFFICE OF THE PRESIDENT  
COUNCIL ON ENVIRONMENTAL QUALITY  
WASHINGTON, D.C. 20503

August 24, 2007

Scott Hodes, Esq.  
Citizens for Responsibility and  
Ethics in Washington  
1400 Eye Street, N.W., Suite 450  
Washington, D.C. 20005


VIA FIRST CLASS MAIL

Re: *CREW v. CEQ*, No. 07-CV-365 (D.D.C) (RMU)

Dear Mr. Hodes:

Pursuant to your request, enclosed please find approximately 1800 pages of documents with bates No.'s 1661- 1928. We are releasing documents with redactions pursuant to title 5 U.S.C. § 552(b)(5) and (b)(6). These and other documents, which were withheld pursuant to title 5 U.S.C. § 552(b)(5), will be identified on a *Vaughn* index at a later date.

Sincerely,

  
Edward Boling  
Deputy Counsel



EXECUTIVE OFFICE OF THE PRESIDENT  
COUNCIL ON ENVIRONMENTAL QUALITY  
WASHINGTON, D.C. 20503

September 6, 2007

Scott Hodes, Esq.  
Citizens for Responsibility and  
Ethics in Washington  
1400 Eye Street, N.W., Suite 450  
Washington, D.C. 20005

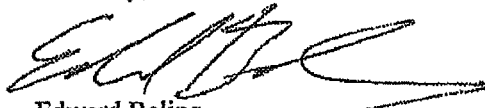
VIA FIRST CLASS MAIL

Re: *CREW v. CEQ*, No. 07-CV-365 (D.D.C) (RMU)

Dear Mr. Hodes:

Pursuant to your request, enclosed please find approximately 1100 pages of documents with bates No.'s 1928A- 2030. We are releasing documents with redactions pursuant to title 5 U.S.C. § 552(b)(5) and (b)(6). These and other documents, which were withheld pursuant to title 5 U.S.C. § 552(b)(5), will be identified on a *Vaughn* index at a later date.

Sincerely,



Edward Boling  
Deputy Counsel



**U.S. Department of Justice**  
Civil Division, Federal Programs Branch

Via First-Class Mail  
P.O. Box 883  
Washington, D.C. 20044

Via Special Delivery  
20 Massachusetts Ave., NW  
Washington, D.C. 20001

Nicholas A. Oldham  
Trial Attorney

Tel: (202) (b) (6)  
Fax: (202) (b) (6)  
Email: nicholas.oldham@ (b) (6)

May 14, 2007

Via First Class Mail and E-Mail

Scott Hodes, Esq.  
Attorney At Law  
P.O. Box 42002  
Washington, D.C. 20015

Re: *CREW v. CEQ*, No. 07-CV-365 (D.D.C.) (RMU)

Dear Mr. Hodes:

I write in response to your letter of May 8, 2007 regarding the above-referenced action. The Council on Environmental Quality ("CEQ") will process the approximately 500 documents mentioned in its April 25, 2007 letter to the House Committee on Oversight and Government Reform, along with the approximately 27,000 pages of documents also referenced in that letter. Because of the nature of the review process outlined in my letter of May 4, 2007 and logistical concerns, CEQ cannot agree to a rolling production every two weeks or agree to notify the Citizens for Responsibility and Ethics in Washington ("CREW") of any withholdings, and the Freedom of Information Act ("FOIA") exemptions invoked for those withholdings, at the specific time of any future productions. In a good faith effort at satisfying CREW's concerns, however, CEQ would agree to produce any documents and discuss with CREW the basis for any withholdings on a rolling basis.

As I stated in my letter of May 4, CEQ currently believes that it will be able to finish processing documents responsive to CREW's FOIA request within the next three months, and thus anticipates being able to file its dispositive motion during or before the week of August 6, 2007. Accordingly, in an effort to accommodate CREW, and in a good faith attempt to expedite the resolution of this matter, CEQ would agree to file the enclosed Joint Briefing Schedule Statement with the Court.

Scott Hodes, Esq.  
May 14, 2007  
Page 2

Sincerely,

A handwritten signature in black ink, appearing to be 'N. Oldham', written over a horizontal line.

Nicholas A. Oldham

Enclosure



**U.S. Department of Justice**  
Civil Division, Federal Programs Branch

**Via First-Class Mail**  
P.O. Box 883  
Washington, D.C. 20044

**Via Special Delivery**  
20 Massachusetts Ave., NW  
Washington, D.C. 20001

Nicholas A. Oldham  
Trial Attorney

Tel: (202) (b) (6)  
Fax: (202) (b) (6)  
Email: nicholas.oldham@ (b) (6)

May 16, 2007

Via First Class Mail and E-Mail

Scott Hodes, Esq.  
Attorney At Law  
P.O. Box 42002  
Washington, D.C. 20015

Re: *CREW v. CEQ*, No. 07-CV-365 (D.D.C.) (RMU)

Dear Mr. Hodes:

I write in response to your letter of May 14, 2007 regarding the above-referenced action. As I stated in my letters of May 4 and May 14, 2007, the Council on Environmental Quality ("CEQ") currently believes that it will be able to finish processing the outstanding documents by the week of August 6, 2007. As I also explained, however, because of the nature of the review process, and logistical concerns (i.e., CEQ does not know in advance the resource constraints it will face at various times over the next three months), CEQ cannot agree to produce and/or discuss any of those documents according to any pre-set rolling schedule, but will agree to produce any documents and discuss any withholdings with the Citizens for Ethics and Responsibility in Washington ("CREW") when feasible.

That said, CEQ fully supports the idea of narrowing the issues in this litigation. Consequently, if CREW believes it would be advantageous to hold off on a briefing schedule until the parties have had a chance to discuss and negotiate the processed materials after the week of August 6, 2007, we would certainly be open to any such proposal. I understand that you have pursued a similar two-step cooperative process in prior Freedom of Information Act cases with my office.

Sincerely,

*Nick Oldham / by Paul B...*  
Nicholas A. Oldham





U.S. Department of Justice  
Civil Division, Federal Programs Branch

Via First-Class Mail  
P.O. Box 883  
Washington, D.C. 20044

Via Special Delivery  
20 Massachusetts Ave., NW  
Washington, D.C. 20001

Nicholas A. Oldham  
Trial Attorney

Tel: (202)(b) (6)  
Fax: (202)(b) (6)  
Email: nicholas.oldham@ (b) (6)

June 21, 2007

Via First Class Mail and E-Mail

Scott Hodes, Esq.  
Attorney At Law  
P.O. Box 42002  
Washington, D.C. 20015

Re: *CREW v. CEQ*, No. 07-CV-365 (D.D.C.) (RMU)

Dear Mr. Hodes:

I write in response to your letter of June 12, 2007. Pursuant to the parties' agreement, the Council on Environmental Quality ("CEQ") is producing documents to the Citizens for Responsibility and Ethics in Washington ("CREW") as they become available on a rolling basis. Also pursuant to the parties' agreement, CEQ will produce a *Vaughn* index with its summary judgment motion, and the basis for any withholdings will be included in that index. Of course, as I stated in my May 16, 2007 letter to you, CEQ is willing to discuss any withholdings with CREW. Thus, to the extent that you have any questions regarding specific documents, I would be happy to discuss those questions with you.

With respect to the number of pages released on June 5, 2007, my email to you estimated the release to be "approximately 1,000" pages, which was simply an estimate on my part. I have confirmed that the package sent to you included all documents that were meant to be released on June 5. With respect to your question about the two documents identified on Adobe pages 170-91 and 486-505, CEQ is looking into the issue and will respond as soon as possible to that question. The pages you identified on Adobe pages 540-41 were not part of CEQ's production, and must have been mistakenly scanned with CEQ's June 5 production when uploaded to CREW's website.

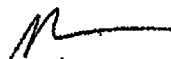
Scott Hodes, Esq.

June 21, 2007

Page 2

Please let me know if you have any further concerns.

Sincerely,

A handwritten signature in dark ink, appearing to be 'N. Oldham', with a horizontal line extending to the right.

Nicholas A. Oldham



**U.S. Department of Justice**  
Civil Division, Federal Programs Branch

By First-Class Mail  
P.O. Box 883  
Washington, D.C. 20044

By Special Delivery  
20 Massachusetts Ave., NW  
Washington, D.C. 20001

Nicholas A. Oldham  
Trial Attorney

Tel: (202) (b) (6)  
Fax: (202) (b) (6)  
Email: nicholas.oldham@ (b) (6)

March 3, 2008

By First-Class Mail And E-Mail

Scott Hodes, Esq.  
Attorney At Law  
P.O. Box, 42002  
Washington, D.C. 20015

Re: *CREW v. CEQ*, No. 07-CV-365 (D.D.C.) (RMU)

Dear Scott:

As I mentioned during our meeting on February 20, 2008, we have recently completed scanning and Bates numbering most of the remaining documents to be processed in the above-referenced Freedom of Information Act litigation, but due to other pressing obligations, CEQ does not have any additional documents to produce at this time. However, CEQ is working as quickly as possible to produce additional documents this month, as well as investigating the numerous issues raised in your February 25, 2008 letter. Accordingly, CEQ expects to provide its March production and a response to your letter within approximately two weeks.

Sincerely,

Nicholas A. Oldham



**U.S. Department of Justice**  
Civil Division, Federal Programs Branch

By First-Class Mail  
P.O. Box 883  
Washington, D.C. 20044

By Special Delivery  
20 Massachusetts Ave., NW  
Washington, D.C. 20001

Nicholas A. Oldham  
Trial Attorney

Tel: (202)(b) (6)  
Fax: (202) [REDACTED]  
Email: nicholas.oldham@ (b) (6)

March 7, 2008

By E-Mail

Scott Hodes, Esq.  
Attorney At Law  
P.O. Box 42002  
Washington, D.C. 20015

Re: *CREW v. CEQ*, No. 07-CV-365 (D.D.C.) (RMU)

Dear Scott:

I write in response to your letters of February 25, 2008 and March 4, 2008. Your letter of February 25 responded to our request that you and your client explore ways to narrow the scope of this litigation as discussed during our meeting on February 20, 2008. The General Counsel of the Council on Environmental Quality ("CEQ") came to that meeting prepared to discuss in detail the more than 7,000 pages of documents provided to your client and available in CEQ's online reading room (<http://www.whitehouse.gov/ceq/foia.html>), as well as the management of this litigation in the context of its significant impact on CEQ's Freedom of Information Act ("FOIA") program. Although you were not prepared to discuss any of the publicly available documents, we believed that our discussion was productive and had laid a foundation for narrowing the scope of the issues in this litigation. As agreed at our meeting, your letter of February 25 provided CEQ with a list of documents and questions that you would like addressed as a starting point for further negotiations. And, as CEQ agreed it would, CEQ began evaluating the numerous issues you raised.

Also at the February 20 meeting, CEQ's General Counsel and I explained to you that CEQ would not have additional documents on March 3, 2008 due to other pressing obligations in February. I then sent you a letter dated March 3 re-iterating this point, but also noting that "CEQ is working as quickly as possible to produce additional documents this month as well as investigating the numerous issues raised in your February 25, 2008 letter." Rather than raising any concerns at our in-person meeting, you waited until your response to my March 3 letter to make baseless attacks on CEQ's good faith. The tone and timing of your letter, to say the least, indicates that CREW has no interest in working with CEQ in resolving CREW's pending FOIA request, and has chosen a course of confrontation over compromise. In light of our numerous

Scott Hodes, Esq.  
March 7, 2008  
Page 2

conversations over the last several months and our specific conversation at the February 20 meeting, we maintain that CREW's choice is ill-advised and, for its part, CEQ will continue its good faith efforts to resolve CREW's FOIA request.

As a preliminary matter, though you claim to understand that "this FOIA request is not the only task that CEQ has," you go on in your March 4 letter to chide CEQ about adherence to its production schedule and reiterate that FOIA is a federal law. CEQ is well aware of its obligations under FOIA and has sought to manage its production schedule to address your questions and resolve this litigation, while at the same time improving its implementation of FOIA in response to other requests. Your response fails to appreciate that CEQ is responding to a broad FOIA request which CREW has refused to narrow, most recently in your February 25 letter.

Perhaps most significantly, your letter states that "many of CEQ's obligations that the agency has decided to put before the FOIA matter are not mandatory but instead are discretionary at the whim of the agency." It is unclear what "obligations" you are alluding to and the statement appears to lack any real understanding of the work of a very small agency with significant obligations under its governing statute, the National Environmental Policy Act ("NEPA"), and other authorities. In fact, under Section 204 of NEPA, it is the duty and function of CEQ to, *inter alia*, review and appraise programs and activities of the Federal Government in light of the policies and procedural requirements of NEPA and to make recommendations to the President with respect to these programs and activities. 42 U.S.C. § 4344. CEQ also has numerous other FOIA requests, some of which were filed before the request that is the subject of this litigation. CEQ's statutory obligations under NEPA and its other FOIA obligations are no less important than CREW's FOIA request simply because CREW demands immediate action. Before attacking CEQ regarding its other obligations, you might learn more about the work of CEQ in environmental impact analysis and public involvement in Federal agency decision-making by reviewing the documents made available at CEQ's online reading room, established pursuant to the e-FOIA amendments of 1996, and CEQ's NEPA website at [www.nepa.gov](http://www.nepa.gov).

Moreover, as I have told you on numerous occasions, CEQ has no more than 24 full-time employees. Until the end of 2007, its legal office was comprised of two attorneys and one administrative specialist; since then, the legal office has been comprised of only one attorney and one administrative specialist, who are responsible for this FOIA matter as well as other matters. CEQ is also actively evaluating candidates to replace its Deputy General Counsel (the agency's FOIA Officer), but will not be able to complete that process for many weeks. Only through the tireless effort of CEQ's limited staff, which included numerous weekends and late nights, has CEQ been able to make productions to CREW so far. FOIA manifestly does not require these employees to sustain such exhaustive efforts, and they have done so because of their dedication to CEQ and in a good faith effort at resolving this litigation.

Scott Hodes, Esq.  
March 7, 2008  
Page 3

In short, CEQ has done more than required by FOIA, and it will continue its good faith efforts to resolve CREW's FOIA request. These efforts include continuing to review the over 500 pages of documents you identified in your February 25 letter as missing attachments. I note, however, that CEQ's review of many of those documents indicates that the answers to your inquiries can be found on the face of the documents. For example, you identified document numbers 591-92 as missing an attachment, which is identified as the text of the Japanese Prime Minister's address to Diet. Although CEQ does not have a copy of the address, the email itself quotes the "relevant section addressing the Kyoto Protocol." You also identify document number 1325 as missing an attachment, which is identified as a copy of a *published* article. The document itself identifies the author, journal, year and topic of the publication, which would enable you to retrieve the document.

In addition, CEQ's review of some of the documents indicates that we have already provided you answers to your inquiries. For example, you identify document numbers 1005 and 1201-1204 as missing attachments. I have already responded to your question about the type of attachment appearing on these documents. Specifically, on January 16, 2008, I informed you by email that "attachment 'att1.htm' is a signature or byproduct of Lotus Notes, which was used by some agencies around the time of the email you identified. Thus, CEQ believes the attachment is a dummy attachment." Despite our previous conversation, you listed the *specific* document that was the basis for our January email exchange in your February 25 letter. It is, of course, a waste of the parties' resources to address same or similar questions on multiple occasions. Finally, although document number 1201-1204 includes a non-dummy attachment, that attachment has clearly been produced.

CEQ has also researched the eleven specific questions stated in your letter of February 25, and responds as follows.

1. "The release for Bates Stamp Numbers 482-528 appear to have pages 19-21 of these documents missing." A review of the release CEQ made indicates that pages 19-21 are not missing; rather, page 18 is simply out of place.
2. "Is there a withholding associated with Bates Stamp Number 847?" Yes. Based on consultation with the State Department, we plan to withhold the attachment pursuant to the deliberative process privilege.
3. "Is aep.txt on Bates Stamp 989-991[] a missing attachment?" No. As noted with regard to "att1.htm" and "att2.gif," the "aep.txt" is a dummy attachment.
4. "Cleared Press Guidance was redacted on Bates Stamp Numbers 1081-1085, are you contending that this is still a deliberative document?" Yes. Based on consultation with the State Department we have confirmed that this is a document that is prepared for the discretionary use of a decision-maker who would address the press regarding pending policy matters.

Scott Hodes, Esq.  
March 7, 2008  
Page 4

5. "Is oleo.bmp on Bates Stamp Numbers 1484-1485[] a missing attachment?" No. Once again, "ole0.bmp" is a dummy attachment.

6. "Is Bates Stamp Number 1547 with redactions the same as Bates Stamp Number 1542 without redactions?" No. The redacted document was released in the context of the initial FOIA request; the second, without redactions, was released on appeal to a FOIA requestor who properly used CEQ's FOIA appeal process.

7. "Are Bates Numbers 2026-2032 the same documents as Bates Stamp 2023-2024 which were released by the House Oversight Committee?" No, as a review of the documents indicates.

8. "Pages 2-3 of the email thread on Bates Stamp Numbers 2855-2856 are missing. Are they withheld or is this an oversight?" The pages were inadvertently omitted when the document was scanned. The complete email is attached to this response.

9. "The even numbered pages for the documents found at Bates Stamp Numbers 3469-3509 appear to be missing." Because of the size of the document, I will forward the complete document to you by mail early next week.

10. "Page 2 of the email thread on Bates Stamp Numbers 3795-3797 appears to be missing." The page was inadvertently omitted when the document was scanned. The complete email is attached to this response.

11. "Where is the report Phil Cooney signed off on referenced in Bates Stamp Number 5134?" This document is the Climate Change Science Strategic Plan that is publicly available at <http://www.climatescience.gov/>.

Finally, as CEQ's General Counsel and I explained during our February 20 meeting, CEQ has been continuing to process the remaining documents that are potentially responsive to CREW's FOIA request. The scanning and bates numbering process was recently completed, as mentioned in my March 3, 2008 letter. Enclosed, please find one document (3 page email) labeled CEQ 007504-CEQ 007506 that CEQ is releasing with redactions pursuant to deliberative process privilege. Moreover, CEQ has referred two documents to the Department of Commerce and two documents to the Department of State for direct response to you.

Scott Hodes, Esq.

March 7, 2008

Page 5

If you would like to discuss this matter further, please do not hesitate to contact me by email or telephone. In that regard, please note that I will be out of the country on March 13 and 14, and therefore unavailable on those two days.

Sincerely,



Nicholas A. Oldham

Enclosures





U.S. Department of Justice  
Civil Division, Federal Programs Branch

By First-Class Mail  
P.O. Box 883  
Washington, D.C. 20044

By Special Delivery  
20 Massachusetts Ave., NW  
Washington, D.C. 20001

Nicholas A. Oldham  
Trial Attorney

Tel: (202) (b) (6)  
Fax: (202) (b) (6)  
Email: nicholas.oldham@ (b) (6)

March 17, 2008

By E-Mail

Scott Hodes, Esq.  
Attorney At Law  
P.O. Box 42002  
Washington, D.C. 20015

Re: *CREW v. CEQ*, No. 07-CV-365 (D.D.C.) (RMU)

Dear Scott:

I write in response to your letter of March 11, 2008. It suffices to say that you and I disagree about many issues raised in our most recent correspondence. While issues relating to resolving the above-referenced litigation must be addressed, it appears from the tone and content of your most recent letter that the Citizens for Responsibility and Ethics in Washington ("CREW") is once again willing to enter into a constructive dialogue with the Council on Environmental Quality ("CEQ") to address those issues. To that end, CEQ and I look forward to working with you in resolving current and any future disagreements affecting resolution of this litigation.

The most significant issue raised in your letter is CREW's position that CEQ should produce a *Vaughn* index as soon as possible, and CEQ's related position that CREW should narrow the scope of contested withholdings before it produces such index. As I have told you previously, given the number of pages at issue and CEQ's limited resources, CEQ's preparation of a *Vaughn* index before the parties narrow the scope of contested withholdings would dramatically and unnecessarily prolong this litigation. And, based on our numerous prior conversations, it was my understanding that the purpose of the February 20, 2008 meeting, as well as anticipated future meetings of the parties, was to discuss specific documents or general background of groups of documents so that CREW could identify withholdings it planned to contest. CEQ, in response, was to re-evaluate the withholdings identified by CREW or follow-up on specific questions such as posed in your February 25, 2008 letter. To the extent that CREW continued to contest specific withholdings and CEQ did not subsequently release the withheld information, CEQ would then produce a *Vaughn* index for the contested withholdings only. CEQ still believes that proceeding along these lines would enable the parties to narrow the

Scott Hodes, Esq.  
March 17, 2008  
Page 2

scope of contested withholdings and thereby enable CEQ to produce a *Vaughn* index much quicker.

Furthermore, I have told you previously that almost all of CEQ's withholdings in this case have been based on the deliberative process component of Exemption 5. Thus, CREW's assertion that CREW is unable to identify withholdings it plans to challenge because the claimed exemptions are unknown is not well taken. Similarly, CREW's indication that it will contest CEQ's application of Exemption 5 does not narrow the scope of contested withholdings or contribute to the parties' shared goal of resolving this litigation as quickly as possible. If CREW truly intends to challenge all of CEQ's Exemption 5 withholdings, CEQ will attempt to provide an estimate as to when it could produce such a massive *Vaughn* index along with filing its dispositive motion. But such estimate would be months after CEQ completes processing of CREW's FOIA request.

CEQ wants to resolve this litigation much sooner, however. In that regard, CEQ has previously proposed an eminently reasonable solution to CREW's desire to have exemptions more specifically identified before it identifies withholdings it will contest. Specifically, in light of CEQ's representation that almost all of the withholdings have been based on the deliberative process privilege, CEQ proposed that it provide CREW with an index listing by Bates number and exemption those documents that are released with withholdings made on any basis other than Exemption 5, deliberative process privilege. For documents withheld in full, CEQ proposed that it provide for each such document the Bates number(s), date, and a brief description in sufficient detail to help CREW determine whether it intends to challenge any of the withholdings. See Dec. 18, 2007 E-Mail from N. Oldham to S. Hodes (transmitting draft memorandum of understanding). These indices would provide an appropriate basis for the parties' future meetings and negotiations over the scope of contested withholdings. Thus, if CREW is willing to make a good faith effort at narrowing the Exemption 5 withholdings it intends to challenge, I urge you to (1) agree to CEQ's proposal, or at the very least, make a reasonable counter-proposal; and (2) schedule a meeting (in person or telephonic) with me and CEQ's General Counsel as soon as you are prepared to discuss specific documents.

Your letter also raises two other issues. First, with respect to attachments, CEQ is willing to confirm whether attachments you believe should have been produced were inadvertently omitted from CEQ's processing or not contained in the documents CEQ has identified as potentially responsive to CREW's FOIA request. In sending CEQ lists of emails you would like it to double-check for attachments you believe should have been produced, I request that you make a reasonable attempt to exclude all emails with obvious dummy attachments. Second, with respect to referrals, CEQ will remain the release authority, although from time to time there may be some direct releases from other agencies. I will notify you of any such direct releases. Also, given the numerous consultations that are required, and depending on which withholdings

Scott Hodes, Esq.  
March 17, 2008  
Page 3

CREW ultimately intends to challenge, portions of the *Vaughn* index and declaration(s) in support of CEQ's dispositive motion may be from other agencies.

Finally, you state that "CREW understands that the next release of documents will be made by March 17, 2008." While CEQ did not share this understanding because it produced CEQ 007504 - CEQ 007506 on March 7, 2008 in response to your letter of March 4, 2008, CEQ does have additional documents ready for production. Those documents are enclosed, and I will forward you Bates numbered versions this week. Please note that in producing the documents released on March 7 and with this letter, and in answering questions posed by your letter of February 25, CEQ has reviewed approximately 4,400 pages of the approximately 13,000 pages left to be processed. Some of these pages are the subject of consultations with other agencies and some pages are documents being withheld in full. Once available, I will provide you with an approximate number of pages for each category.

If you would like to discuss this matter further, please do not hesitate to contact me by email or telephone.

Sincerely,



Nicholas A. Oldham

Enclosures



**U.S. Department of Justice**  
Civil Division, Federal Programs Branch

**By First-Class Mail**  
P.O. Box 883  
Washington, D.C. 20044

**By Special Delivery**  
20 Massachusetts Ave., NW  
Washington, D.C. 20001

Nicholas A. Oldham  
Trial Attorney

Tel: (202) (b) (6)  
Fax: (202) (b) (6)  
Email: nicholas.oldham@ (b) (6)

March 20, 2008

By E-Mail

Scott Hodes, Esq.  
Attorney At Law  
P.O. Box 42002  
Washington, D.C. 20015

Re: *CREW v. CEQ*, No. 07-CV-365 (D.D.C.) (RMU)

Dear Scott:

In follow-up to my letter of March 17, 2008, I have enclosed Bates numbered copies of the documents produced with that letter. The Council on Environmental Quality ("CEQ") has been researching the questions posed in your February 25, 2008 letter about attachments you believe should have been produced at the same time as the original emails, and has simultaneously been processing the remaining documents potentially responsive to the FOIA request that is the subject of the above-referenced litigation. As you know, there is substantial overlap between the 7,476 pages of documents produced in January 2008 and those remaining to be processed. Accordingly, the production on March 17 included documents contained in the approximately 13,000 pages that CEQ is currently processing. Please note that CEQ is relying primarily on its remaining processing to respond to the questions posed in your February 25 letter, which includes, where necessary, further examination of the source files of the documents in processing.

1. Document CEQ 000832 listed in your February 25 letter is a facsimile cover sheet. CEQ is producing the memorandum transmitted with the cover sheet, which is labeled CEQ 0008991.
2. Document CEQ 0001381-1385 listed in your February 25 letter is a five-page email. CEQ is producing the two-page attachment to that email, which is labeled CEQ 017832-17833.

Scott Hodes, Esq.  
March 20, 2008  
Page 2

3. Document CEQ 001839 listed in your February 25 is the third page of a three-page email. The first two pages were inadvertently not scanned, and CEQ is producing those two pages as CEQ 001838a-b.
4. Document CEQ 002437-38 listed in your February 25 letter is a two-page email. CEQ is withholding the attachment under Exemption 5 [deliberative process privilege?]. However, CEQ is producing the un-redacted version of the two page email, which is labeled as CEQ 010600-61.
5. Document CEQ 002550 listed in your February 25 is a one-page email. CEQ is producing one of the two attachments, which is labeled CEQ 017834. The other attachment is a dummy attachment.
6. Document CEQ 002892-2893 listed in your February 25 is a two-page email. CEQ is producing two of the six attachments, which are labeled CEQ 010980-10981 and CEQ 010997-10998. The other attachments are the subject of consultation with the Department of State.

If you would like to discuss this matter further, please do not hesitate to contact me by email or telephone. Please note that I have received your letter dated March 19, 2008, and I will respond to the issues raised in that letter as soon as possible. For your information, I will be out of the office today and tomorrow.

Sincerely,

Nicholas A. Oldham

Enclosures



U.S. Department of Justice  
Civil Division, Federal Programs Branch

By First-Class Mail  
P.O. Box 883  
Washington, D.C. 20044

By Special Delivery  
20 Massachusetts Ave., NW  
Washington, D.C. 20001

Nicholas A. Oldham  
Trial Attorney

Tel: (202) (b) (6)  
Fax: (202) (b) (6)  
Email: nicholas.oldham@ (b) (6)

March 28, 2008

By E-Mail

Scott Hodes, Esq.  
Attorney At Law  
P.O. Box 42002  
Washington, D.C. 20015

Re: *CREW v. CEQ*, No. 07-CV-365 (D.D.C.) (RMU)

Dear Scott:

While I disagree with the first paragraph of your March 19, 2008 letter, I do not think it is productive for us to continue debating the issue as our recent correspondence speaks for itself and it appears that the parties are moving forward amicably to resolve this litigation.

To that end, the Council on Environmental Quality ("CEQ") appreciates the Citizens for Responsibility and Ethics in Washington's ("CREW") acceptance of the proposal for production of indices described in my March 17, 2008 letter. I believe that one clarification is warranted, however. You state that "[t]hese indices will help CREW evaluate whether it continues to contest any of the documents withheld in full or in part based on a claim other than the deliberative process privilege." As I made clear in my March 17 letter, almost all of the withholdings have been based on the deliberative process privilege. I understand CREW's agreement to CEQ's proposal as indicating that CREW will make a good faith effort at narrowing the withholdings based on the deliberative process privilege that it intends to contest. Please let me know if my understanding is incorrect.

With respect to your question on timing, CEQ will continue its monthly productions as set forth in the parties' February 1, 2008 Revised Joint Meet and Confer Statement (dkt. no. 15), and therefore CEQ's next production will be on April 1, 2008. As noted in my March 20, 2008 letter, CEQ has been researching the questions posed in your February 25, 2008 letter about attachments you believe should have been produced at the same time as the original emails, and has simultaneously been processing the remaining documents potentially responsive to the FOIA request that is the subject of the above-referenced litigation. Accordingly, CEQ's production on April 1 will be similar to its production on March 20, namely, the production will include

Scott Hodes, Esq.

March 28, 2008

Page 2

responses to a significant portion of the emails identified in your February 25 letter and the release of some pages from those that CEQ is currently processing.

As you know, CEQ has very limited resources and it therefore faces a question of prioritizing tasks in resolving this FOIA litigation. CEQ intends to, first, continue researching the questions posed in your February 25 letter until that task is completed, second, finish processing any documents not processed in connection with responding to your February 25 letter, and, third, create the indices set forth in my March 17 letter while it completes consultations with other agencies about documents referred to those agencies.

If you would like to discuss this matter further, please do not hesitate to contact me by email or telephone.

Sincerely,



Nicholas A. Oldham



**U.S. Department of Justice**  
Civil Division, Federal Programs Branch

By First-Class Mail  
P.O. Box 883  
Washington, D.C. 20044

By Special Delivery  
20 Massachusetts Ave., NW  
Washington, D.C. 20001

Nicholas A. Oldham  
Trial Attorney

Tel: (202) (b) (6)  
Fax: (202) (b) (6)  
Email: nicholas.oldham@ (b) (6)

April 1, 2008

By E-Mail

Scott Hodes, Esq.  
Attorney At Law  
P.O. Box 42002  
Washington, D.C. 20015

Re: *CREW v. CEQ*, No. 07-CV-365 (D.D.C.) (RMU)

Dear Scott:

I have enclosed a five-page list partially responding to the questions posed in your February 25, 2008 letter about attachments you believe should have been produced at the same time as the original emails. I have also enclosed the Council on Environmental Quality's ("CEQ") April document production. As you know, there is substantial overlap between the 7,476 pages produced in January 2008 and those remaining to be processed, and CEQ is relying primarily on its remaining processing to respond to the questions posed in your February 25 letter. Accordingly, CEQ's April production includes documents contained in the approximately 13,000 pages that CEQ is currently processing, and are described in the enclosed list.

In producing documents in March 2008 and with this letter, CEQ has reviewed approximately 8,250 pages of the approximately 13,000 pages left to be processed. Some of these pages are the subject of consultations with other agencies and some pages are documents being withheld in full. Based on the outcome of the consultations, CEQ may produce additional documents from the 8,250 reviewed, and it will identify any information withheld from the 8,250 pages in the indices described in my March 17, 2008 letter.



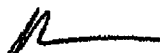
Scott Hodes, Esq.

April 1, 2008

Page 2

Please feel free to contact me by telephone or email if you wish to discuss further any issue raised in this letter.

Sincerely,



Nicholas A. Oldham

Enclosures



U.S. Department of Justice  
Civil Division, Federal Programs Branch

By First-Class Mail  
P.O. Box 883  
Washington, D.C. 20044

By Special Delivery  
20 Massachusetts Ave., NW  
Washington, D.C. 20001

Nicholas A. Oldham  
Trial Attorney

Tel: (202) (b) (6)  
Fax: (202) (b) (6)  
Email: nicholas.oldham@ (b) (6)

May 1, 2008

By E-Mail

Scott Hodes, Esq.  
Attorney At Law  
P.O. Box 42002  
Washington, D.C. 20015

Re: *CREW v. CEQ*, No. 07-CV-365 (D.D.C.) (RMU)

Dear Scott:

I have enclosed a four-page list completing the Council on Environmental Quality's ("CEQ") response to the questions posed in your February 25, 2008 letter about attachments you believe should have been produced at the same time as the original emails. I have also enclosed CEQ's May document production. As you know, there is substantial overlap between the 7,476 pages produced in January 2008 and those remaining to be processed, and CEQ relied primarily on its remaining processing to respond to the questions posed in your February 25 letter. Accordingly, CEQ's May production includes documents contained in the approximately 13,000 pages that CEQ is currently processing, and are described in the enclosed list.

In producing documents in March and April 2008, and with this letter, CEQ has reviewed approximately 10,355 pages of the approximately 13,000 pages left to be processed. Some of these pages are the subject of consultations with other agencies and some pages are documents being withheld in full. Based on the outcome of the consultations, CEQ may produce additional documents from the 10,355 reviewed, and it will identify any information withheld from the 10,355 pages in the indices described in my March 17, 2008 letter.

Scott Hodes, Esq.

May 1, 2008

Page 2

Please feel free to contact me by telephone or email if you wish to discuss further any issue raised in this letter.

Sincerely,

A handwritten signature in dark ink, appearing to be 'N. Oldham', with a horizontal line extending to the right.

Nicholas A. Oldham

Enclosures



U.S. Department of Justice  
Civil Division, Federal Programs Branch

By First-Class Mail  
P.O. Box 883  
Washington, D.C. 20044

By Special Delivery  
20 Massachusetts Ave., NW  
Washington, D.C. 20001

Nicholas A. Oldham  
Trial Attorney

Tel: (202)(b) (6)  
Fax: (202)  
Email: nicholas.oldham@ (b) (6)

May 6, 2008

By E-Mail

Scott Hodes, Esq.  
Attorney At Law  
P.O. Box 42002  
Washington, D.C. 20015

Re: *CREW v. CEQ*, No. 07-CV-365 (D.D.C.) (RMU)

Dear Scott:

Below are CEQ's responses to the questions posed in your letter of May 5, 2008.

1. Three of the four attachments to CEQ 007299-7300 were not located in the documents identified as potentially responsive to CREW's request. Although CEQ does not know for sure, it appears that the one page that was located is the first page of the attachment titled "Follow Up to DeMint Letter\_Jul...."
2. With respect to CEQ 007207, CEQ is consulting with NOAA about pages two through six of the six-page fax.
3. CEQ 005133-5134 is a two-page fax and both pages have been produced.

Sincerely,

Nicholas A. Oldham



**U.S. Department of Justice**  
Civil Division, Federal Programs Branch

By First-Class Mail  
P.O. Box 883  
Washington, D.C. 20044

By Special Delivery  
20 Massachusetts Ave., NW  
Washington, D.C. 20001

Nicholas A. Oldham  
Trial Attorney

Tel: (202) (b) (6)  
Fax: (202) (b) (6)  
Email: nicholas.oldham@ (b) (6)

June 2, 2008

By Next-Day FedEx

Scott Hodes, Esq.  
Citizens for Responsibility and  
Ethics in Washington  
1400 Eye Street, Suite 450  
Washington, D.C. 20005

Re: *CREW v. CEQ*, No. 07-CV-365 (D.D.C.) (RMU)

Dear Scott:

I have enclosed a CD with the Council on Environmental Quality's ("CEQ") June production, which contains documents labeled CEQ 017879-019439. In producing documents in March, April, May, and with this letter, CEQ has completed its review of the approximately 13,000 pages left to process and is completing its consultations with other federal agencies in response to the questions posed in your February 25, 2008 letter. Except for any releases that might be made as a result of those consultations or any future discretionary releases, CEQ has now completed its production of documents in response to the Freedom of Information Act request that is the subject of the above-referenced action, and CEQ has done so a month earlier than estimated in Paragraph 4 of the parties' February 1, 2008 Revised Joint Meet and Confer Statement (dkt. no. 15).

During this month, CEQ will begin drafting the index discussed in my letter of March 17, 2008 and your response of March 19, 2008. As set forth in my March 28, 2008 letter, I understand that CREW will use the documents produced by CEQ and the index to make a good faith effort at narrowing the scope of the withholdings, including withholding based on the deliberative process privilege, which it intends to contest.

In an effort to set out a path for ultimate resolution of this litigation, we propose that the parties meet on June 24, 2008 at 10:00 am at my office. At the meeting, we would like to discuss (1) the date by which CEQ will complete the index; (2) a schedule for the parties to confer about specific withholdings in order to narrow the scope of contested withholdings; and (3) a briefing schedule that provides for the conversion of the index into a *Vaughn* index of contested

Scott Hodes, Esq.

June 2, 2008

Page 2 of 2

withholdings. If June 24 is not workable for you, please propose an alternative date and time after June 24. Please note that CEQ has recently hired a Deputy General Counsel who will be primarily responsible for FOIA matters. The Deputy General Counsel will start his employment at CEQ during the week of June 16, and we would like to schedule any meeting between the parties after his start date.

Sincerely,



Nicholas A. Oldham

Enclosure



**U.S. Department of Justice**  
Civil Division, Federal Programs Branch

Via First-Class Mail  
P.O. Box 883, Rm. 7224  
Washington, DC 20044

Via Overnight Delivery  
20 Massachusetts Ave. N.W., Rm. 6116  
Washington, DC 20001

Jean-Michel Voltaire  
Trial Attorney

Tel: 202(b) (6)  
Fax: 202

August 8, 2008

Scott A. Hodes, Esq.  
P. O. Box 420021  
Washington, DC 20015

Re: CREW v. CEQ, Civil Action No. 07-365 (D.D.C.) (RMU)

Dear Mr. Hodes:

This is in response to your letter dated July 3, 2008, to Nicholas Oldham regarding the preparation of a Vaughn Index or a list that describes the documents withheld or redacted under the deliberative process privilege. You also inquired about the status of the documents that were referred to other agencies for processing.

On June 2, 2008, CEQ completed its production of documents in response to your Freedom of Information Act (FOIA) request that is the subject of this litigation. We produced more than 9,000 pages of responsive documents, but have withheld over 10,000 pages (including duplicates) based on FOIA Exemption 5, deliberative process privilege.

We are in the process of preparing a Vaughn Index that will describe the documents withheld and the legal basis for withholding them. Due to the size and complexity of the preparation of such an Index and CEQ's limited staffs and resources, we anticipate completing the Vaughn Index by November 15, 2008.

After receiving the Vaughn Index, if plaintiff decides to continue with this litigation, we will then negotiate a briefing schedule for our respective motions for summary judgment.

As for the status of the inter-agency documents that CEQ submitted for consultation, enclosed please find a CD that contains additional documents that are being released by the originating agencies. Those documents range from the bates numbers CEQ 019440 through 019629. Those documents are also responsive to your February 25, 2008 letter.

If you have any questions, please do not hesitate to contact me at 202(b) (6)

Thanks.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Jean-Michel Voltaire', written in dark ink.

Jean-Michel Voltaire  
Trial Attorney

Enclosures





**U.S. Department of Justice**  
Civil Division, Federal Programs Branch

Via First-Class Mail  
P.O. Box 883, Rm. 7224  
Washington, DC 20044

Via Overnight Delivery  
20 Massachusetts Ave, N.W., Rm. 6116  
Washington, DC 20001

Jean-Michel Voltaire  
Trial Attorney

Tel: 202(b) (6)  
Fax: 202

December 1, 2008

**VIA EMAIL & FIRST CLASS MAIL**

Scott A. Hodes, Esq.  
P. O. Box 42002  
Washington, DC 20015

Re: CREW v. CEO, Civil Action No. 07-365 (D.D.C.) (RMU)

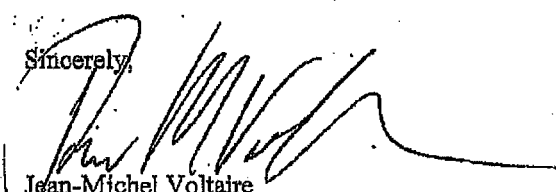
Dear Mr. Hodes:

Per our telephone conversation today, due to the size and complexity of the preparation of the Vaughn Index, the parties have agreed to a new production schedule. Pursuant to the parties' agreement, the Council on Environmental Quality ("CEO") will produce Part I of the Vaughn Index on December 1, 2008 and produce the remaining Index within a week. Therefore, enclosed please find Part I of the Vaughn Index, which is 155 pages. Please note that this is a preliminary Vaughn Index that is subject to change on or before the filing of defendant's motion for summary judgment.

If you have any questions, please do not hesitate to contact me.

Thanks.

Sincerely,

  
Jean-Michel Voltaire  
Trial Attorney

Encl.



**U.S. Department of Justice**  
Civil Division, Federal Programs Branch

Via First-Class Mail  
P.O. Box 883, Rm. 7224  
Washington, DC 20044

Via Overnight Delivery  
20 Massachusetts Ave. N.W., Rm. 6116  
Washington, DC 20001

Jean-Michel Voltaire  
Trial Attorney.

Tel: 202(b) (6)  
Fax: 202

December 11, 2008

**VIA EMAIL & FIRST CLASS MAIL**

Scott A. Hodes, Esq.  
P. O. Box 42002  
Washington, DC 20015

Re: CREW v. CEQ, Civil Action No. 07-365 (D.D.C.) (RMU)

Dear Scott:

Attached please find Part III (final part) of the CEQ's Preliminary Vaughn Index, which is 150 pages. Please be advised that this preliminary Vaughn Index is subject to change on or before the filing of defendant's motion for summary judgment.

If you have any questions, please do not hesitate to contact me.

Thanks.

Sincerely,

  
Jean-Michel Voltaire

SCOTT A. HODES, ATTORNEY AT LAW  
Post Office Box 42002  
WASHINGTON, DC 20015  
WWW.INFOFORPRIVACYLAW.COM

MEMBER DC AND MD BARS

(301) (b) (6)

(b) (6)

May 8, 2007

Nicholas A. Oldham  
Trial Attorney  
Civil Division  
United States Department of Justice  
20 Massachusetts Ave., N.W. Room 8134  
Washington, D.C. 20530

VIA FACSIMILE and FIRST CLASS MAIL

Re: CREW v. CEQ, No. 07-cv-365 (D.D.C.)(RMU)

Dear Mr. Oldham:

I write on behalf of CREW in response to your letter dated May 4, 2007, regarding the above-captioned action.

We understand that there remain approximately 27,000 pages of material that have been produced to Congress that remain to be processed for my client and that your client plans to process this material by August 6, 2007. We further understand that you plan to produce a Vaughn index and a dispositive motion by August 6, 2007.

Additionally, from your letter we believe that the 500 additional pages that are referenced in your client's April 25, 2007 letter to the House Committee on Government Oversight are responsive to CREW's FOIA request, and desire that those documents be included in your processing and eventual Vaughn index.

We strongly believe that in CEQ's processing of these 27,500 pages of documents, CEQ will find that many of these documents are releasable. Thus, we propose that we receive releases of these documents on a rolling basis of every two weeks from now until August 6, 2007. Further, as these documents are processed, we propose that we will be notified of any withholdings and the FOIA Exemptions invoked for these withholdings as the releases are made.

Additionally, I propose that we work together to file a Joint Report to the Court that notifies the Court of these facts and include a scheduling order for the filing of the dispositive motions in this case.

I look forward to hearing from you soon concerning this matter. I can be reached at 301-(b) (6) or at (b) (6)

Sincerely,

Scott A. Hodes

June 12, 2007

Nicholas A. Oldham  
Trial Attorney  
Civil Division  
United States Department of Justice  
20 Massachusetts Ave., N.W. Room 6134  
Washington, D.C. 20530

VIA E-MAIL and FIRST CLASS MAIL

Re: CREW v. CEQ, No. 07-cv-366 (D.D.C.)(RMU)

Dear Mr. Oldham:

This letter is in reference to CEQ's release of documents dated June 5, 2007. I have reviewed the release package and have a few questions concerning the release.

Initially, I note that CEQ withheld information on the released documents, apparently pursuant to FOIA exemptions 2 and 5. However, Ted Boling's cover letter did not reference the exemptions and it is not clear what exemption 5 privilege is being asserted. Can you advise us as to what exemption 5 privilege is being asserted for the redactions on these documents? Additionally, in the future, I ask that we be advised of the exemptions asserted in the cover letter from Mr. Boling.

In your last email to me dated June 4, 2007, you advised me that approximately 1000 pages would be released. The release package, however, consisted of less than 600 pages. Furthermore, it appears many pages that were meant to be released were not. For example, the third party reports that were in the package were not completely released. If you look at the documents at the CREW website, <http://www.citizensforethics.org/files/Climate%20Change%20060507.pdf>, you'll see that the adobe reader pages 170-190 and 486-505 only have every other page of the document released. Additionally, adobe reader pages 541 and 542 are completely blank. Thus, I ask that CEQ review the pages they have processed and release the pages that were omitted in the June 5, 2007 package.

I look forward to hearing from you soon concerning this matter.

Sincerely,

Scott A. Hodes

7  
August 3, 2009

Nicholas A. Oldham  
Trial Attorney  
Civil Division  
United States Department of Justice  
20 Massachusetts Ave., N.W. Room 6134  
Washington, D.C. 20530

VIA E-MAIL and FIRST CLASS MAIL

Re: CREW v. CEQ, No. 07-cv-365 (D.D.C.)(RMU)

Dear Mr. Oldham:

This letter is in reference to CEQ's release of documents dated June 5, 2007. I have reviewed the release package and have a few questions concerning the release.

Initially, I note that CEQ withheld information on the released documents, apparently pursuant to FOIA exemptions 2 and 5. However, Ted Boiling's cover letter did not reference the exemptions and it is not clear what exemption 5 privilege is being asserted. Can you advise us as to what exemption 5 privilege is being asserted for the redactions on these documents? Additionally, in the future, I ask that we be advised of the exemptions asserted in the cover letter from Mr. Boiling.

In your last email to me dated June 4, 2007, you advised me that approximately 1000 pages would be released. The release package, however, consisted of less than 600 pages. Furthermore, it appears many pages that were meant to be released were not. For example, the third party reports that were in the package were not completely released. If you look at the documents at the CREW website, <http://www.citizensforethics.org/files/Climate%20Change%20060507.pdf>, you'll see that the adobe reader pages 170-190 and 486-505 only have every other page of the document released. Additionally, adobe reader pages 541 and 542 are completely blank. Thus, I ask that CEQ review the pages they have processed and release the pages that were omitted in the June 5, 2007 package.

I look forward to hearing from you soon concerning this matter.

Sincerely,

Scott A. Hodes

August 4, 2009

Nicholas A. Oldham  
Trial Attorney  
Civil Division  
United States Department of Justice  
20 Massachusetts Ave., N.W. Room 6134  
Washington, D.C. 20530

VIA E-MAIL and FIRST CLASS MAIL

Re: CREW v. CEQ, No. 07-cv-365 (D.D.C.)(RMU)

Dear Mr. Oldham:

Thank you for filing the Joint Report. Hopefully we will be able to work through many of the issues on the over 27,000 pages that remain to be processed in the above captioned matter prior to August.

We have been advised that it is CEQ's practice not to produce attachments to emails in response to FOIA and other information requests. It is unclear from the documents released so far if the attachments to emails have been processed and released to CREW. Can you confirm for us that CEQ has located, and is processing attachments to the emails that are responsive to the request at issue in this matter?

I look forward to hearing from you soon concerning this matter.

Sincerely,

Scott A. Hodes

**SCOTT A. HODES, ATTORNEY AT LAW**

POST OFFICE BOX 42002  
WASHINGTON, DC 20015  
WWW.INFOPRIVACYLAW.COM

MEMBER DC AND MD BARS

March 4, 2008

(301) (b) (6)

(b) (6)

Mr. Nicholas Oldham  
U.S. Department of Justice  
Civil Division, Federal Programs Branch  
P.O. Box 883  
Washington, D.C. 20044

VIA E-Mail

Dear Nick:

This letter is in response to your letter dated March 3, 2008, in which you state that despite our negotiated agreement filed with the Court, your client, CEQ, "due to other pressing obligations" has no additional documents to produce at this time and "expects" to produce the documents that we agreed would be released yesterday, within approximately two weeks.

This response is completely unacceptable and calls CEQ's good faith into serious question. CREW has worked diligently with you and CEQ to come up with a supplemental release schedule that, you may recall, pushed back the schedule we had originally agreed on in 2007. This schedule included monthly releases starting on March 1, 2008. Additionally, at your urging, I met with you and CEQ and provided a specific description of issues raised from the previous release package made by CEQ in January of 2008.

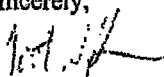
Rather than attempt to meet this agreed-upon schedule, CEQ has immediately discounted this scheduled obligation. While I understand that responding to this FOIA request is not the only task CEQ has, this was also the case when CEQ committed to the production dates that the parties filed with the Court. Moreover, the FOIA is a federal law that imposes a mandatory obligation on CEQ. By contrast, many of CEQ's obligations that the agency has decided to put before the FOIA matter are not mandatory but instead are discretionary at the whim of the agency. Accordingly, it is incumbent on CEQ find a way to meet the obligation that it agreed upon and make its next release in this matter by the close of business, Friday, March 8, 2008.

If we do not receive a release by this date, CREW will be forced to consider taking this matter before the Court and seeking emergency relief.

---

If you have any questions concerning this letter, feel free to contact me at your convenience.

Sincerely,



Scott Hodes



**SCOTT A. HODES, ATTORNEY AT LAW**

POST OFFICE BOX 42002  
WASHINGTON, DC 20015  
WWW.INFOPRIVACYLAW.COM

MEMBER DC AND MD BARS

(b) (6)

February 25, 2008

(301)(b) (6)

Mr. Nicholas Oldham  
U.S. Department of Justice  
Civil Division, Federal Programs Branch  
P.O. Box 883  
Washington, D.C. 20044

VIA E-Mail

Dear Nick:

This letter is a follow up to our meeting of February 20, 2008 in which we discussed some of the remaining issues in this matter.

Initially, please note that while I understand your client's position that there is a diminishing value in the documents remaining to be processed as well as the ones withheld, CREW feels that all responsive documents in this matter are important and the public interest will be served by the disclosure of as many of them as possible.

As we discussed, CREW is unable to drop any claims for documents withheld pursuant to Exemption 5 at this time. Without further explanation of what privileges are being asserted as well as (in the case of the deliberative process privilege being asserted) what the alleged deliberative process actually are, CREW will continue to contest the Exemption 5 withholdings made on the documents released to this point. However, once more information is furnished, CREW may agree to narrow the Exemption 5 (or other Exemption) documents at issue. Thus, I look forward to hearing your suggestions on how you can provide this information.

I agreed to provide you a list of documents that appeared to be missing from their logical place in the January release as well as any specific questions I had concerning the release. Thus, the following documents indicate that there are either attachments to e-mails, that do not seem to have been released or withheld as of yet or pages attached to a fax that have not yet been released or withheld as of yet. These documents are Bates Stamp Numbers (please note that this list may not be complete): 144-145, 430, 458-459, 540, 548, 550, 554, 564, 568, 572-573, 591-592, 729, 832, 849, 851, 866, 960, 962, 1005, 1021, 1023, 1029, 1180-1182, 1201-1204, 1209-1210, 1212, 1214, 1223, 1239-1240, 1253-1255, 1325, 1334, 1336, 1338, 1343, 1381-1385, 1389-1392, 1403-1406, 1408-1409, 1413, 1432, 1434-1437, 1444-1445, 1447-1448, 1450-1452, 1454-1455, 1457-1459, 1461-1463, 1465-1467, 1517-1518, 1728-1731, 1733-1736, 1766-1768, 1770-1772, 1774-1775, 1807-1808, 1839, 1841, 1843, 1849, 1858, 1860-1861, 1896-1897, 1899-1900, 1905-1910, 1917-1922, 1924-1928, 1936-1940, 1962, 2010, 2014-2016, 2021, 2086-2087, 2413-2417, 2419-2420, 2422-2425, 2437-2438, 2443, 2475, 2541-2542, 2550, 2556, 2558-2562, 2584-2588, 2883-2884, 2892-2893, 2962-2963, 2971-1975, 3087-3088, 3184, 3196-3200, 3233-3236, 3286-3287, 3330, 3368, 3404, 3729, 3731-

3732, 3739, 3750-3751, 3761, 3763, 3905, 3911-3916, 3995, 4188, 4190, 4236-4238, 4252-4255, 4375, 4277-4382, 4491-4493, 4550, 4605-4607, 4650-4651, 4653-4655, 4657-4662, 4670-4674, 4711, 4727-4730, 4732, 4769-4770, 4793, 4837, 4845-4846, 4851-4852, 4854, 4877-4879, 4916-1917, 4924-4925, 4927-4929, 4941, 4943-4945, 4947-4948, 4953-4954, 4956, 4965-4967, 4969-4971, 4973-4974, 4976, 5001, 5003, 5005, 5017-5018, 5020-5021, 5042-5043, 5045-5048, 5050-5051, 5053-5054, 5094, 5096-5097, 5125, 5144, 5211, 5245, 5247, 5252-5253, 5261, 5262, 5319, 5328-5329, 5355, 5395, 5397, 5429, 5431, 5433, 5439-5442, 5532-5533, 5537, 5636, 5638, 5642, 5659, 5661-5662, 5664, 5887, 5901, 5957-5959, 5961, 5963, 6184-6185, 6329, 6400, 6402, 6411, 6441-6442, 6449, 6518-6519, 6587, 6589, 6607, 6622, 6695, 6700, 6761, 6763, 6765, 6769, 6777, 6803, 6805, 6807-6808, 6813, 6815, 6817, 6819, 6821, 6839, 7025, 7030, 7043-7044, 7080, 7082, 7084-7086, 7099, 7101, 7128-7131, 7133-7136, 7148, 7150-7151, 7177, 7205, 7207, 7209-7210, 7215, 7223-7231, 7277, 7291, 7293-7294, 7296-7297, 7299-7300, 7305, 7307-7308, 7325, 7327-7328, 7330-7331, 7342, 7344-7345, 7347, 7371-7372, 7378, 7380, 7382, 7388, 7394-7395, 7397, and 7472-7473.

Additionally, I have questions regarding the following documents:

- 1.) The release for Bates Stamp Numbers 482-528 appear to have pages 19-21 of these documents missing.
- 2.) Is there a withholding associated with Bates Stamp Number 8477?
- 3.) Is aep.txt on Bates Stamp 989-991, a missing attachment?
- 4.) Cleared Press Guidance was redacted on Bates Stamp Numbers 1081-1085, are you contending that this is still a deliberative document?
- 5.) Is oleo.bmp on Bates Stamp Numbers 1484-1485, a missing attachment?
- 6.) Is Bates Stamp Number 1547 with redactions the same as Bates Stamp Number 1542 without redaction?
- 7.) Are Bates Stamp Numbers 2026-2032 the same documents as Bates Stamp 2023-2024 which were released by the House Oversight Committee?
- 8.) Pages 2-3 of the e-mail thread on Bates Stamp Numbers 2855-2856 are missing. Are they withheld or is this an oversight?
- 9.) The even numbered pages for the documents found at Bates Stamp Numbers 3469-3509 appear to be missing.
- 10.) Page 2 of the e-mail thread on Bates Stamp Numbers 3795-3797 appears to be missing.

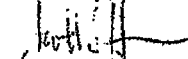
11.) Where is the report Phil Cooney signed off on referenced in Bates Stamp Number 5134?

Please note that I reviewed the Congressional Oversight Committee's release of documents and only a small number of documents that were encompassed within the January release were released by the Oversight Committee. Once we can determine that all of these documents have been processed for our request, we will consider whether the fact that they were released by Congress and are in the public domain means we will not contest them in this litigation. I would ask you in your future releases to consider releasing these documents to the extent they have been released by the Committee so that this issue can become moot.

I look forward to hearing from you soon concerning these documents as well as receiving the next release from CEQ.

If you have any questions concerning this letter, feel free to contact me at your convenience.

Sincerely,

A handwritten signature in dark ink, appearing to read "Scott Hodes", with a stylized flourish extending to the right.

Scott Hodes

MEMBER DC AND MD BARS

**SCOTT A. HODES, ATTORNEY AT LAW**

POST OFFICE BOX 42002  
WASHINGTON, DC 20015  
WWW.INFOPRIVACYLAW.COM

(301) (b) (6)

(b) (6)

March 11, 2008

Mr. Nicholas Oldham  
U.S. Department of Justice  
Civil Division, Federal Programs Branch  
P.O. Box 883  
Washington, D.C. 20044

RE: CREW v. CEQ, No.07-CV-365 (D.D.C.) (RMU)

VIA E-Mail

Dear Nick:

I was disappointed to receive your letter of March 7, 2008, and while I do not agree with the accuracy of many of your points, I respond herein to the most significant errors.

Initially, I have absolutely no recollection that either you or CEQ's General Counsel indicated to me that there would be no release of documents made on March 3, 2008 during our meeting of February 20, 2008. While I clearly recall that you and CEQ's General Counsel attempted to explain to me what CEQ's Office of General Counsel's other responsibilities are, it was not my understanding on leaving that meeting that there would definitely not be any release of records made on March 3, 2008. Furthermore, my follow up letter of February 25, 2008, stated "I look forward to hearing from you soon concerning those documents as well as receiving the next release from CEQ." If I knew that the March 3 release was not forthcoming, I would have made reference to that fact in my February 25, 2008 letter.

Your letter of March 7, 2008, states that "your response fails to appreciate that CEQ is responding to a broad FOIA request which CREW has refused to narrow, most recently in your February 25 letter." As I have stated to you previously, CREW is more than willing to narrow issues in this matter; however, until the responsive documents are processed and the actual exemptions are known, it is difficult to narrow these issues as CREW, like any other FOIA requester is not obligated to drop issues that it doesn't even know exists. Thus, until all the responsive documents are either released or accounted for, CREW is not in a position to narrow anything. CREW believes that all of the responsive documents add a great deal to the public interest—a fact that I believe your client agrees with as it has already added the previously released documents to its own electronic reading room. I do note that your answers to questions posed in my February 25, 2008 letter are helpful, and appear to answer a number of questions about a number of documents.

As you know from our discussions, one of the issues CREW remains concerned about is attachments missing from the e-mails that CEQ has released thus far. You note on page 3 of your March 7, 2008 letter that "the answers to your inquiries can be found on the face

of the documents." However, whether the document can be found in some other medium which is outside of the scope of this FOIA request is not the issue. Under the FOIA, CEQ is obligated to produce all non-exempt information. Thus, the issue is whether the attachment to the email is being located by CEQ as responsive to this FOIA request. I reference the February 21, 2008 answers to the House Government Oversight Committee of Steven McDevitt, a former Information Technology Specialist in the Office of the Chief Information Officer in the Office of the Administration for the White House. Mr. McDevitt stated that within the Executive Office of the President there were problems in searching the ARMS and .pst files for e-mail attachments. Mr. McDevitt's interrogatory answers can be located at <http://oversight.house.gov/documents/20080226143915.pdf>. Thus, whether or not an e-mail attachment was located during the search for responsive records in this request is of material interest to CREW. Additionally, the copies of the documents maintained by CEQ may also have additional information on them which may increase the public interest in the underlying issues.

I also note that you have referred documents directly to the Department of Commerce and Department of State for direct response. In our previous discussions, you indicated to me that CEQ was releasing all responsive documents, even those that it had initially referred to other agencies. Is CEQ now going to refer additional documents to the agencies that they originated from or are the referrals to Commerce and State a one-time direct response, and CEQ will remain the sole release authority on the other referral documents?

CREW understands that the next release of documents will be made by March 17, 2008. If this is incorrect, please let us know at once. Additionally, I again ask that you provide a date as to when your client believes it will be able to provide a Vaughn index in this matter. As I have stated to you previously, we believe the major issues of contention will be CEQ's use of Exemption 5 as well as its search for responsive records.

If you have any questions concerning this letter, feel free to contact me at your convenience.

Sincerely,



Scott Hodes

**SCOTT A. HODES, ATTORNEY AT LAW**

POST OFFICE BOX 42002  
WASHINGTON, DC 20015  
WWW.INFOPRIVACYLAW.COM

MEMBER DC AND MD BARS

(301) (b) (6)

(b) (6)

March 19, 2008

Mr. Nicholas Oldham  
U.S. Department of Justice  
Civil Division, Federal Programs Branch  
P.O. Box 883  
Washington, D.C. 20044

RE: CREW v. CEQ, No.07-CV-365 (D.D.C.)(RMU)

VIA E-Mail

Dear Nick:

This is in response to your letter of March 17, 2008. As an initial matter, I was quite disappointed at your suggestion that CREW has at any time been less than willing to enter into a "constructive dialogue" with CEQ. Not only has CREW at all times been ready, willing and able to enter into a "constructive dialogue," but CREW has exhibited enormous patience with the incredible delays that have been attendant to CEQ's document production. In the future please refrain from such gratuitous and untrue remarks that do nothing to advance any of the issues currently under discussion.

You raise a number of issues concerning the resolution of this litigation and I respond herein to each of those points.

You state that CEQ has now processed approximately 4,400 pages of the 13,000 pages responsive to this request. As I have stated previously, CREW is more than happy to narrow the issues in this matter. But without knowing if the approximately 8,600 remaining pages are going to be withheld under one of the applicable FOIA exemptions or released to CREW, it is impossible to state what action CREW will take on these documents.

We accept your proposal that for documents withheld in full, CEQ will prepare an index with the Bates Number(s) of the withheld documents, the date of the document and a brief description of the withheld document. We also accept your additional proposal that for documents that have been withheld in part, but not under the deliberative process privilege, CEQ will prepare an index with the Bates Stamp(s) numbers and dates of those documents. These indices will help CREW evaluate whether it continues to contest any of the documents withheld in full or in part based on a claim other than the deliberative process privilege.

As you know, CREW sent a letter to you on February 25, 2008 which listed the e-mails indicating that attachments were not released at the same time as the original e-mail. At

that time, CREW was only aware of one dummy attachment (of which one instance was erroneously listed on the letter). Your letter of March 7, 2008 acknowledged that there were two more dummy attachments signified in the e-mails produced in January. Future correspondence on this issue will attempt to not include questions about these three dummy e-mails. In future releases, if CEQ comes across any other attachments that are considered "dummy attachments" it would help if it makes a notation of this fact with the release.


Hopefully this answers the points raised in your March 17, 2008 letter. CREW looks forward to receiving the documents attached to that letter with the Bates Stamp Numbers of the documents. From a review of the documents, it appears that it may clear up additional questions raised in earlier correspondence.

Finally, so that there can be no question about the timing of the releases of additional documents and the proposed indices on the withheld material discussed above, I would ask that you advise CREW when CEQ proposes to make these releases and complete these indices.

For your information, I will be out of town from March 26-28, 2008.

If you have any questions concerning this letter, feel free to contact me at your convenience.

Sincerely,



Scott Hodes

**SCOTT A. HODES, ATTORNEY AT LAW**

POST OFFICE BOX 42002  
WASHINGTON, DC 20015  
WWW.INFOPRIVACYLAW.COM

MEMBER DC AND MD BARS

April 7, 2008

(301)(b) (6)

(b) (6)

Mr. Nicholas Oldham  
U.S. Department of Justice  
Civil Division, Federal Programs Branch  
P.O. Box 883  
Washington, D.C. 20044

RE: CREW v. CEQ, No.07-CV-365 (D.D.C.)(RMU)

VIA E-Mail

Dear Nick:

This is in response to your letter of April 1, 2008.

I have reviewed CEQ's answers to the questions about the missing attachments raised in my letter of February 25, 2008. This review has reduced the questions CREW has concerning attachments that were not, or have not as of yet been produced (or denied pursuant to an applicable FOIA exemption). Additionally, upon further review, it appears that certain of the e-mails became parts of e-mail threads in which the attachment was not forwarded with the e-mail received by CEQ. However, it is not clear why other e-mail attachments and pages faxed to or by CEQ were not located in the search for responsive documents. Thus, please be advised that until CEQ can show that an adequate search for responsive documents was conducted, the search will remain an issue in this case.

Upon review of your April 1, 2008 letter, CREW has a few follow up questions concerning certain of the documents. These questions are as follows:

1. The response for Bates Stamp document 555 says that CEQ is consulting with EPA about the attachment. Bates Stamp document 555 is a blank page. Can CEQ clarify this statement?
2. A number of e-mails appear to include multiple e-mails. However, your letter stated that for Bates Stamp documents 1334, 1434-1437, and 1962, CEQ was consulting with an agency on the responsive attachment. Please clarify that CEQ is consulting with the specific agency named in the letter on both attachments, or if they aren't, what the status of the second attachment is.
3. The response for Bates Stamp document 568 says that CEQ is withholding the attachment per the deliberative process privilege. However, there are two attachments for this e-mail. Please clarify the status of the second attachment for this document.



4. The response for Bates Stamp document 1444-1445 says that CEQ is consulting with Commerce concerning this attachment. The e-mail to which the document is attached is from NOAA, thus please clarify if CEQ is consulting with NOAA or Commerce on this document.

5. In my letter of February 24, 2008, the missing attachment for Bates Stamp 1843 was on the list of missing attachments. There is nothing about this missing document in your letter.

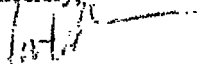
6. The response for Bates Stamp document 2475 indicates that CEQ is withholding the e-mail pursuant to the deliberative process privilege. However, there is no mention of the attachment to the e-mail, which is a power point file. Please clarify the status of the power point file attached to the e-mail.

7. My letter of February 24, 2008, erroneously asked about Bates Stamp documents 4277-4282. This should have been Bates Stamp documents 4377-4382 which appear to have a missing attachment.

8. Additionally, in my letter of February 24, 2008, I neglected to ask about the missing attachments for Bates Stamp documents 1034 and 1041-1042. Please clarify the status of these missing attachments.

If you have any questions concerning this letter, feel free to contact me at your convenience.

Sincerely,



Scott Hodes

**SCOTT A. HODES, ATTORNEY AT LAW**

POST OFFICE BOX 42002  
WASHINGTON, DC 20015  
WWW.INFOPRIVACYLAW.COM

MEMBER DC AND MD BARS

May 5, 2008

(301) (b) (6)

(b) (6)

Mr. Nicholas Oldham  
U.S. Department of Justice  
Civil Division, Federal Programs Branch  
P.O. Box 883  
Washington, D.C. 20044

RE: CREW v. CEO, No.07-CV-365 (D.D.C.)(RMU)

VIA E-Mail

Dear Nick:

This is in response to your letter of May 1, 2008.

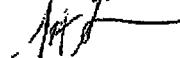
You stated that one page of one of the four attachments to Bates Stamp Documents 7299-7300 was located. This leads one to infer that the other three attachments were not located. Can you confirm this and also indicate which of the four attachments the one page located was from?

In my letter of February 25, 2008, I indicated that pages attached to the fax from Bates Stamp Document 7207 were not attached. Can you tell me if these pages were located, and if they were what their status is?

Finally, upon review it appears that the attachment to Bates Stamp Document 5133-5134 is not accounted for. Please advise us as to the status of that attachment.

If you have any questions concerning this letter, feel free to contact me at your convenience.

Sincerely,



Scott Hodes

**SCOTT A. HODES, ATTORNEY AT LAW**

POST OFFICE BOX 42002  
WASHINGTON, DC 20015  
WWW.INFOPRIVACYLAW.COM

MEMBER DC AND MD BARS

(301)(b) (6)

(b) (6)

June 10, 2008

Mr. Nicholas Oldham  
U.S. Department of Justice  
Civil Division, Federal Programs Branch  
P.O. Box 883  
Washington, D.C. 20044

VIA E-Mail

Dear Nick:

This letter concerns your client's release of documents dated June 2, 2008. I have reviewed these documents and have the following questions about them.

The following documents indicated that there are either attachments to e-mails, that do not seem to have been released or withheld as of yet or pages attached to a fax that have not yet been released or withheld as of yet. These documents are Bates Stamp Numbers: 17998-1799, 18313-18316, 18318-18319, 18417-18420, 18460, 18576, 18578, 18595, 18747-18748.

The e-mail at Bates Stamp Numbers 18408-18411 begins with an email marked page 2. Is page one missing?

Only page one and three of the e-mail at Bates Stamp Numbers 18605-18606 were produced. Is page two missing or withheld?

Pages are missing from the document found at Bates Stamp Numbers 18957-19216. Are these pages missing or withheld?

Bates Stamp Number 18006 and 18287 appear to be illegible. I ask that your client check the original documents and produce a more readable copy of each.

The even number pages for the documents produced at Bates Stamp Numbers 18743-18745 and 19388-19391 are missing. I ask that your client produce the even number pages of this document.

I look forward to discussing these matters as well as the ones you raise in your June 2, 2008 letter at our meeting on June 24, 2008.

---

If you have any questions concerning this letter, feel free to contact me at your convenience.

Sincerely,



Scott Hodes

**SCOTT A. HODES, ATTORNEY AT LAW**

POST OFFICE BOX 42002  
WASHINGTON, DC 20015  
WWW.INFOPRIVACYLAW.COM

MEMBER DC AND MD BARS

(b) (6)

July 3, 2008

(301)(b) (6)

Mr. Nicholas Oldham  
U.S. Department of Justice  
Civil Division, Federal Programs Branch  
P.O. Box 883  
Washington, D.C. 20044

VIA E-Mail

CREW v. CEQ, No. 07-0365 (RMU)

Dear Nick:

This letter follows up our meeting of June 24, 2008 in which we discussed, among other things, the future track of this litigation.

Initially, you'll recall that your client claimed at our meeting that Rick Piltz had posted some of the responsive documents on his organization's website. Upon further investigation, however, it does not appear that Mr. Piltz has posted any non-official documents to his website.

For your information, approximately 376 pages of information have been released in part. This is roughly less than .5% of the universe of pages released. Nevertheless, my client, in good faith, is willing to exclude certain of these documents from further action. At this time, my client is willing to not seek further release of Bates Stamp Documents 432, 859, 1374, 1375, 1378, 1379, 2034, 2035, 2968, 3818, 3819, 5318, 5321, 5352, 5395, 5423, 5427, 5957, 5961, 5963, 5965, 5967, 5969, 5971, 5973, 5975, 5977, 5979, 5982, 5983, 5985, 5986, 5988, 5989, 5991, 5992, 5994, 5995, 5998, 5999, 6002, 6003, 6004, 6006, 6896, 7111, and 7133.

This would leave approximately 333 pages released in part at issue. I note that many of these released in part pages contain the same redactions over and over, so your client will not need to individually justify the repeat redactions. I am more than happy to discuss the format for the Vaughn index for these released in part pages at your convenience.

As I believe my client has worked in good faith to narrow the documents at issue, I ask that we now be provided with a list, as discussed previously, of the documents withheld in full. Despite your client's contentions, it is not possible to know which pages and/or documents CEQ has released in full so far in this matter.

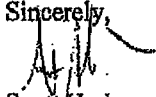
Additionally, I ask that my client be provided the additional documents left out of the June 2, 2008 production as described in my June 9, 2008 letter to you.

---

Finally, I ask for the status of the remaining documents that were referred to other agencies for processing.

If you have any questions concerning this letter, feel free to contact me at your convenience.

Sincerely,



Scott Hodes

**SCOTT A. HODES, ATTORNEY AT LAW**

POST OFFICE BOX 42002  
WASHINGTON, DC 20015  
WWW.INFOPRIVACYLAW.COM

MEMBER DC AND MD BARS

(301)(b)(6)

(b)(6)

December 16, 2008

Mr. Jean-Michel Voltaire  
U.S. Department of Justice  
Civil Division, Federal Programs Branch  
P.O. Box 883  
Washington, D.C. 20044

RE: CREW v. CEQ, No.07-CV-365 (D.D.C.)(RMU)

VIA E-Mail

Dear Jean-Michel:

CREW has reviewed your client's Vaughn Indices dated December 1, 8, and 11, 2008. CREW remains concerned with the withholding of many of the documents responsive to its request in their entirety. Further, many responsive documents seem to be either unaccounted for or not released by your clients (even though the index indicates a partial release). I will highlight all of the concerns in detail below.

Initially, please note that CREW is no longer pursuing the following 119 pages of documents: 7546-47, 7553-54, 7644-45, 8045, 8127-30, 9477-9516, 9527-30, 9532-33, 10041-45, 10127, 10184-85, 10206-07, 10230, 10335-40, 10597, 12152-53, 12167-78, 13041-52, 13143-54, 15497-500, and 15530-32.

Next, a number of documents are unaccounted for. They were not released to CREW and also were not listed in any of your client's Vaughn Indices. These documents are<sup>1</sup>: 7482, 7492, 7502-03, 7506-08, 7549-50, 7559, 7562-63, 7568-69, 7575, 7604-10, 7638-39, 7642, 7656-7658, 7722-7790, 7809, 7895-7898, 7944-45, 7949, 7982-85, 8019-24, 8047-59, 8078-79, 8154-55, 8158-61, 8182-8198, 8202, 8206, 8221, 8225-8229, 8235-8236, 8242-8243, 8274-75, 8285-86, 8289-8292, 8660, 8665-8668, 8701, 8707-8708, 8788, 8836, 8925, 8933, 8937-39, 8943-44, 8948, 8951-52, 8957, 8974, 8980, 8993-94, 9007, 9015, 9020-23, 9029-30, 9099-103, 9108, 9118, 9131-32, 9141, 9188-91, 9248-50, 9260, 9270, 9284-86, 9292, 9295, 9313, 9325-26, 9333-9335, 9342, 9393-9405, 9427, 9454-55, 9464, 9473-75, 9537-45, 9549-50, 9562-67, 9600-02, 9615-16, 9621-22, 9628-29, 9638-39, 9644-46, 9656-62, 9677, 9682-85, 9690-91, 9702-04, 9711, 9719-20, 9725, 9730-31, 9737-39, 9744-45, 9751-52, 9756, 9761, 9765, 9770, 9779, 9784, 9789-90, 9799-9800, 9806-08, 9815, 9820-27, 9856-58, 9864-68, 9882-9906, 9919-9922, 9927-9946, 9954-59, 9964, 9969, 9977, 9982, 9989, 9994, 9999-10005, 10016-32, 10091-93, 10129, 10141,

<sup>1</sup> CEQ's custom in processing this request was that they usually left one page blank and assigned it a Bates Stamp number after an actual processed document. Thus, CREW is under the assumption that where there is a one-page gap in the documents listed in the Vaughn Indices, that one Bates Stamp number is a blank page. Please let me know if this assumption is incorrect and other pages are also not accounted for.

10150-51, 10165-66, 10182, 10194, 10202-04, 10212, 10217, 10220, 10223, 10228, 10232-37, 10242-10248, 10253, 10256, 10261, 10267, 10272, 10278-80, 10291, 10299-301, 10306-07, 10313-14, 10324-27, 10342-10257, 10363-93, 10402-16, 10424-10428, 10437-41, 10450-54, 10467-76, 10484-86, 10495-503 10511-21, 10526-32, 10539, 10544-10548, 10555-57, 10564-75, 10588-91, 10599, 10603-26, 10634-37, 10657, 10661-62, 10674-777, 10684-86, 10692, 10698-727, 10740, 10745-750, 10763-65, 10815-23, 10830-33, 10839-40, 10845-52, 10857-62, 10870-78, 10883-84, 10890-91, 10897-99, 10906-09, 10915-17, 10923-26, 10934-38, 10998, 11015-19, 11027-38, 11160-63, 11168, 11179-82, 11216, 11221-22, 11236-39, 11246, 11268-75, 11281-86, 11290-91, 11296-98, 11329, 11340-42, 11354, 11388, 11401-04, 11409, 11433-42, 11534-41, 11551-84, 11610-16, 11624-41, 11681, 11691-96, 11741-43, 11792-802, 11809-34, 11847-63, 11873-81, 11917-32, 11941, 11948-50, 11982, 11990, 12024-32, 12038-41, 12048-50, 12079, 12083, 12093-94, 12112-23, 12127-28, 12166, 12182, 12191-92, 12196-99, 12226, 12235-39, 12245-51, 12288, 12360-62, 12437-42, 12448-49, 12480-81, 12487-88, 12492, 12546, 12605-06, 12612-13, 12619-20, 12635-44, 12693-95, 12700, 12732-35, 12746-47, 12752, 12758-62, 12772-75, 12788, 12800-06, 12816-19, 12832, 12857, 12873-76, 12883-86, 12909-11, 12919-20, 12987, 13004, 13016, 13028-29, 13028-29, 13085-92, 13164, 13169, 13178-80, 13243, 13386, 13401, 13438, 13476-85, 13551, 13562-63, 13739-40, 13788-804, 13825, 14194, 14285-301, 14310, 14381-411, 14586-99, 15201-402, 15483-85, 15534, 15637, 15815, 15872, 15984, 16003, 16008-09, 16087, 16106-09, 16164-69, 16222, 16237-39, 16246, 16292-303, 16381-82, 16391-94, 16422-46, 16461, 16466-69, 16503, 16512-14, 16519, 16522-36, 16559-60, 16566-72, 16586-606, 16616, 16634, 16641-52, 16669-731, 16757-58, 16802-03, 16813, 16833, 16908, 16978-83, 17184, 17325, 17328, 17387-95, 17411-15, 17422-30, 17437-41, 17458-60, 17467-80, 17496, 17527-35, 17689-700, 17712, 17717-35, 17763-72, 17783-827

The Vaughn Indices also indicate that certain documents have been "partially redacted." However, CREW has not received a release of these "partially redacted" documents. These documents are: 8935, 9604-05, 9607-10, 9612-13, 9630-31, 9641-42, 9648-50, 9674-75, 9678-80, 9687-88, 9693-95, 9706-09, 9712, 9727-28, 9733-35, 9740-42, 9747-49, 9753-54, 9758-59, 9762-63, 9767-68, 9772-73, 9781-82, 9786-87, 9792-94, 9802-04, 9810-13, 9817-18, 9829-31, 9854, 9860-62, 9870-73, 9875-80, 9908-14, 9916-17, 9924-25, 9948-52, 9961-62, 9966-67, 9979-80, 9983-87, 9991-92, 9996-97, 10007-12, 10014, 10095-98, 10143-48, 10153-55, 10168-70, 10196-97, 10208-10, 10218, 10221, 10250-51, 10254, 10258-59, 10263-65, 10269-70, 10274-76, 10292, 10316-18, 10359-61, 10395-10400, 10418-22, 10430-35, 10443-48, 10456-61, 10534-37, 10541-42, 10550-53, 10559-62, 10628-32, 10639-43, 10645-55, 10659, 10741-43, 10767-70, 10854-55, 10864-68, 10880-81, 10886-88, 10893-95, 10901-04, 10910-13, 10919-21, 10928-32, 10940-45, 10947-79, 10995-96, 12224, 12230-33, 12241-43, 12289, 12425-27, 12429-35, 12444-46, 12476-78, 12483-85, 12490, 12615-17, 12726-30, 12742-44, 12749-50, 12754-56, 12764-70, 12791-98, 12810-14, 12829-30, 12868-71, 12878-81, 12904-07, 12915-17, 13005-12, 13013-14, 13024-26, 13161-62, 13166-67, 13558-60, 16562-64, 17186-88,



Certain entries in the Vaughn Indices contain questions someone at CEQ had about the withheld documents. Please let us know the status of these documents, provide an updated rationale for their withholding or release them. These documents are: 7970-80, 11074-153, 11277-80,

Some of the documents listed in the Vaughn Indices come from or appear to have been shared with parties outside of the Executive Branch. As such, they fail to meet the threshold of exemption 5, and CREW will specifically contest the withholding of these documents. These documents are: 7486, 7487-88, 8689-91, 8692-94, 8695, 8697, 8727, 8996, 9047-53, 9058, 9059, 9069, 9071-72, 9076-77, 9083, 9084-85, 9088-89, 9164-69, 9193, 9194, 9195, 9197, 9278, 9384-90, 9428, 9443-46, 10982-94, 11774-76, 12052-77, 12148, 13525-13528, 14617-23, 14654 14667-91, 14713, 14717, 15108-28, 15634-35, 17537, 17702-06, 17707-09, 17710, 17714, 17715, 17737-39, 17740-41,

A few of the entries need further explanation. They are:

1.) The justifications for Bates Documents 8016-17 and 8148-52 do not match the document descriptions.

2.) The entry for Bates Document 8139 states that the "document describes a proposal and issues raised by organizational structure addressing climate change policies." CREW does not understand this statement.

3.) The entry for Bates Document 9775-77 describes the email as "providing substantive policy analysis of an AP article on an EPA report regarding climate change effects." It is unclear what a policy analysis of a newspaper article actually is.

4.) The entry for Bates Document 11781-82 states "Draft alternative resolution concerning extreme weather events and vulnerability for." This entry is incomplete.

5.) The entry for Bates Documents 11959 and 12194 says that the documents are "redacted email" however the justifications say the documents were withheld in full.

6.) The entry for Bates Document 12018-22 discuss a "cross walk." Can you further describe what a "cross walk" is in regards to these documents? CREW assumes that the term "cross walk" is not referring to the pedestrian walkway between streets.

7.) There is no justification for Bates Documents 12784-86 or description for Bates Document 14665.

The National Communication on Climate Change was made public in draft form on November 15, 2001. Some of these publicly released draft chapters appear to be withheld at Bates Stamp numbers 8071-76, 8839-49, 8851-91 and 9582-87. If these pages were publicly released they are not appropriate for withholding by CEQ.

Finally, please note that at present CREW continues to contest the withholding of all other documents not specifically identified as non-contested above. Many of the documents appear to be either factual (or intertwined with factual information and therefore, segregable), not part of a deliberative agency policy decision, or a statement of agency policy (post-decisional). For example, many e-mail threads were withheld in full. It is unclear as to why these threads could not be segregated and released in part, like many other e-mail threads responsive to this request. Additionally, hand written notes were commonly listed as a reason for withholding documents. However, the fact that a hand written note is on a document does not make it a pre-decisional non-factual document. If the note is deliberative and concerns a decisional process, only then would the handwritten note possibly be withheld. Further descriptions or segregation on these documents may allow CREW to decide it will no longer contest these withholdings.

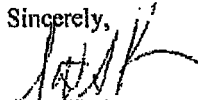
One of the major issues in these documents is that where there is an alleged deliberative process, it is unclear what the actual line of authority is and who the final decision maker is. For instance, Bates Documents 8653-54 and 9200-03 are authored by James Connaughton, CEQ Chairman. It would appear that he is the final decision maker for many of the decisions CEQ and other agencies were involved with in the responsive documents. Thus, without knowing who makes the final decisions on these documents, CREW is unable to ascertain if many of the documents are properly withheld pursuant to exemption 5 or if they are post-decisional documents and not appropriate for exemption 5 withholding.

Many of these documents concern political decisions made by non-scientists in environmental agencies. There is a strong public interest in these matters, and I ask that your client make a strong effort to use its discretion to disclose any matters it believes are protected by exemption 5. CREW does not believe that the withholding of this material would have a chilling effect on future climate change decisions made by the incoming Obama administration and, in fact, would have a positive effect on the quality of future climate change decision-making.

I look forward to speaking with you soon to discuss ways in which we can continue to narrow the documents at issue or to discuss a briefing schedule for these documents.

If you have any questions concerning this letter, feel free to contact me at your convenience.

Sincerely,

  
Scott Hodes

**SCOTT A. HODES, ATTORNEY AT LAW**

POST OFFICE BOX 42002  
WASHINGTON, DC 20015  
WWW.INFOPRIVACYLAW.COM

MEMBER DC AND MD BARS

(301) (b) (6)

(b) (6)

January 28, 2009

Mr. Jean-Michel Voltaire  
U.S. Department of Justice  
Civil Division, Federal Programs Branch  
P.O. Box 883  
Washington, D.C. 20044

RE: CREW v. CEQ, No.07-CV-365 (D.D.C.)(RMU)

VIA E-Mail

Dear Jean-Michel:

CREW has reviewed your client's release of "partially redacted" documents dated January 16, 2009. Certain documents remain unaccounted for. These are: 9675-75, 9984-87, 10145-48, 10645-55, 10947-79, and 13005-12.

For your information, while 9630-31 and 9870-73 were released, it was noted on the documents that they were posted on the CEQ website. They are no longer at the internet address provided.

Finally, on January 21, 2009, President Obama issued a Presidential Memorandum on the FOIA in which he stated the following:

The Freedom of Information Act should be administered with a clear presumption: In the face of doubt, openness prevails. The Government should not keep information confidential merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears. Nondisclosure should never be based on an effort to protect the personal interests of Government officials at the expense of those they are supposed to serve. In responding to requests under the FOIA, executive branch agencies (agencies) should act promptly and in a spirit of cooperation, recognizing that such agencies are servants of the public.

All agencies should adopt a presumption in favor of disclosure, in order to renew their commitment to the principles embodied in FOIA, and to usher in a new era of open Government. The presumption of disclosure should be applied to all decisions involving FOIA.

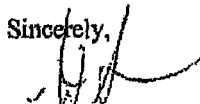
It is also our understanding that subsequent to the President's FOIA Memorandum, Melanie Pustay, Director of the Department of Justice's Office of Information and Privacy, instructed federal officials that they should process requests for records with a

"clear presumption in favor of disclosure, to resolve doubts in favor of openness, and to not withhold information based on 'speculative or abstract fears.'"

The information withheld by your client is exactly the type of material that the President and Department of Justice is calling upon agencies to release. Thus, CREW believes that these documents need to be reexamined and released in light of the President's statement on the FOIA.

If you have any questions concerning this letter, feel free to contact me at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to be "SH" followed by a flourish.

Scott Hodes



February 12, 2009

U.S. Department of Justice  
Civil Division, Federal Programs Branch

Via E-Mail

Via First-Class Mail  
P.O. Box 883, Rm. 7224

Via Overnight Delivery  
20 Massachusetts Ave. N.W.,

Scott A. Hodes, Esq.

Rm. 6116

P. O. Box 42002

Washington, DC 20044

Washington, DC 20001

Washington, DC 20015

Jean-Michel Voltaire  
Trial Attorney

Re: CREW v. CEQ, Civil Action No. 09-1116 (b) (6) C.) (RMU)

Dear Scott:

This letter responds to your letter dated January 28, 2009, in which you inquired whether CEQ intends to re-examine the documents withheld pursuant to the deliberative process privilege in light of the Presidential Memorandum on the FOIA. Please be advised that, as a matter of administrative discretion, the CEQ is in the process of re-evaluating its assertion of the deliberative process privilege for the documents withheld. The CEQ, however, cannot provide a definitive date to complete the re-evaluation because the attorney who was working on this case recently resigned and the re-examination requires the consultation with several agencies regarding the documents originating from those agencies. Nonetheless, the CEQ is working diligently to complete the process and will inform plaintiff whether any further documents will be produced as a result of the re-examination.

You further indicated that the following documents remain unaccounted for: 9675-75, 9984-87, 10145-55, 10947-79, and 13005-12. We are looking at this matter, and will produce them at the earliest possible if they are not privileged. Other than these documents, we produced all documents that were "partially redacted."

If you have any questions, please do not hesitate to contact me.

Sincerely,

Jean-Michel Voltaire  
Trial Attorney



**U.S. Department of Justice**  
Civil Division, Federal Programs Branch

Via First-Class Mail  
P.O. Box 883, Rm. 7224  
Washington, DC 20044

Via Overnight Delivery  
20 Massachusetts Ave. N.W., Rm. 6116  
Washington, DC 20001

Jean-Michel Voltaire  
Trial Attorney

Tel: 202 (b) (6)  
Fax: 202 (b) (6)

March 5, 2009

Scott A. Hodes, Esq.  
P. O. Box 42002  
Washington, DC 20015

Re: CREW v. CEQ, Civil Action No. 07-365 (D.D.C.) (RMU)

Dear Scott:

As you know, as a matter of agency discretion, CEQ has begun re-evaluating its assertion of the deliberative process privilege for the documents withheld in the above-referenced case, and has identified so far a number of additional documents for release. Enclosed please find approximately 585 pages of documents that were previously withheld and are now being released in full. Attached please find the list of Bates numbers of the documents being released in this production.

The re-evaluation process continues, and CEQ will inform you at a later date whether any more documents will be produced as a result of the re-examination:

If you have any questions, please do not hesitate to contact me.

Sincerely,

  
Jean-Michel Voltaire  
Trial Attorney

**SCOTT A. HODES, ATTORNEY AT LAW**

POST OFFICE BOX 42002  
WASHINGTON, DC 20015  
WWW.INFOINTEGRITYLAW.COM

MEMBER DC AND MD BARS

(301) (b) (6)

(b) (6)

March 18, 2009

Jean-Michel Voltaire  
U.S. Department of Justice  
Civil Division  
Federal Programs Branch-Room 7224  
P.O. Box 883  
Washington, D.C. 20044

Via E-Mail

CREW v. CEQ, No. 07-365 (D.D.C.) (RMU)

Dear Mr. Voltaire:

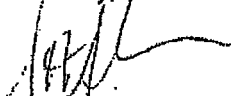
This letter concerns your letter of March 5, 2009 and the attached release of documents made by your clients.

CREW has reviewed the released documents and appreciates their release. However, there are a few questions about certain of the documents released. Your cover sheet of Bates Nos. indicated that document numbers CEQ 007564-007573 were released; however only documents 007564 to 0007566 and 007570 to 007573 were included in the release. Further, the cover sheet also indicated that document numbers CEQ 008789-008799 were released; however only documents 008789 and 008799 were actually released. Were these documents accidentally left out of the release package or are they continuing to be withheld?

Finally, if possible, can your client attempt to include the Bates Numbers of the document where they were originally withheld? CREW has been able to locate some of the documents where they were originally withheld, but has not been able to ascertain all of these documents original location.

CREW hopes to receive additional documents as part of your client's reevaluation process. If you have further questions about this letter feel free to contact me at your convenience. Thank you for your time and consideration.

Sincerely,



Scott A. Hodes

SCOTT A. HODES, ATTORNEY AT LAW

POST OFFICE BOX 42002  
WASHINGTON, DC 20015  
WWW.INFOPRIVACYLAW.COM

MEMBER DC AND MD BARS

(301)(b) (6)

(b) (6)

August 3, 2009

Jean-Michel Voltaire  
U.S. Department of Justice  
Civil Division  
Federal Programs Branch-Room 7224  
P.O. Box 883  
Washington, D.C. 20044

Via E-Mail

CREW v. CEQ, No. 07-365 (D.D.C) (RMU)

Dear Mr. Voltaire:

This letter concerns our conversation of July 21, 2009 in which I inquired as to the status of the above-captioned matter. As you know, your client made a release of documents on March 5, 2009 and at that time you stated that "[t]he re-evaluation process continues, and CEQ will inform you at a later date whether any more documents will be produced as a result of the re-examination<sup>1</sup>." Subsequent communication with you has been unable to determine when any additional releases or responses to my letters of December 16, 2008 and March 9, 2009 will be forthcoming.

In our conversation of July 21, 2009, you asked that I prioritize the documents we seek to pursue. As you know, on December 16, 2008, I sent you a detailed letter about documents listed in your client's Vaughn Index, which listed, among other things, documents my client is no longer pursuing, and have previously provided you a category of documents my client is no longer interested in. Again, I reiterate that I have never received a detailed response to my December 16, 2008 letter.

There still appear to be thousands of pages withheld in full and in part. Over 300 pages of the Vaughn index of December 2008 which described the documents withheld in full still appears to await your client's re-evaluation. A review of the documents that were originally withheld in full but released in March 2009 demonstrates that either the exemptions claimed did not cover the documents at all or that, in any case, most of the material on the document should have been segregated and released at the initial stage. Thus, my client remains interested in receiving these remaining withheld documents as stated to you in numerous letters.

---

<sup>1</sup> The pages that were released largely appear to be pages that were originally withheld in full on the first 100 pages of the Vaughn Index provided to CREW in December of 2008.



August 3, 2009

Further, as the new administration has issued extensive instructions concerning the discretionary release of otherwise exempt material, my client believes much of the withheld material, even if it could be construed as exempt, should now be released. Thus, the amount of time processing this material for release should be much less time consuming as redactions will not be necessary.

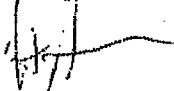
My client understands that CEQ has a small FOIA staff, however we believe that it will be in everyone's best interest to establish a schedule for your client to make final decisions on the documents that have been withheld in full or in part. As always, my client is willing to accept a rolling release on a monthly basis of these documents that would allow your client to schedule its personnel accordingly.

One of the ways your client can expedite the process would be to allow the agencies that the documents originated with to fully process the document and release the document directly to CREW. This would free up a large number of responsive documents from your client's direct processing responsibility.

If we receive no answer from you on this matter, CREW will be forced to turn to the Court for relief. While we continue to believe a negotiated settlement of this matter is possible, we can only pursue this route if we have cooperation from you and your client.

If you have further questions about this letter feel free to contact me at your convenience. Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott A. Hodes", with a long horizontal flourish extending to the right.

Scott A. Hodes



SIDLEY AUSTIN LLP  
1501 K STREET, N.W.  
WASHINGTON, D.C. 20005  
(202) (b) (6)  
(202) (b) (6) FAX

(b) (6)  
(202) (b) (6)

BEIJING	LOS ANGELES
BRUSSELS	NEW YORK
CHICAGO	SAN FRANCISCO
DALLAS	SHANGHAI
FRANKFURT	SINGAPORE
GENEVA	SYDNEY
HONG KONG	TOKYO
LONDON	WASHINGTON, D.C.

FOUNDED 1866

August 11, 2010

*Via Electronic and First Class Mail*

Freedom of Information Officer  
Council on Environmental Quality  
722 Jackson Place, N.W.  
Washington, DC 20503

Re: FOIA Request – Correspondence Between State and Local Permitting Authorities and EPA Regarding Implementation of the Tailoring Rule

Dear Sir/Madam:

Pursuant to the Freedom of Information Act ("FOIA") 5 U.S.C. § 552, and the implementing regulations of Council on Environmental Quality, I request copies of the following records:

- A. Any letters, electronic mail, and other correspondence, information, or records sent to or received from the Environmental Protection Agency (EPA) regarding the any of the following four EPA rules: (i) Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act; Final Rule, 74 Fed. Reg. 66,496 (Dec. 15, 2009), (ii) the Reconsideration of Interpretation of Regulations That Determine Pollutants Covered by Clean Air Act Permitting Programs, 75 Fed. Reg. 17,004 (April 2, 2010), (iii) the Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards, 75 Fed. Reg. 25,324 (May 7, 2010), or (iv) the Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule, 75 Fed. Reg. 31,514 (June 3, 2010).
- B. Any Council on Environmental Quality analysis of the economic or noneconomic impacts and/or burdens imposed by any or all of these four rulemakings, whether sent to the Environmental Protection Agency or not.

Please note that this request is time critical, and therefore I request that the Council on Environmental Quality respond as promptly as possible within the time limits set out in FOIA. Additionally, I confirm in advance my willingness to pay for all reasonable costs associated with



Freedom of Information Officer  
August 11, 2010  
Page 2

searching for and copying these records. However, should these costs exceed \$250, I ask that you contact me prior to proceeding.

Please direct any inquiries, notices, or determinations to me at (202) 736-8721. Thank you for your anticipated assistance.

Sincerely,

/s/ James W. Coleman

James W. Coleman

**From:** Moss, Elizabeth  
**To:** "jcoleman@ (b) (6)"  
**Cc:** Scharf, Katherine M.  
**Subject:** CEQ FOIA #2010-26  
**Date:** Friday, August 13, 2010 12:25:20 PM

---

Mr. Coleman,

Just to follow up my voicemail, this email serves to acknowledge receipt of your August 11, 2010, FOIA request for records sent to or received from EPA pertaining to four EPA rules. Your tracking number is CEQ FOIA #2010-26.

In view of your request that CEQ "move as promptly as possible," we'd like to give you the opportunity to narrow the scope of your inquiry. You could accomplish this by specifying exactly whose records you'd like us to search. For example, CEQ's senior staff is a smaller subset of all CEQ staff. You might also consider excluding certain kinds of information, such as publicly available documents, press clippings, etc. Finally, you could specify the time frame in which you are interested. Any or all of these options will enable us to conduct a more targeted search and, thus, better provide you with the information you seek.

Please let me know your decision. We need to hear from you before we commence our search.

Regards,

Elizabeth Moss  
FOIA Coordinator  
CEQ  
202-(b) (6)

**From:** Moss, Elizabeth  
**To:** "Coleman, James W."  
**Cc:** Scharf, Katherine M.  
**Subject:** RE: CEQ FOIA #2010-26  
**Date:** Friday, August 13, 2010 1:36:54 PM

---

Mr. Coleman,

This is quite helpful. We appreciate your cooperation.

Best,

Elizabeth

---

**From:** Coleman, James W. [mailto:jwcoleman@ (b) (6)]  
**Sent:** Friday, August 13, 2010 1:30 PM  
**To:** Moss, Elizabeth  
**Cc:** Webster, Timothy K.  
**Subject:** RE: CEQ FOIA #2010-26

Dear Ms. Moss,

Thank you for your email. Please exclude from your search 1) Junior staff, 2) records before Jan. 1, 2008, and 3) publicly available documents. Also, with respect to the Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards rulemaking, please only send those records relating to regulation of stationary sources that could be triggered by that rulemaking.

Best,  
James

James Coleman  
Sidley Austin LLP  
1501 K Street NW, Washington, DC 20005  
202 (b) (6) | Fax: 202 (b) (6)

---

**From:** Moss, Elizabeth [mailto:Sara\_E\_Moss@ (b) (6)]  
**Sent:** Friday, August 13, 2010 12:25 PM  
**To:** Coleman, James W.  
**Cc:** Scharf, Katherine M.  
**Subject:** CEQ FOIA #2010-26

Mr. Coleman,

Just to follow up my voicemail, this email serves to acknowledge receipt of your August 11, 2010, FOIA request for records sent to or received from EPA pertaining to four EPA rules. Your tracking number is CEQ FOIA #2010-26.

In view of your request that CEQ "move as promptly as possible," we'd like to give you the opportunity to narrow the scope of your inquiry. You could accomplish this by specifying exactly whose records you'd like us to search. For example, CEQ's senior staff is a smaller subset of all CEQ staff. You might also consider excluding certain kinds of information, such as publicly available documents, press clippings, etc. Finally, you could specify the time frame in which you are interested. Any or all of these options will enable us to conduct a more targeted search and, thus, better provide you with the information you seek.

Please let me know your decision. We need to hear from you before we commence our search.

Regards,

Elizabeth Moss  
FOIA Coordinator  
CEQ  
202 (b) (6)

-----  
IRS Circular 230 Disclosure: To comply with certain U.S. Treasury regulations, we inform you that, unless expressly stated otherwise, any U.S. federal tax advice contained in this communication, including attachments, was not intended or written to be used, and cannot be used, by any taxpayer for the purpose of avoiding any penalties that may be imposed on such taxpayer by the Internal Revenue Service. In addition, if any such tax advice is used or referred to by other parties in promoting, marketing or recommending any partnership or other entity, investment plan or arrangement, then (i) the advice should be construed as written in connection with the promotion or marketing by others of the transaction(s) or matter(s) addressed in this communication and (ii) the taxpayer should seek advice based on the taxpayer's particular circumstances from an independent tax advisor.

\*\*\*\*\*

This e-mail is sent by a law firm and may contain information that is privileged or confidential. If you are not the intended recipient, please delete the e-mail and any attachments and notify us immediately.

\*\*\*\*\*



Dina Cappiello  
The Associated Press  
1100 13th Street NW  
Washington, DC 20005  
202(b) (6)

August 30, 2010

FOIA Officer  
White House Council on Environmental Quality  
722 Jackson Place, NW  
Washington, DC 20503

### FOIA REQUEST

Dear FOIA officer:

Pursuant to the federal Freedom of Information Act, 5 U.S.C. § 552, I request access to and copies of all communications to and from the White House Council on Environmental Quality as well as dates and times of meetings and phone calls of any of its staff members and the participants in those calls and meetings related to President Barack Obama's March 31, 2010 announcement that he intended to expand offshore drilling in the eastern Gulf of Mexico, and off the Atlantic coast. I am specifically looking for any sort of consultation that occurred between government scientists and experts, including Chairwoman Nancy Sutley, and the White House and other federal agencies on the decision, or the environmental reviews required for the decision.

The communications should include emails, faxes, and written correspondence related to the decision, including opinions from Sutley and any others. I am not interested in comments or communications pertaining to the 5-year leasing plan adopted by President Bush and subsequently modified by the Interior Department, unless those documents are relevant.

Please consider this an expedited request under the FOIA, as this information is urgently required to inform the public about an actual or alleged federal government activity, namely the thinking of the decision to expand drilling in U.S. federal waters. I certify that I am a full-time employee for The Associated Press, the world's largest news-gathering organization with more than 1 billion readers, listeners and viewers.

Whether an "urgency to inform" exists depends on several factors: (1) whether the information relates to a currently unfolding story; (2) whether delaying release of the information harms the public interest; and (3) whether the request concerns federal governmental activity (*see Al-Fayed v. CIA*, 245 F.3d 300 (D.C. Cir. 2001)). In addition, "the credibility of a requester" is also a relevant consideration.

Please release any information pursuant to my requests as it is received and/or reviewed by your office, rather than waiting to send me all the material I have requested. If you have questions or need to contact me, I can be reached at 202-(b) (6) and [\(b\) \(6\)](mailto:dcappiello@b(6)).

As I am making this request on behalf of the AP for use in reporting the news, no fees may be assessed for searching or reviewing documents sought by this request, and no duplication fees should be charged to the AP for the first 100 pages of material (*see 5 U.S.C. § 552(a)(4)(A)(ii)(II)*). AP hereby consents to pay

1100 13<sup>th</sup> St. NW, Suite 700, Washington, DC 20005-4076  
T: 202(b) (6) voice; [www.ap.org](http://www.ap.org)

**Csank, Diana (Volunteer)**

---

**From:** Glunz, Christine M.  
**Sent:** Wednesday, September 08, 2010 3:57 PM  
**To:** Cappiello, Dina  
**Subject:** RE: AP FOIA REQUEST: MARCH 31 2010 ANNOUNCEMENT ON OFFSHORE DRILLING

Hey Dina -

Is there a good time to touch base with you about this FOIA request?

Thanks!

-----Original Message-----

**From:** Cappiello, Dina [mailto:DCappiello@**(b) (6)**]  
**Sent:** Monday, August 30, 2010 3:47 PM  
**To:** Glunz, Christine M.  
**Subject:** FW: AP FOIA REQUEST: MARCH 31 2010 ANNOUNCEMENT ON OFFSHORE DRILLING

Hey,

Just wanted to give you a head's up on this. We should grab coffee soon.  
I am here through Thursday.

Dina

Dina Cappiello  
Environment/Energy Reporter  
The Associated Press  
1100 13th Street NW, Suite 700  
Washington, DC 20005-4076  
[dcappiello@\*\*\(b\) \(6\)\*\*](mailto:dcappiello@<b>(b) (6)</b>)  
202**(b) (6)** (phone)  
202**(b) (6)** (cell)

"The ideal scientist thinks like a poet, works like a clerk, and writes like a journalist" -  
E.O. Wilson -----Original Message-----

**From:** Cappiello, Dina  
**Sent:** Monday, August 30, 2010 3:41 PM  
**To:** [efoia@ceq.eop.gov](mailto:efoia@ceq.eop.gov)  
**Subject:** AP FOIA REQUEST: MARCH 31 2010 ANNOUNCEMENT ON OFFSHORE DRILLING

Please see attached FOIA request. I would appreciate an email confirming receipt.

Sincerely,

Dina Cappiello  
Environment/Energy Reporter  
The Associated Press  
1100 13th Street NW, Suite 700  
Washington, DC 20005-4076  
[dcappiello@\*\*\(b\) \(6\)\*\*](mailto:dcappiello@<b>(b) (6)</b>)  
202**(b) (6)** (phone)



202 (b) (6) (cell)

"The ideal scientist thinks like a poet, works like a clerk, and writes like a journalist" -  
E.O. Wilson

The information contained in this communication is intended for the use of the designated recipients named above. If the reader of this communication is not the intended recipient, you are hereby notified that you have received this communication in error, and that any review, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify The Associated Press immediately by telephone at +1-212-621-1898 and delete this e-mail. Thank you.

[IP\_US\_DISC]

msk dccc60c6d2c3a6438f0cf467d9a4938

**From:** Glunz, Christine M.  
**To:** "DCappiello@ (b) (6)"  
**Subject:** Re: AP FOIA REQUEST: MARCH 31 2010 ANNOUNCEMENT ON OFFSHORE DRILLING  
**Date:** Wednesday, September 08, 2010 11:46:30 PM

---

Given that this is an expedited request from you, we should touch base tomorrow, Friday or Monday (at the latest).

Thanks

----- Original Message -----

**From:** Cappiello, Dina <DCappiello@ (b) (6)>  
**To:** Glunz, Christine M.  
**Sent:** Wed Sep 08 16:07:48 2010  
**Subject:** RE: AP FOIA REQUEST: MARCH 31 2010 ANNOUNCEMENT ON OFFSHORE DRILLING

Early next week? I am heading to Houston tomorrow for a brief trip.

-----Original Message-----

**From:** Glunz, Christine M. [[\(b\) \(6\)](mailto:Christine.M.Glunz@ (b) (6))]  
**Sent:** Wednesday, September 08, 2010 3:57 PM  
**To:** Cappiello, Dina  
**Subject:** RE: AP FOIA REQUEST: MARCH 31 2010 ANNOUNCEMENT ON OFFSHORE DRILLING

Hey Dina -

Is there a good time to touch base with you about this FOIA request?

Thanks!

-----Original Message-----

**From:** Cappiello, Dina [[\(b\) \(6\)](mailto:DCappiello@ (b) (6))]  
**Sent:** Monday, August 30, 2010 3:47 PM  
**To:** Glunz, Christine M.  
**Subject:** FW: AP FOIA REQUEST: MARCH 31 2010 ANNOUNCEMENT ON OFFSHORE DRILLING

Hey,

Just wanted to give you a head's up on this. We should grab coffee soon.  
I am here through Thursday.

Dina

Dina Cappiello  
Environment/Energy Reporter  
The Associated Press  
1100 13th Street NW, Suite 700  
Washington, DC 20005-4076  
[\(b\) \(6\)](mailto:dcappiello@ (b) (6))  
202 (b) (6) (phone)  
202 (b) (6) (cell)

"The ideal scientist thinks like a poet, works like a clerk, and writes like a journalist" - E.O. Wilson -----Original Message-----  
From: Cappiello, Dina  
Sent: Monday, August 30, 2010 3:41 PM  
To: efoia@ceq.eop.gov  
Subject: AP FOIA REQUEST: MARCH 31 2010 ANNOUNCEMENT ON OFFSHORE DRILLING

Please see attached FOIA request. I would appreciate an email confirming receipt.

Sincerely,

Dina Cappiello  
Environment/Energy Reporter  
The Associated Press  
1100 13th Street NW, Suite 700  
Washington, DC 20005-4076  
dcappiello@ (b) (6)  
202 (b) (6) (phone)  
202 (b) (6) (cell)

"The ideal scientist thinks like a poet, works like a clerk, and writes like a journalist" - E.O. Wilson

The information contained in this communication is intended for the use of the designated recipients named above. If the reader of this communication is not the intended recipient, you are hereby notified that you have received this communication in error, and that any review, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify The Associated Press immediately by telephone at +1-212-621-1898 and delete this e-mail. Thank you.

[IP\_US\_DISC]

msk dccc60c6d2c3a6438f0cf467d9a4938

**From:** Cappiello, Dina  
**To:** Scharf, Katie  
**Subject:** RE: Your FOIA Request  
**Date:** Monday, September 13, 2010 1:58:21 PM

---

Correct.

---

**From:** Scharf, Katie [mailto:Katherine\_M\_Scharf@(b) (6)]  
**Sent:** Monday, September 13, 2010 1:56 PM  
**To:** Cappiello, Dina  
**Subject:** Your FOIA Request

Dina,

It was nice talking with you just now. As we discussed, by clarifying your request, we're able to conduct a more targeted search and, thus, better provide you with the information you seek.

Just to repeat what we confirmed with you on the call, we are interpreting the scope of your FOIA request to be limited to records of consultations between government scientists and experts, including Chair Sutley, and the White House and other federal agencies that contributed to the making of the decision to expand offshore drilling in the eastern Gulf of Mexico and off the Atlantic coast, announced on March 31, 2010. We are also interpreting the timeframe for responsive documents to be January 21, 2009 up to and including March 31, 2010.

Please let me know if you have any questions. Thanks!

Katie Scharf

Katie Scharf  
Deputy General Counsel  
Council on Environmental Quality  
(202) (b) (6) (o)  
(202) (b) (6) (c)

The information contained in this communication is intended for the use of the designated recipients named above. If the reader of this communication is not the intended recipient, you are hereby notified that you have received this communication in error, and that any review, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify The Associated Press immediately by telephone at +1-212-621-1898 and delete this e-mail. Thank you.  
[IP\_US\_DISC]msk dccc60c6d2c3a6438f0cf467d9a4938



EXECUTIVE OFFICE OF THE PRESIDENT  
COUNCIL ON ENVIRONMENTAL QUALITY  
WASHINGTON, D.C. 20503

February 2, 2011

Dina Cappiello  
The Associated Press  
1100 13<sup>th</sup> Street NW  
Washington, DC 20005

**Re: INTERIM RESPONSE TO FOIA REQUEST CEQ-2010-27**

Dear Ms. Cappiello,

This is an interim response to your Freedom of Information Act (FOIA) request dated August 30, 2010 for "copies of all communications to and from the White House Council on Environmental Quality as well as dates and times of meetings and phone calls of any of its staff members and the participants in those calls and meetings related to President Barack Obama's March 31, 2010 announcement that he intended to expand offshore drilling in the eastern Gulf of Mexico, and off the Atlantic coast."

As we confirmed by email with you on September 13, 2010, the Council on Environmental Quality (CEQ) interpreted the scope of your FOIA request to be limited to records of consultations between government scientists and experts, including CEQ Chair Nancy Sutley, and the White House and other federal agencies that contributed to the making of the decision to expand offshore drilling in the eastern Gulf of Mexico and off the Atlantic coast, announced on March 31, 2011. CEQ interpreted the timeframe of responsive documents to be January 21, 2009, up to and including March 31, 2010.

In total, our search returned fifty-eight (58) responsive documents, totaling 254 pages. Based on our review of the documents produced in this search, we have determined at this time that four (4) documents, totaling 4 pages, should be released in full, and another six (6) documents, totaling 7 pages, should be released with partial redactions pursuant to 5 U.S.C. §§ 552(b)(2) and (b)(5). These documents are attached to this letter. Please note that for some of these documents, we are making a discretionary release in the interest of transparency as the documents may already be publicly available, or may be non-responsive because the documents were not a communication to or from CEQ. We have also identified one (1) responsive document, totaling 2 pages, which is being withheld in full pursuant to 5 U.S.C. § 552(b)(5).


At this time, we have also identified that the remaining responsive documents, totaling two hundred forty-one (241) pages, contain items of information originating with, furnished by, or of special interest to another agency. Therefore, we have determined that it is appropriate, pursuant to 5 U.S.C. § 552(a)(6)(B), to consult with the agency or agencies of origination, source, or

interest on matters regarding release. We have initiated this consultation with the Department of the Interior, the Office of Management and Budget, and the Office of White House Counsel, and are awaiting the determination of those offices at this time.

The information released today may be subject to an available exemption under FOIA. CEQ's release of this information may be an exercise in agency discretion, despite the availability of an exemption under FOIA. CEQ's determination to release this information does not constitute a waiver of any privilege or exemption which may apply, in whole or in part. Release of this information does not foreclose CEQ from later claiming an exemption or privilege with regard to any similar documents in response to a subsequent FOIA request.

If you have any questions about the Council on Environmental Quality's processing of your request, or if you require any additional information, please feel free to contact me at (202) (b) (6). (b) (6) If you are not satisfied with our action on this request, you may administratively appeal the decision within 45 days of the date of this letter by writing CEQ's FOIA Appeals Officer, Council on Environmental Quality, 722 Jackson Place, NW, Washington, DC 20503. Heightened security measures in force may delay mail delivery; therefore, we suggest that you also submit your appeal via facsimile to (202) 456-0753 or email it to [eathas@](mailto:eathas@ceq.eop.go) (b) (6).

Sincerely,



Katie M. Scharf  
Deputy General Counsel  
Council on Environmental Quality  
Executive Office of the President



## The National Security Archive

The George Washington University  
Gelman Library, Suite 701  
2130 H Street, NW  
Washington, DC 20037

Phone: 202 (b) (6)  
Fax: 202 (b) (6)  
nsarchive@ (b) (6)  
<http://www.nsarchive.org>

### FAX COVER SHEET

Date: 10/1/2010

To: Information Officer

Organization: Council for Environmental Quality

From: Nate Jones

Number of pages (including cover sheet) 3

If there is a problem with this transmission, please call us at  
202 (b) (6) as soon as possible.

**Message:**

Request # 20100941CEQ 001

## The National Security Archive

The George Washington University  
Gelman Library, Suite 701  
2130 H Street, N.W.  
Washington, D.C. 20037

Phone: 202 (b) (6)  
Fax: 202 (b) (6)  
nsarchive@ (b) (6)  
www.nsarchive.org

Wednesday, September 29, 2010

Deputy General Counsel  
722 Jackson Place, NW  
Washington, DC 20503

Re: Request under the FOIA, in reply refer to Archive# 20100941CEQ001

Dear Information Officer:

Pursuant to the Freedom of Information Act (FOIA), I hereby request the following:

*All documents related to "the several specific steps" that White House Chief of Staff Rahm Emanuel and White House Counsel to the President Bob Bauer instructed your agency to take in a 16 March 2010 memo to all agency and department heads. The memo is available at [http://www.whitehouse.gov/sites/default/files/rss\\_viewer/foia\\_memo\\_3-16-10.pdf](http://www.whitehouse.gov/sites/default/files/rss_viewer/foia_memo_3-16-10.pdf)*

*The "specific steps" that the memo instructed your office to implement include:*

- 1) "update[ing] all FOIA guidance and training materials to include the principles articulated in the President's memorandum" and*
- 2) "assess[ing] whether you are devoting adequate resources to responding to FOIA requests promptly and cooperatively."*

If you regard any of these documents as potentially exempt from the FOIA's disclosure requirements, I request that you nonetheless exercise your discretion to disclose them. As the FOIA requires, please release all reasonably segregable non exempt portions of documents. To permit me to reach an intelligent and informed decision whether or not to file an administrative appeal of any denied material, please describe any withheld records (or portions thereof) and explain the basis for your exemption claims.

As a representative of the news media, the National Security Archive qualifies for "representative of the news media" status under 5 U.S.C. Sec. 552(a)(4)(A)(ii)(II) and, therefore, may not be charged search and review fees. (See *National Security Archive v. U.S. Department of Defense*, 880 F.2d 1381 (D.C. Cir. 1989), *cert denied*, 110 S.Ct. 1478 (1990)). This request is made as part of a scholarly and news research project that is intended for publication and is not for commercial use. For details on the Archive's research and extensive publication activities please see our website at [www.nsarchive.org](http://www.nsarchive.org).



To expedite the release of the requested documents, please disclose them on an interim basis as they become available to you, without waiting until all the documents have been processed. Please notify me before incurring any photocopying costs over \$100. If you have any questions regarding the identity of the records, their location, the scope of the request or any other matters, please call me at (202) (b) (6) or email me at foiamail@ (b) (6). I look forward to receiving your response within the twenty day statutory time period.

Sincerely yours,

Nate Jones

Freedom of Information Officer  
Council on Environmental Quality  
722 Jackson Place, NW  
Washington, DC 20503

Delivered via email at [efoia@ceq.eop.gov](mailto:efoia@ceq.eop.gov) and sent by mail on October 13, 2010.

Dear FOIA Officer:

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, I hereby request that the Council on Environmental Quality (CEQ) send me all records, including, but not limited to, all documents, emails, correspondences, and quarterly and end-of year reports, detailing and summarizing the activities related to any CEQ interactions or consultations with the U.S. Food & Drug Administration, or any other U.S. federal or state agency, regarding any discussion of Aquabounty Technologies Inc. "AquaAdvantage" genetically-engineered salmon, or other genetically-engineered fish.

I am requesting these records as a representative of Food & Water Watch, a non-profit consumer advocacy organization. I request a waiver of fees because my interest in the records is not primarily commercial, and disclosure of the information will contribute significantly to public understanding by revealing the level of interagency consultation regarding potential approval of the genetically-engineered salmon, which could be the first ever genetically-engineered animal made available for human consumption. This information will be analyzed by Food & Water Watch, and the derived analysis will be widely distributed to the public.

I will expect a response within 20 working days as provided by law. If my request is denied in whole or in part, I expect a detailed justification for withholding the records. I also request any segregable portions that are not exempt to be disclosed, e.g., non-privileged, factual information.

Thank you for your prompt attention to this matter. Please contact me at (202) (b) (6) or [jmitchell@](mailto:jmitchell@) (b) (6) if you have any questions.

Sincerely,

James Mitchell  
Policy & Legislative Coordinator, Fish Program  
Food & Water Watch  
ph: 202- (b) (6)  
fx: 202- (b) (6)

**Csank, Diana (Volunteer)**

---

**From:** Scharf, Katie  
**Sent:** Friday, October 15, 2010 2:46 PM  
**To:** 'jmitche1@ (b) (6)'  
**Subject:** CEQ FOIA #2010-29

Mr. Mitchell,

Just to follow up my voicemail, this email serves to acknowledge receipt of your October 13, 2010, FOIA request for records detailing and summarizing the activities related to any CEQ interactions or consultations with the US Food & Drug Administration and other federal or state agencies regarding "AquaAdvantage" genetically-engineered salmon, or other genetically-engineered fish. Your tracking number is CEQ FOIA #2010-29.

So that we can respond to your request as promptly as possible, we'd like to give you the opportunity to narrow the scope of your inquiry. You could accomplish this by specifying the time frame for the records you'd like us to search, or the particular CEQ staff or teams whose records should be searched. You might also consider excluding certain kinds of information, such as publicly available documents, press clippings, etc. Any or all of these options will enable us to conduct a more targeted search and, thus, better provide you with the information you seek.

Please call me at your earliest convenience so that we can discuss the scope of your request. My contact information is below. I need to hear from you before we commence our search.

Regards,

Katie Scharf  
Deputy General Counsel  
Council on Environmental Quality  
(202) (b) (6) (o)  
(202) (b) (6) (c)

**Csank, Diana (Volunteer)**

---

**From:** Scharf, Katie  
**Sent:** Wednesday, October 20, 2010 1:13 PM  
**To:** Scharf, Katie; 'jmittell@'(b) (6)  
**Subject:** RE: CEQ FOIA #2010-29

James,

It was a pleasure speaking with you earlier today about your FOIA request.

To confirm what we discussed on the phone, we will search for documents, emails, correspondence, quarterly reports, and end-of-year reports showing discussion of either (1) Aquabounty Technologies Inc., "AquaAdvantage" genetically engineered salmon or (2) other genetically engineered fish, that detail or summarize activities related to CEQ interactions or consultations with USDA or any U.S. federal or state agency, dating from July 1, 2010 until today (the date we are beginning our search). We will search the records of our Land & Water, Toxics, Legal/Regulatory, NEPA, Legislative, and Outreach teams as well as the records of our Chair, Deputy Director, Chief of Staff, and Deputy Chief of Staff.

Thanks so much,

Katie

Katie Scharf  
Deputy General Counsel  
Council on Environmental Quality  
(202) (b) (6) (o)  
(202) (b) (6) (c)

---

**From:** Scharf, Katie  
**Sent:** Friday, October 15, 2010 2:46 PM  
**To:** 'jmittell@'(b) (6)  
**Subject:** CEQ FOIA #2010-29

Mr. Mitchell,

Just to follow up my voicemail, this email serves to acknowledge receipt of your October 13, 2010, FOIA request for records detailing and summarizing the activities related to any CEQ interactions or consultations with the US Food & Drug Administration and other federal or state agencies regarding "AquaAdvantage" genetically-engineered salmon, or other genetically-engineered fish. Your tracking number is CEQ FOIA #2010-29.

So that we can respond to your request as promptly as possible, we'd like to give you the opportunity to narrow the scope of your inquiry. You could accomplish this by specifying the time frame for the records you'd like us to search, or the particular CEQ staff or teams whose records should be searched. You might also consider excluding certain kinds of information, such as publicly available documents, press clippings, etc. Any or all of these options will enable us to conduct a more targeted search and, thus, better provide you with the information you seek.

Please call me at your earliest convenience so that we can discuss the scope of your request. My contact information is below. I need to hear from you before we commence our search.

Regards,

**Katie Scharf**

Deputy General Counsel

Council on Environmental Quality

(202) (b) (6) (o)

(202) (c)

**Csank, Diana (Volunteer)**

---

**From:** James Mitchell [jmitche@ (b) (6)]  
**Sent:** Wednesday, October 20, 2010 5:16 PM  
**To:** Scharf, Katie  
**Subject:** Re: CEQ FOIA #2010-29  
**Attachments:** Response to Katie Scharf CEQ Oct 20 2010.pdf; ATT00001..htm

Hi Katie,

Good speaking to you as well. I went ahead and drafted a response to you on letterhead (see PDF below), to make my email a little more accessible to my colleagues.

Please let me know your thoughts when you get a moment.

Thanks again,

James



Food & Water Watch • 1616 P St. NW, Suite 300 • Washington, DC 20036  
www.foodandwaterwatch.org • T: +1.202 (b) (6) • F: +1.202 (b) (6)

October 20, 2010

Katie Scharf  
Council on Environmental Quality  
722 Jackson Place, NW  
Washington, DC 20503

Delivered via email at Katherine.M.Scharf@ (b) (6)

Hi Katie,

This is a response to your email earlier today, in reference to our phone discussion. I have copied the text of your email to the bottom of this letter, for easy reference.

I would agree with you on beginning the first phase of the search on July 1, 2010, given that you believed that it would speed things along in the overall search process. However, given that other agencies have found letters dated back to October 2001, it is important that this time period also be reviewed - in our earlier conversation, you mentioned that the target documents from the previous Administration, if any, would be located in archives.

I am fine with receiving the information from the first phase of the search (July 1, 2010 → present) before the second phase, a more time-consuming "archives" search (January 1, 2001 → June 30, 2010). However, while I have no issues splitting the single search request into two phases, I would be hesitant to make two separate requests with two separate tracking numbers, as this could lead to confusion and delay down the road. Please let me know if this makes sense on your end.

Thank you!

James

James Mitchell  
Policy & Legislative Coordinator  
Fish Program  
ph: 202 (b) (6)  
fx: 202-



Food & Water Watch • 1616 P St. NW, Suite 300 • Washington, DC 20036  
www.foodandwaterwatch.org • T: +1.202 (b) (6) F: +1.202 (b) (6)

James,

It was a pleasure speaking with you earlier today about your FOIA request.

To confirm what we discussed on the phone, we will search for documents, emails, correspondence, quarterly reports, and end-of-year reports showing discussion of either (1) Aquabounty Technologies Inc., "AquaAdvantage" genetically engineered salmon or (2) other genetically engineered fish, that detail or summarize activities related to CEQ interactions or consultations with USDA or any U.S. federal or state agency, dating from July 1, 2010 until today (the date we are beginning our search). We will search the records of our Land & Water, Toxics, Legal/Regulatory, NEPA, Legislative, and Outreach teams as well as the records of our Chair, Deputy Director, Chief of Staff, and Deputy Chief of Staff.

Thanks so much,

Katie

**Katie Scharf**

Deputy General Counsel

Council on Environmental Quality

(202) (b) (6) (o)

(202) (b) (6) (c)



**Csank, Diana (Volunteer)**

---

**From:** Bullman, William  
**Sent:** Friday, February 04, 2011 5:48 PM  
**To:** 'jrmitchell@' (b) (6)  
**Subject:** FOIA Request CEQ 2011-02  
**Attachments:** FOIA Request CEQ-2011-02.pdf

Dear Mr. Mitchell,

Attached is CEQ's response to your Freedom of Information request received on October 13, 2010. If you have any questions about CEQ's Processing of your request, or if you require additional information, please feel free to contact me at (202) (b) (6)

Regards,

William Bullman  
Records & Information Specialist  
Council on Environmental Quality  
722 Jackson Place, NW  
Washington, DC 20503  
(202) (b) (6)



EXECUTIVE OFFICE OF THE PRESIDENT  
COUNCIL ON ENVIRONMENTAL QUALITY  
WASHINGTON, D.C. 20503

February 4, 2011

James Mitchell  
Policy & Legislative Coordinator, Fish Program  
Food & Water Watch  
1616 P St. NW, Suite 300  
Washington, DC 20036

**Re: INTERIM RESPONSE TO FOIA REQUEST CEQ-2011-02**

Dear Mr. Mitchell,

This is an interim response to your Freedom of Information Act (FOIA) request dated October 13, 2010 for "all documents, emails, correspondences, and quarterly and end-of year reports, detailing and summarizing the activities related to any CEQ interactions or consultations with the U.S. Food & Drug Administration, or any other U.S. federal or state agency, regarding any discussion of Aquabounty Technologies Inc. 'AquaAdvantage' genetically-engineered salmon, or other genetically-engineered fish."

As we confirmed in correspondence after receiving your request, the Council on Environmental Quality (CEQ) is responding to your FOIA request in two phases, focusing first on available documents from July 1, 2010 until October 20, 2010 the date of our search. In total, the first phase of our search returned thirty-three responsive (33) documents, totaling 259 pages. Based on our review of these documents, eleven (11) documents, totaling 19 pages, should be released with partial redactions pursuant to 5 U.S.C. §§ 552(b)(2), (b)(5), and (b)(6). These documents are attached to this letter. We have also identified six (6) responsive documents, totaling 107 pages, which are being withheld in full pursuant to 5 U.S.C. § 552(b)(5).


At this time, we have also identified additional documents, totaling one hundred thirty three (133) pages that contain items of information originating with, furnished by, or of special interest to another agency. Therefore, we have determined that it is appropriate, pursuant to 5 U.S.C. § 552(a)(6)(B), to consult with the agency or agencies of origination, source, or interest on matters regarding release. We have initiated this consultation with the Food & Drug Administration, the Office of Management and Budget, and the Department of State, and are awaiting the determination of those agencies at this time.

The information released today may be subject to an available exemption under FOIA. CEQ's release of this information may be an exercise in agency discretion, despite the availability of an exemption under FOIA. CEQ's determination to release this information does not constitute a waiver of any privilege or exemption which may apply, in whole or in part. Release of this information does not foreclose CEQ from later claiming an exemption or privilege with regard to any similar documents in response to a subsequent FOIA request.

If you have any questions about the Council on Environmental Quality's processing of your request, or if you require any additional information, please feel free to contact me at (202) (b) (6) (b) (6)

If you are not satisfied with our action on this request, you may administratively appeal the decision within 45 days of the date of this letter by writing CEQ's FOIA Appeals Officer, Council on Environmental Quality, 722 Jackson Place, NW, Washington, DC 20503. Heightened security measures in force may delay mail delivery; therefore, we suggest that you also submit your appeal via facsimile to (202) 456-0753 or email it to [eathas@ceq.eop.gov](mailto:eathas@ceq.eop.gov).

Sincerely,



Katie M. Scharf  
Deputy General Counsel  
Council on Environmental Quality  
Executive Office of the President

# SAVE OUR SOUND

alliance to protect nantucket sound

October 18, 2010

Freedom of Information Officer  
Council on Environmental Quality  
Executive Office of the President  
722 Jackson Place NW  
Washington, DC 20503

**Re: FREEDOM OF INFORMATION ACT (FOIA) REQUEST**

Dear Freedom of Information Officer:

Pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 *et seq.*, and the regulations of the White House's Council on Environmental Quality, at 40 C.F.R. Part 1515, I am writing on behalf of the Alliance to Protect Nantucket Sound ("the Alliance") to request *all* documents including any communications, correspondence, emails, telephone messages, message logs, calendar entries, appointments, or spreadsheets, and similar communications in the possession of any official or agent in the Council on Environmental Quality of the White House addressing any and all communications regarding the proposed offshore wind farm, Cape Wind. For purposes of this request, the Alliance seeks a copy of all communications since January 1, 2009 through the date of your response to this request.

Pursuant to 40 C.F.R. §1515.6, a response to this request is required within **twenty (20)** days. In the event that any of the requested documents cannot be disclosed in their entirety, the Alliance requests that you release any material that can be reasonably segregated. Should any documents or portions of documents be withheld, the Alliance further requests that the Council on Environmental Quality state with specificity the description of the document to be withheld and the legal and factual grounds for withholding any documents or portions thereof.

The Alliance also requests that the Council on Environmental Quality waive all reasonable costs incurred in responding to this request. Pursuant to 40 C.F.R. §1515.15, the Council on Environmental Quality may grant a waiver or reduction of the fees when it is deemed "that disclosure of the information is in the general public's interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." The Alliance believes that the documents of the nature requested should be disclosed to the public in light of the magnitude and significance of the proposed Cape Wind Project. This project would be the nation's first offshore wind farm and has remained a highly controversial project for over eight years.

Should the Council on Environmental Quality deny this fee waiver request, the Alliance is willing to pay all reasonable fees incurred for search, duplication, and review up to \$500 in responding to this request. However, Pursuant to 40 C.F.R. §1515.12, the Alliance requests that the Council on Environmental Quality contact the undersigned should the costs of responding to this request exceed that amount. For purposes of determining any fees related to fulfilling this request, pursuant to §1515.13, the Alliance is

4 Barnstable Road, Hyannis, Massachusetts 02601

□ 508(b) (6) □ Fax: 508(b) (6)

---

[www.saveoursound.org](http://www.saveoursound.org)

a 501 (c)(3) tax-exempt organization

considered an "other requester." It is noteworthy that United States Department of Interior has previously concluded that the Alliance does not have a commercial interest in the Cape Wind proceeding and, thus, qualifies as an "other requester" for purposes of calculating fees for responding to this request. As a result, the Alliance has previously qualified for a fee reduction for the costs associated with search time and duplication of responsive documents.<sup>1</sup> The Alliance seeks prompt and timely compliance with this request.

The Alliance would like to remind the Council on Environmental Quality that the President and Office of Management and Budget have directed executive departments and agencies to ensure that their actions meet the principles of transparency, participation and collaboration.<sup>2</sup> "Transparency promotes accountability by providing the public with information about what the Government is doing."<sup>3</sup> The White House should follow this directive by ensuring all responsive documents to the Alliance's FOIA request are disclosed.

Please do not hesitate to contact the undersigned at (508) (b) (6) should you have any questions. Thank you.

Very truly yours,



Audra Parker  
President and Executive Director  
Alliance to Protect Nantucket Sound

---

<sup>1</sup> Letter from U.S. Dept. of Interior, Bureau of Ocean Energy Management, Regulation and Enforcement, MMS-2010-00332, at 1 (Aug. 26, 2010).

<sup>2</sup> See Memorandum for the Heads of Executive Departments and Agencies, Executive Office of the President, Office of Management and Budget, Dec. 8, 2008.

<sup>3</sup> *Id.* at 1.

4 Barnstable Road, Hyannis, Massachusetts 02601  
□ 508 (b) (6) □ Fax: 508 (b) (6)

**From:** Sandy Taylor  
**To:** Scharf, Katie  
**Cc:** NThakar@ (b) (6)  
**Subject:** RE: CEQ FOIA # 2010-30  
**Date:** Friday, October 22, 2010 12:27:33 PM

---

Kate:

Thank you very much.

Sandy

---

**From:** Scharf, Katie [mailto:Katherine\_M.\_Scharf@ (b) (6)]  
**Sent:** Friday, October 22, 2010 11:56 AM  
**To:** sandyt@ (b) (6)  
**Cc:** NThakar@ (b) (6)  
**Subject:** CEQ FOIA # 2010-30

Dear Ms. Taylor,

This email serves to acknowledge receipt of your October 18, 2010, FOIA request for records showing CEQ communications regarding the Cape Wind offshore wind farm.

Your tracking number is CEQ FOIA # 2010-30. Consistent with my conversation with your counsel, Nidhi Thakar, yesterday, we will be searching the records of staff on the following teams at CEQ that may have responsive documents: Land & Water; Energy & Climate Change; Communications; Legal; NEPA; Legislative Affairs; and Policy Outreach. We will also search the records of our Chair, Deputy Director, Chief of Staff, and Deputy Chief of Staff.

We will be in touch if we need additional information to process your request. In the meantime, if you have any questions, you can always reach me via the contact information below.

Regards,

Katie Scharf

**Katie Scharf**  
Deputy General Counsel  
Council on Environmental Quality  
(202) (b) (6) (o)  
(202) (b) (6) (c)

# SAVE OUR SOUND

alliance to protect nantucket sound

January 11, 2011

Katie Scharf  
Deputy General Counsel  
Council on Environmental Quality  
Executive Office of the President  
722 Jackson Place NW  
Washington, DC 20503

**Re: CEQ FOIA Request# 2010-30**

Dear Sir or Madam:

Pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 *et seq.*, and the regulations of the White House Council on Environmental Quality, at 40 C.F.R. Part 1515, the Alliance to Protect Nantucket Sound (the "Alliance") sent a letter dated October 18, 2010 (attached) requesting "all documents including any communications, correspondence, emails, telephone messages, message logs, calendar entries, appointments, or spreadsheets, and similar communications in the possession of any official or agent in the Council on Environmental Quality of the White House addressing any and all communications regarding the proposed offshore wind farm, Cape Wind. For purposes of this request, the Alliance seeks a copy of all communications since January 1, 2009 through the date of your response to this request."

On October 22, 2010, the Alliance received a response from your office acknowledging receipt of the FOIA request. However, to date no further correspondence from your office has been received.

Pursuant to 40 C.F.R. §1515.6, a response to this request was required within twenty (20) days of receipt, November 19, 2010. As of the date of this letter, a complete response from your office is 53 days late.

In making this request, the Alliance relies on the President's directive that in responding to FOIA requests, "executive branch agencies should act promptly and in a spirit of cooperation, recognizing that such agencies are servants of the public. All agencies should adopt a presumption in favor of disclosure..." Freedom of Information Act, Memorandum for the Heads of Executive Departments and Agencies, 74 Fed. Reg. 4683 (Jan. 21, 2009). The Commission has a responsibility to meet the obligations of transparency, participation and collaboration.

4 Barnstable Road, Hyannis, Massachusetts 02601  
□ 508 (b) (6) □ Fax: 508 (b) (6)

---

[www.saveoursound.org](http://www.saveoursound.org)

a 501 (c)(3) tax-exempt organization

Ms. Katie Scharf  
Council on Environmental Quality  
January 11, 2011  
Page 2 of 2

If a full response to the Alliance's FOIA request is not received by **February 1, 2011**, the Alliance will be forced to treat your office's failure to respond as a denial and proceed with an appeal. The Alliance wishes to resolve this matter as expeditiously as possible and is willing to work with your office to address any outstanding questions you may have.

Thank you for your prompt attention to this matter. Please contact the undersigned at 508-775-9767 should you have any questions regarding this matter.

Very truly yours,



Audra Parker  
President and CEO  
Alliance to Protect Nantucket Sound

Enclosure

4 Barnstable Road, Hyannis, Massachusetts 02601  
□ 508(b) (6) □ Fax: 508(b) (6)

---

[www.saveoursound.org](http://www.saveoursound.org)

a 501 (c)(3) tax-exempt organization



**From:** Bullman, William  
**To:** nthakar@ (b) (6)  
**Subject:** Alliance to Protect Nantucket Sound FOIA Request  
**Date:** Thursday, January 27, 2011 12:53:13 PM

---

Dear Ms. Thakar,

This is in further reference to our phone conversation on January 26, 2011, regarding the Freedom of Information Act submitted to our office by the Alliance to Protect Nantucket Sound. We are finalizing our review of documents produced in our search and are planning to implement a rolling release of any responsive material. Please note that many of the documents require consultation with other federal agencies. By February 4<sup>th</sup>, we will provide you with an interim response that details the results of our search, and make a discretionary release of any responsive documents that do not require consultation with other federal agencies. Additional releases may also be made, and we will complete any such additional releases as quickly as possible, after appropriate review and/or consultation with the appropriate originating agency.

Please feel free to contact me should you have any questions,

Sincerely,

William Bullman

William Bullman  
Records & Information Specialist  
Council on Environmental Quality  
722 Jackson Place, NW  
Washington, DC 20503  
(202) (b) (6)

**From:** Bullman, William  
**To:** "nthakar@ (b) (6)"  
**Bcc:** Scharf, Katie  
**Subject:** Alliance to Protect Nantuckett Sound FOIA Request  
**Date:** Friday, February 04, 2011 5:14:00 PM  
**Attachments:** FOIA Request CEO 2011-03.pdf

---

Dear Ms. Thakar,

Attached is CEQ's response to your Freedom of Information request received on October 19, 2010. If you have any questions about CEQ's Processing of your request, or if you require additional information, please feel free to contact me at (202) (b) (6)

Regards,

William Bullman  
Records & Information Specialist  
Council on Environmental Quality  
722 Jackson Place, NW  
Washington, DC 20503  
(202) (b) (6)



EXECUTIVE OFFICE OF THE PRESIDENT  
COUNCIL ON ENVIRONMENTAL QUALITY  
WASHINGTON, D.C. 20503

February 4, 2011

Audra Parker  
President and Executive Director  
Alliance to Protect Nantucket Sound  
4 Barnstable Road  
Hyannis, MA 02601

**Re: INTERIM RESPONSE TO FOIA REQUEST CEQ-2011-03**

Dear Ms. Parker,

This is an interim response to your Freedom of Information Act (FOIA) request dated October 18, 2010, and perfected on October 21, 2010, for "all documents including any communications, correspondence, emails, telephone messages, message logs, calendar entries, appointments, or spreadsheets, and similar communications in the possession of any official or agent of the Council on Environmental Quality of the White House addressing any and all communications regarding the proposed offshore wind farm, Cape Wind." In accordance with your request, we searched for records from January 1, 2009 through the date of search, October 21, 2010.

In total, our search returned seventy-five (75) responsive documents, totaling 283 pages. Based on our review of the documents produced in this search, we have determined at this time that five (5) documents, totaling seven (7) pages, should be released in full, and another fourteen (14) documents, totaling thirty nine (39) pages should be released with partial redactions pursuant to 5 U.S.C. §§ 552(b)(2), (b)(5), and (b)(6). We have also identified three (3) responsive documents, totaling (15) pages, which are being withheld in full pursuant to 5 U.S.C. § 552(b)(5). Please note that for some of these documents, we are making a discretionary release in the interest of furthering transparency as some of these of these documents may already be publicly available, or may be non-responsive because the document was not related to the proposed offshore wind farm, Cape Wind.

The remaining documents contain items of information originating with, furnished by, or of special interest to another agency. Therefore, we have determined that it is appropriate, pursuant to 5 U.S.C. § 552(a)(6)(B), to consult with the agency of origination, source, or interest on matters regarding release. We will be consulting with the Office of the White House Counsel, Department of the Interior, and Department of Energy on the releasability of the referred documents.

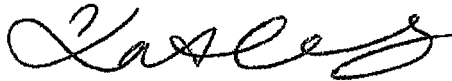
The information released today may be subject to an available exemption under FOIA. CEQ's release of this information may be an exercise in agency discretion, despite the availability of an exemption under FOIA. CEQ's determination to release this information does not constitute a waiver of any privilege or exemption which may apply, in whole or in part. Release of this information does not foreclose CEQ from later claiming an exemption or privilege with regard to any similar documents in response to a subsequent FOIA request.

If you have any questions about the Council on Environmental Quality's processing of your request, or if you require any additional information, please feel free to contact me at (202)

(b) (6)

If you are not satisfied with our action on this request, you may administratively appeal the decision within 45 days of the date of this letter by writing the FOIA Appeals Officer, Council on Environmental Quality, 722 Jackson Place, NW, Washington, DC 20503. Heightened security measures in force may delay mail delivery; therefore, we suggest that you also submit your appeal via facsimile to (202) 456-0753.

Sincerely,



Katie M. Scharf  
Deputy General Counsel  
Council on Environmental Quality  
Executive Office of the President