From: Yarbrough, Christopher
To: Engels, Alan
Cc: Farren, Victor; Hope, Brian; Dominguez, Ryan; Johnson, Larry-C
Subject: RE: Reassignment of FOIA Request # EPA-2021-001460
Date: Tuesday, January 5, 2021 8:52:31 AM

Good morning, Alan. I checked in FOIA Online and it is now assigned to Region 8.

Have a great day.

Chris

From: Engels, Alan <engels.alan@epa.gov>
Sent: Tuesday, January 5, 2021 10:42 AM
To: Yarbrough, Christopher <yarbrough.christopher@epa.gov>; Dominguez, Ryan <Dominguez.Ryan@epa.gov>; Johnson, Larry-C <Johnson.Larry-C@epa.gov>
Cc: Farren, Victor <Farren.Victor@epa.gov>; Hope, Brian <Hope.Brian@epa.gov>
Subject: RE: Reassignment of FOIA Request # EPA-2021-001460

Is this request coming back to Region 8?

Alan Engels
Regional FOIA Officer
US EPA, Region 8
1595 Wynkoop St.
8ORC-LCG
Denver, CO 80202

(303) 312-6306
Engels.alan@EPA.gov

From: Yarbrough, Christopher <yarbrough.christopher@epa.gov>
Sent: Wednesday, December 30, 2020 3:09 PM
To: Engels, Alan <engels.alan@epa.gov>; Dominguez, Ryan <Dominguez.Ryan@epa.gov>
Cc: Farren, Victor <Farren.Victor@epa.gov>; Hope, Brian <Hope.Brian@epa.gov>
Subject: RE: Reassignment of FOIA Request # EPA-2021-001460

Ok, thanks Alan. I wasn't tracking that. Sorry for the misfire.

From: Engels, Alan <engels.alan@epa.gov>
Sent: Wednesday, December 30, 2020 5:05 PM
To: Yarbrough, Christopher <yarbrough.christopher@epa.gov>; Dominguez, Ryan

<Dominguez.Ryan@epa.gov>
Cc: Farren, Victor <Farren.Victor@epa.gov>; Hope, Brian <Hope.Brian@epa.gov>
Subject: RE: Reassignment of FOIA Request # EPA-2021-001460

Based on the last email correspondence on Dec 23, we were waiting for the FOIA to be re-assigned to the region.

Have already reached out to regional staff members, and we should be able to complete the response quickly.

When re-assigning, please let us know if there is an Awareness Notification related to this request.

Alan Engels
Regional FOIA Officer
US EPA, Region 8
1595 Wynkoop St.
8ORC-LCG
Denver, CO 80202

(303) 312-6306
Engels.alan@EPA.gov

From: Yarbrough, Christopher <yarbrough.christopher@epa.gov>
Sent: Wednesday, December 30, 2020 3:00 PM
To: Dominguez, Ryan <Dominguez.Ryan@epa.gov>; Engels, Alan <engels.alan@epa.gov>
Cc: Farren, Victor <Farren.Victor@epa.gov>; Hope, Brian <Hope.Brian@epa.gov>
Subject: FW: Reassignment of FOIA Request # EPA-2021-001460

Good afternoon, Ryan and Alan. I hope you are both doing well.

To revisit this briefly, I was able to confirm that Region 8 does have CMS login credentials. I still believe the request should be assigned accordingly; the language of the request focuses on R8, the responsive records concern and originate within R8, and R8 personnel have access to the online repository where the records are located.

If there's a FOIA Online task that needs to be assigned out, and we're not sure there actually is, then that's a small portion of the process. That would not outweigh everything else and render this within AO's custody and control.

Thanks,
Chris

From: Yarbrough, Christopher
Sent: Wednesday, December 23, 2020 10:47 AM
To: Engels, Alan <engels.alan@epa.gov>
Cc: Farren, Victor <Farren.Victor@epa.gov>; Dominguez, Ryan <Dominguez.Ryan@epa.gov>; Hope, Brian <Hope.Brian@epa.gov>
Subject: RE: Reassignment of FOIA Request # EPA-2021-001460

Good morning, Alan.

I don't doubt that's the answer you received. My understanding though is that R8 has access to the executive correspondence system, designated "CMS," and does use it. Pulling correspondence from CMS is an easy task and one that many of us do several times a week. Reports involve a little more, and sometimes Bob Craine runs them if someone requests his assistance, but the records are not under AO's custody and control – anyone with a user ID can access them.

I believe it's the precedent that may be concerning – that FOIA requests for CMS records concerning EPA Regions would be assigned to AO. We still believe correspondence between a member of Congress and a specific region should be assigned to that region.

My arguments are common sense ones based on the circumstances, and I do not have any positional authority, so I'll loop in Brian Hope, our Deputy Director (now copied above). I believe he is out today so we'll have to pick this up again after the holidays.

Chris

From: Engels, Alan <engels.alan@epa.gov>
Sent: Wednesday, December 23, 2020 9:47 AM
To: Yarbrough, Christopher <yarbrough.christopher@epa.gov>; Dominguez, Ryan <Dominguez.Ryan@epa.gov>
Cc: Farren, Victor <Farren.Victor@epa.gov>
Subject: RE: Reassignment of FOIA Request # EPA-2021-001460

Chris,

When I asked the RA's office for any correspondence they indicated that the material would have to be extracted from the executive correspondence system and would have to make that request from a person connected with the AO's Office.

This was the basis for directing the request to your offices, the RA's Office indicated that the correspondence, while addressed to Region 8, was in the possession and under the control of your offices.

Alan Engels
Regional FOIA Officer
US EPA, Region 8
1595 Wynkoop St.
8ORC-LCG
Denver, CO 80202

(303) 312-6306
Engels.alan@EPA.gov

From: Yarbrough, Christopher <yarbrough.christopher@epa.gov>
Sent: Tuesday, December 22, 2020 2:43 PM
To: Dominguez, Ryan <Dominguez.Ryan@epa.gov>
Cc: Engels, Alan <engels.alan@epa.gov>; Farren, Victor <Farren.Victor@epa.gov>
Subject: Reassignment of FOIA Request # EPA-2021-001460

Good afternoon, Ryan. I hope your day is going well.

I am an attorney-adviser within the Office of the Administrator (AO) and am divvying out our new requests while Victor is on holiday leave. I noticed that request # EPA-2021-001460 was reassigned from Region 8 to the AO, and asks for "Congressional correspondence received by Region 8 from U.S. Senator Michael Bennett from 2019 to the present." We believe this request should be reassigned to Region 8.

Correspondence between a member of Congress and a specific region should be assigned to that region, not to the AO. For example, the AO recently received a request for "Congressional correspondence received at HQ from U.S. Senators Michael Bennett from 2019 to the present." That request is properly assigned to us. There is no agreement or established practice where the AO handles requests for CMS based correspondence that don't involve our office. Our understanding is that each region has access to CMS and uses the system for purposes of capturing, processing, and responding to Congressional correspondence. Region 8 should have the ability to respond to this request in house.

I copied Alan Engels since he left a comment in FOIA Online about this request, and so all the correct POC's are on this email.

Please let me know if we need to discuss this further. In the meantime, I hope you have a very Merry Christmas and/or a happy holiday!

Chris

Chris Yarbrough
Attorney-Adviser
U. S. Environmental Protection Agency
Office of the Executive Secretariat
(202) 564-5290