To: Stein, Mark[Stein.Mark@epa.gov]; Sweeney, Stephen[Sweeney.Stephen@epa.gov]; Levy, Sandra (USANYE)[Sandra.Levy@usdoj.gov]; Thorp, Michael (ENRD)[Michael.Thorp@usdoj.gov]
Cc: Feinmark, Phyllis[Feinmark.Phyllis@epa.gov]
From: Eckhardt, Cayleigh
Sent: Thur 12/1/2016 1:50:39 PM
Subject: RE: Telephone Call with NY DOS General Counsel regarding Eastern Long Island Sound Dredged Material Disposal Site (privileged and confidential)

Hi Sandra,

I am free all day tomorrow (Friday). And, as of right now, I am generally available any time next week except from 8:30-10:30 on Wednesday.

Thanks, again, for coordinating.

Cayleigh

Cayleigh Eckhardt

Office of Regional Counsel

EPA, Region 1

5 Post Office Square

Boston, Massachusetts 02109

Tel: 617-918-1044

Fax: 617-918-0044

Email: eckhardt.cayleigh@epa.gov

From: Stein, Mark
Sent: Thursday, December 01, 2016 7:18 AM

To: Sweeney, Stephen <Sweeney.Stephen@epa.gov>; Levy, Sandra (USANYE) <Sandra.Levy@usdoj.gov>; Thorp, Michael (ENRD) <Michael.Thorp@usdoj.gov>
Cc: Eckhardt, Cayleigh <eckhardt.cayleigh@epa.gov>; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>
Subject: RE: Telephone Call with NY DOS General Counsel regarding Eastern Long Island Sound Dredged Material Disposal Site (privileged and confidential)

Hi Sandra:

I am available this Friday, except from 11:15 to 1:15.

Next week, I am available pretty much any time Monday, Tuesday or Wednesday and Friday, and also on Thursday in the afternoon.

No real update on publication. The program office tells me that the FR folks have called them to say that they are working on it now. As a result, the program office is expecting to be given a publication date any day now, but can't be sure of when yet.

Mark A. Stein

Senior Assistant Regional Counsel

EPA Region 1

5 Post Office Square, Suite 100

Mail Code ORA 18-1

Boston, MA 02109-3912

Tel.: 617-918-1077

E-Fax: 617-918-0077

Email: stein.mark@epa.gov

From: Sweeney, Stephen
Sent: Wednesday, November 30, 2016 5:37 PM
To: Levy, Sandra (USANYE) <Sandra.Levy@usdoj.gov>; Stein, Mark <Stein.Mark@epa.gov>; Thorp, Michael (ENRD) <Michael.Thorp@usdoj.gov>
Cc: Eckhardt, Cayleigh <eckhardt.cayleigh@epa.gov>; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>
Subject: RE: Telephone Call with NY DOS General Counsel regarding Eastern Long Island Sound Dredged Material Disposal Site (privileged and confidential)

Sandra,

I currently available all day Friday (well, 9:30-6:00), but in another matter I'm trying to get on some peoples' calendars that day on a time sensitive matter.

Monday looks surprisingly open (except the noon hour). Tuesday also is open except for noon and after 3:30. Wednesday and Thursday open both days except 1-2. Next Friday (12/9) I am unavailable, as well as the following Monday.

Thanks,

Steve

Stephen J. Sweeney

Attorney-Advisor

Water Law Office

Office of General Counsel

U.S. Environmental Protection Agency

sweeney.stephen@epa.gov

202-564-5491 (desk)

202-564-5531 (fax)

From: Levy, Sandra (USANYE) [mailto:Sandra.Levy@usdoj.gov]
Sent: Wednesday, November 30, 2016 4:16 PM
To: Stein, Mark <Stein.Mark@epa.gov>; Thorp, Michael (ENRD) <Michael.Thorp@usdoj.gov>; Sweeney, Stephen <Sweeney.Stephen@epa.gov>
Cc: Eckhardt, Cayleigh <eckhardt.cayleigh@epa.gov>; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>
Subject: RE: Telephone Call with NY DOS General Counsel regarding Eastern Long Island Sound Dredged Material Disposal Site (privileged and confidential)

As it turns out, unfortunately, I am not available tomorrow morning, which is the remaining mutually convenient time this week from this round of responses. I am available on Friday, but it sounds like Friday may work for some, but not all. Please provide your availability on Friday, as well as next week. Sorry for the inconvenience, but we will make this work eventually!

Non-responsive; Ex. 5 - Deliberative Process, Attorney-Client, Attorney Work-Product

Thanks again.

Sandra L. Levy

Assistant United States Attorney

Chief of Environmental Litigation, Civil Division

Eastern District of New York

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Brooklyn, New York 11201

Tel: 718-254-6014

Fax: 718-254-6081

sandra.levy@usdoj.gov

Please consider the environment before printing this e-mail.

From: Stein, Mark [mailto:Stein.Mark@epa.gov]
Sent: Tuesday, November 29, 2016 2:10 PM
To: Thorp, Michael (ENRD) <Michael.Thorp@usdoj.gov>; Sweeney, Stephen <Sweeney.Stephen@epa.gov>; Levy, Sandra (USANYE) <SLevy@usa.doj.gov>
Cc: Eckhardt, Cayleigh <eckhardt.cayleigh@epa.gov>; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>
Subject: RE: Telephone Call with NY DOS General Counsel regarding Eastern Long Island Sound Dredged Material Disposal Site (privileged and confidential)

Sandra – An update to my schedule: I can't do Wednesday from 4-5:30, but can do the other times that Michael can make.

Mark A. Stein

Senior Assistant Regional Counsel

EPA Region 1

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Mail Code ORA 18-1

Boston, MA 02109-3912

Tel.: 617-918-1077

E-Fax: 617-918-0077

Email: stein.mark@epa.gov

From: Thorp, Michael (ENRD) [mailto:Michael.Thorp@usdoj.gov]
Sent: Tuesday, November 29, 2016 1:26 PM
To: Sweeney, Stephen <Sweeney.Stephen@epa.gov>; Levy, Sandra (USANYE) <Sandra.Levy@usdoj.gov>
Cc: Eckhardt, Cayleigh <eckhardt.cayleigh@epa.gov>; Stein, Mark <Stein.Mark@epa.gov>; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>
Subject: RE: Telephone Call with NY DOS General Counsel regarding Eastern Long Island Sound Dredged Material Disposal Site (privileged and confidential)

Good afternoon

I am free on Wednesday from 12:00-2:00 then again from 4:30-5:30. I am also available Thursday from 10:00-11:30.

-Mike

From: Sweeney, Stephen [mailto:Sweeney.Stephen@epa.gov]
Sent: Monday, November 28, 2016 3:55 PM
To: Levy, Sandra (USANYE) <Sandra.Levy@usdoj.gov>
Cc: Eckhardt, Cayleigh <eckhardt.cayleigh@epa.gov>; Stein, Mark <Stein.Mark@epa.gov>; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; Thorp, Michael (ENRD) <MThorp@ENRD.USDOJ.GOV>
Subject: RE: Telephone Call with NY DOS General Counsel regarding Eastern Long Island Sound Dredged Material Disposal Site (privileged and confidential)

Sandra,

I am available tomorrow (Tuesday) from 3-6. Wednesday from about 11:15 till 6pm. On Thursday from 9:30am to 12:30pm. And Friday all day.

Thanks,

Steve

From: Levy, Sandra (USANYE) [mailto:Sandra.Levy@usdoj.gov]
Sent: Monday, November 28, 2016 2:46 PM
To: Stein, Mark <Stein.Mark@epa.gov>; Sweeney, Stephen <Sweeney.Stephen@epa.gov>
Cc: Dierker, Carl <Dierker.Carl@epa.gov>; Eckhardt, Cayleigh <eckhardt.cayleigh@epa.gov>; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; Thorp, Michael (ENRD) <Michael.Thorp@usdoj.gov>
Subject: RE: Telephone Call with NY DOS General Counsel regarding Eastern Long Island Sound Dredged Material Disposal Site (privileged and confidential)

Hi, all,

Non-responsive; Ex. 5 - Deliberative Process, Attorney-Client, Attorney Work-Product

I have heard from Mark, Phyllis and Carl on their availability this week, and have compiled each of their responses into this trail. Steve, Cayleigh, and Mike, please advise of your availability as well, so that we can find a mutually convenient time Non-responsive; Ex. 5 - Deliberative Process, Attorney-Client, Attorney Work-Product

Non-responsive; Ex. 5 - Deliberative Process, Attorney-Client, Attorney Work-Product

Speaking of which, any further update on the timing of the FR publication? Thanks a lot.

Sandra L. Levy

Assistant United States Attorney

Chief of Environmental Litigation, Civil Division

Eastern District of New York

271 Cadman Plaza East, 7th Floor

Brooklyn, New York 11201

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Fax: 718-254-6081

sandra.levy@usdoj.gov

Please consider the environment before printing this e-mail.

From: Stein, Mark [mailto:Stein.Mark@epa.gov]
Sent: Wednesday, November 23, 2016 9:45 AM
To: Levy, Sandra (USANYE) <SLevy@usa.doj.gov>; Purdy, Angeline (ENRD) <Angeline.Purdy@usdoj.gov>; Sweeney, Stephen <Sweeney.Stephen@epa.gov>
Cc: Dierker, Carl <Dierker.Carl@epa.gov>; Eckhardt, Cayleigh <eckhardt.cayleigh@epa.gov>; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>
Subject: RE: Telephone Call with NY DOS General Counsel regarding Eastern Long Island Sound Dredged Material Disposal Site (privileged and confidential)

Sandra, et al. –

I am generally available next week (except Wednesday morning from 9:30-10:30). I do have

Non-responsive; Ex. 5 - Deliberative Process, Attorney-Client, Attorney Work-Product

With regard to a date for publication of the Final Rule, based on my call with the program office, we still don't have a date from the FR. The FR contacted our program person last Wednesday to say they had begun their review of the Rule. We were expecting to hear back from them again about a publication date for some time this week, perhaps as late as Friday, but they have not gotten back to us yet. I'll let you all know as soon as I hear something.

Mark A. Stein

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EPA Region 1

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Mail Code ORA 18-1

Boston, MA 02109-3912

Tel.: 617-918-1077

E-Fax: 617-918-0077

Email: stein.mark@epa.gov

From: Sweeney, Stephen [mailto:Sweeney.Stephen@epa.gov]
Sent: Tuesday, November 22, 2016 5:35 PM
To: Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; Levy, Sandra (USANYE) <SLevy@usa.doj.gov>; Purdy, Angeline (ENRD) <Angeline.Purdy@usdoj.gov>; Stein, Mark <Stein.Mark@epa.gov>
Cc: Dierker, Carl <Dierker.Carl@epa.gov>; Eckhardt, Cayleigh <eckhardt.cayleigh@epa.gov>
Subject: RE: Telephone Call with NY DOS General Counsel regarding Eastern Long Island Sound Dredged Material Disposal Site (privileged and confidential)

I'm fairly open as well next week (heavier schedule on Tuesday and Thursday, but some of those I can get out of).

Non-responsive; Ex. 5 - Deliberative Process, Attorney-Client, Attorney Work-Product

Non-responsive; Ex. 5 - Deliberative Process, Attorney-Client, Attorney Work-Product

https://www.washingtonpost.com/lifestyle/style/the-electoral-college-isnt-a-real-place-but-someone-has-to-answer-its-phones-these-days/2016/11/16/816f3838-aaa7-11e6-977a-1030f822fc35_story.html?hpid=hp_rhp-top-table-main_electoral-college-830a%3Ahomepage%2Fstory

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From: Feinmark, Phyllis [mailto:Feinmark.Phyllis@epa.gov]
Sent: Tuesday, November 22, 2016 5:27 PM
To: Levy, Sandra (USANYE) <SLevy@usa.doj.gov>; Purdy, Angeline (ENRD) <Angeline.Purdy@usdoj.gov>; Stein, Mark <Stein.Mark@epa.gov>; Sweeney, Stephen <Sweeney.Stephen@epa.gov>
Cc: Dierker, Carl <Dierker.Carl@epa.gov>; Eckhardt, Cayleigh <eckhardt.cayleigh@epa.gov>
Subject: RE: Telephone Call with NY DOS General Counsel regarding Eastern Long Island Sound Dredged Material Disposal Site (privileged and confidential)

Fine with me, Sandra. I am generally available next week. Happy Thanksgiving, all!

From: Levy, Sandra (USANYE) [mailto:Sandra.Levy@usdoj.gov]
Sent: Tuesday, November 22, 2016 5:18 PM
To: Purdy, Angeline (ENRD) <Angeline.Purdy@usdoj.gov>; Stein, Mark <Stein.Mark@epa.gov>; Sweeney, Stephen <Sweeney.Stephen@epa.gov>
Cc: Dierker, Carl <Dierker.Carl@epa.gov>; Eckhardt, Cayleigh <eckhardt.cayleigh@epa.gov>; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>
Subject: RE: Telephone Call with NY DOS General Counsel regarding Eastern Long Island Sound Dredged Material Disposal Site (privileged and confidential)

Non-responsive; Ex. 5 - Deliberative Process, Attorney-Client, Attorney Work-Product

If you agree and you plan to participate in the call, please advise of your availability next week. Thanks again and a very happy Thanksgiving to all.

Sandra L. Levy

Assistant United States Attorney

Chief of Environmental Litigation, Civil Division

Eastern District of New York

271 Cadman Plaza East, 7th Floor

Brooklyn, New York 11201

Tel: 718-254-6014

Fax: 718-254-6081

sandra.levy@usdoj.gov

Please consider the environment before printing this e-mail.

From: Levy, Sandra (USANYE)
Sent: Monday, November 21, 2016 5:51 PM
To: 'Purdy, Angeline (ENRD)' <Angeline.Purdy@usdoj.gov>; Stein, Mark <Stein.Mark@epa.gov>; Sweeney, Stephen <Sweeney.Stephen@epa.gov>
Cc: Dierker, Carl <Dierker.Carl@epa.gov>; Eckhardt, Cayleigh <eckhardt.cayleigh@epa.gov>; Phyllis Feinmark (feinmark.phyllis@epa.gov) <feinmark.phyllis@epa.gov>
Subject: RE: Telephone Call with NY DOS General Counsel regarding Eastern Long Island Sound Dredged Material Disposal Site (privileged and confidential)

Non-responsive; Ex. 5 - Deliberative Process, Attorney-Client, Attorney Work-Product

Non-responsive; Ex. 5 - Deliberative Process, Attorney-Client, Attorney Work-Product

Sandra L. Levy

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Fax: 718-254-6081

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Please consider the environment before printing this e-mail.

From: Purdy, Angeline (ENRD) [mailto:Angeline.Purdy@usdoj.gov]
Sent: Monday, November 21, 2016 10:55 AM
To: Levy, Sandra (USANYE) <SLevy@usa.doj.gov>; Stein, Mark <Stein.Mark@epa.gov>; Sweeney, Stephen <Sweeney.Stephen@epa.gov>
Cc: Dierker, Carl <Dierker.Carl@epa.gov>; Eckhardt, Cayleigh <eckhardt.cayleigh@epa.gov>; Phyllis Feinmark (feinmark.phyllis@epa.gov) <feinmark.phyllis@epa.gov>
Subject: RE: Telephone Call with NY DOS General Counsel regarding Eastern Long Island Sound Dredged Material Disposal Site (privileged and confidential)

Non-responsive; Ex. 5 - Deliberative Process, Attorney-Client, Attorney Work-Product

From: Levy, Sandra (USANYE) [mailto:Sandra.Levy@usdoj.gov]

Sent: Monday, November 21, 2016 10:45 AM
To: Stein, Mark <Stein.Mark@epa.gov>; Sweeney, Stephen <Sweeney.Stephen@epa.gov>; Purdy, Angeline (ENRD) <APurdy@ENRD.USDOJ.GOV>
Cc: Dierker, Carl <Dierker.Carl@epa.gov>; Eckhardt, Cayleigh <eckhardt.cayleigh@epa.gov>; Phyllis Feinmark (feinmark.phyllis@epa.gov) <feinmark.phyllis@epa.gov>
Subject: RE: Telephone Call with NY DOS General Counsel regarding Eastern Long Island Sound Dredged Material Disposal Site (privileged and confidential)

(Adding Phyllis to this communication as well.) I am available tomorrow afternoon and Wednesday. For anyone else who would participate on this call, please indicate your availability as well. Thanks again, Mark.

Sandra L. Levy

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sandra.levy@usdoj.gov

Please consider the environment before printing this e-mail.

From: Stein, Mark [mailto:Stein.Mark@epa.gov]
Sent: Monday, November 21, 2016 7:30 AM
To: Levy, Sandra (USANYE) <SLevy@usa.doj.gov>; Sweeney, Stephen <Sweeney.Stephen@epa.gov>; Purdy, Angeline (ENRD) <Angeline.Purdy@usdoj.gov>
Cc: Dierker, Carl <Dierker.Carl@epa.gov>; Eckhardt, Cayleigh <eckhardt.cayleigh@epa.gov>
Subject: RE: Telephone Call with NY DOS General Counsel regarding Eastern Long Island Sound Dredged Material Disposal Site (privileged and confidential)

Hi Sandy –

I will be working Monday – Wednesday of this week. I expect to knock off a bit early on Wednesday and to take Friday off. Therefore, a call on Monday, Tuesday or the early side of Wednesday could work for me.

One more thing: I got a message from our program office this morning indicating that the FR did not give them the publication date heads-up they had expected to receive on Friday. Therefore, their best *guess* is that they will get that heads-up some time this week and publication will take place at the end of this week or early next week.

- Mark

Mark A. Stein

Senior Assistant Regional Counsel

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Mail Code ORA 18-1

Boston, MA 02109-3912

Tel.: 617-918-1077

E-Fax: 617-918-0077

Email: stein.mark@epa.gov

From: Levy, Sandra (USANYE) [mailto:Sandra.Levy@usdoj.gov]
Sent: Friday, November 18, 2016 5:35 PM
To: Stein, Mark <Stein.Mark@epa.gov>; Sweeney, Stephen <Sweeney.Stephen@epa.gov>;

Purdy, Angeline (ENRD) <Angeline.Purdy@usdoj.gov>
Cc: Dierker, Carl <Dierker.Carl@epa.gov>; Eckhardt, Cayleigh <eckhardt.cayleigh@epa.gov>
Subject: RE: Telephone Call with NY DOS General Counsel regarding Eastern Long Island Sound Dredged Material Disposal Site (privileged and confidential)

Thank you very much for the update, Mark. Non-responsive; Ex. 5 - Deliberative Process, Attorney-Client, Attorney Work-Product Non-responsive; Ex. 5 - Deliberative Process, Attorney-Client, Attorney Work-Product Please advise of your respective availability next week and, given the possible difficulty of scheduling given the intervening Thanksgiving holiday, the following week as well. Thanks.

Sandra L. Levy

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Tel: 718-254-6014

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sandra.levy@usdoj.gov

Please consider the environment before printing this e-mail.

From: Stein, Mark [mailto:Stein.Mark@epa.gov]
Sent: Friday, November 18, 2016 5:18 PM
To: Sweeney, Stephen <Sweeney.Stephen@epa.gov>; Levy, Sandra (USANYE) <SLevy@usa.doj.gov>; Purdy, Angeline (ENRD) <Angeline.Purdy@usdoj.gov>
Cc: Dierker, Carl <Dierker.Carl@epa.gov>; Eckhardt, Cayleigh <eckhardt.cayleigh@epa.gov>
Subject: Telephone Call with NY DOS General Counsel regarding Eastern Long Island Sound Dredged Material Disposal Site

Hi – I got a call this afternoon from Linda Baldwin, General Counsel of NY DOS (Albany tel.: 518-473-3365; New York tel.: 212-417-5803). She indicated she was calling for several reasons related to EPA's designation of the Eastern Long Island Sound Dredged Material Disposal Site. First, just to make contact. She indicated that they had read our statement that we had reached out to them to talk but that they had not been aware of that. I indicated that I didn't know why they didn't, but that our program folks had reached out to their usual contacts at DOS. They asked why we had called and I indicated that we had been seeking to share our thoughts about how the final action was shaping up before it was finalized and get their thoughts, but they had indicated an unwillingness/inability to talk with us after the Governor's letter. I explained that we contacted them more than once, and on one occasion they asked for a legal contact and that our person provided my name and telephone number over the phone and in an email, but no one ever called me. They later indicated that they had thought we might contact them to pursue mediation after we got their objection. Obviously, we didn't think that was in the federal government's interest at that point.

She asked about the Federal Register notice, which they had expected to be published by now. She asked if the delay meant there was time to discuss the action and possibly revise it. I said no. The Rule was signed and it should be published any day now. Our understanding is that it was supposed to have been published late this week, but the FR is a bit behind and we now expect it to be published early next week. I reminded that once published, the Rule is to become effective 30 days later. She asked if any dredging projects were needing to go to the new site this winter. I said that I do not have first-hand information about that, but my it is my understanding that there are no projects scheduled for the next month or two. I don't know beyond that.

She indicated that the Governor's position has not changed and that we would probably be reading about each other's positions in the newspaper. I guess this confirms that they will be filing some type of legal action.

- Mark

Mark A. Stein

Senior Assistant Regional Counsel

EPA Region 1

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