To: Stein, Mark[Stein.Mark@epa.gov]
From: Sweeney, Stephen
Sent: Mon 11/21/2016 3:43:20 PM
Subject: RE: Telephone Call with NY DOS General Counsel regarding Eastern Long Island Sound Dredged Material Disposal Site (privileged and confidential)

You forgot to add Phyllis …

From: Stein, Mark
Sent: Monday, November 21, 2016 10:42 AM
To: Levy, Sandra (USANYE) <Sandra.Levy@usdoj.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 Sandra, Phyllis, et al. – I am just forwarding this along to include Phyllis in these communications. (Sorry Phyllis!)

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: 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

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: 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

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