To: Stein, Mark[Stein.Mark@epa.gov]
From: Sweeney, Stephen
Sent: Mon 11/21/2016 3:41:08 PM
Subject: RE: Telephone Call with NY DOS General Counsel regarding Eastern Long Island Sound Dredged Material Disposal Site (privileged and confidential)

That would have been me … it was Phyllis who responded immediately and I corrected myself in a followup one-on-one.

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

From: Stein, Mark
Sent: Monday, November 21, 2016 10:39 AM
To: Sweeney, Stephen <Sweeney.Stephen@epa.gov>
Subject: RE: Telephone Call with NY DOS General Counsel regarding Eastern Long Island Sound Dredged Material Disposal Site (privileged and confidential)

Thanks for that heads up. I think I saw someone else use "Sandy" in an email and I repeated the mistake!

Mark A. Stein

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E-Fax: 617-918-0077

Email: stein.mark@epa.gov

From: Sweeney, Stephen
Sent: Monday, November 21, 2016 9:41 AM
To: Stein, Mark <Stein.Mark@epa.gov>
Subject: RE: Telephone Call with NY DOS General Counsel regarding Eastern Long Island Sound Dredged Material Disposal Site (privileged and confidential)

Heads up … I understand from Phyllis that Ms. Levy VERY much goes by "Sandra" (and, if I recall correctly, is pronounced SAWN-druh).

From: Stein, Mark
Sent: Monday, November 21, 2016 7:30 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 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

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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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Chief of Environmental Litigation, Civil Division

Eastern District of New York

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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

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