To: Wirtschafter, Joshua[Wirtschafter.Joshua@epa.gov]
Cc: Cohen, Adam[Adam.Cohen@dgslaw.com]; Sullivan, Julie[sullivan.julie@epa.gov]; Gasaway, Mave[Mave.Gasaway@dgslaw.com]
From: Gasaway, Mave
Sent: Tue 1/9/2018 6:26:12 PM
Subject: RE: FOIA request regarding Leviathan and Diamond X Ranch

Thanks, Josh. We would like to be able to review and potentially include these documents on an exhibit list due December 19. However, our absolute deadline to review and potentially produce these documents is December 31. With those deadlines in mind, it would be preferable if we could get the documents by the end of this week, or next week at the very latest.

Thank you.

Mave

Mave A. Gasaway ▪ Associate Attorney

P: 303.892.7407 ▪ F: 303.893.1379 ▪ C: 405.361.0426 ▪ vcard

Davis Graham & Stubbs LLP

1550 17th Street, Suite 500 ▪ Denver, CO 80202

A LexMundi Member

From: Wirtschafter, Joshua [mailto:Wirtschafter.Joshua@epa.gov]
Sent: Friday, January 05, 2018 4:18 PM
To: Gasaway, Mave <Mave.Gasaway@dgslaw.com>
Cc: Cohen, Adam <Adam.Cohen@dgslaw.com>; Sullivan, Julie <sullivan.julie@epa.gov>
Subject: RE: FOIA request regarding Leviathan and Diamond X Ranch

Hello Mave,

Thanks for your emails earlier this week.

I received your voice message earlier today regarding the response time for your FOIA request. I called for Julie for an update, but she hasn't called back. I believe she is out today and Monday.

Julie submitted a request to EPA's central email search office. I know she asked them to complete a search by the middle of this week. Last I talked to her, she hadn't been provided a response. I'll check in with her next Tuesday and let you know what I hear.

If you could share with me the details of your court deadlines, I could use that information to argue for expediting the search.

Regards,

Josh

Joshua Wirtschafter

Assistant Regional Counsel

U.S. EPA, Region IX

ORC-3

75 Hawthorne Street

San Francisco, CA 94105

(415) 972-3912

From: Gasaway, Mave [mailto:Mave.Gasaway@dgslaw.com]
Sent: Tuesday, January 02, 2018 8:07 PM
To: Wirtschafter, Joshua <Wirtschafter.Joshua@epa.gov>
Cc: Cohen, Adam <Adam.Cohen@dgslaw.com>; Sullivan, Julie <sullivan.julie@epa.gov>
Subject: RE: FOIA request regarding Leviathan and Diamond X Ranch

Josh-

I can confirm that we are willing to pay up to $1,000 in costs to complete this request. Please let me know if you need any additional information from me to move forward.

Thank you.

Mave

Mave A. Gasaway ▪ Associate Attorney

P: 303.892.7407 ▪ F: 303.893.1379 ▪ C: 405.361.0426 ▪ vcard

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A LexMundi Member

From: Gasaway, Mave
Sent: Tuesday, January 02, 2018 9:44 AM
To: 'Wirtschafter, Joshua' <Wirtschafter.Joshua@epa.gov>
Cc: Cohen, Adam <Adam.Cohen@dgslaw.com>; Sullivan, Julie <sullivan.julie@epa.gov>
Subject: RE: FOIA request regarding Leviathan and Diamond X Ranch

Josh-

Thank you for getting back to me. I can confirm the clarification discussed with Adam, as you have characterized it below. I am awaiting approval from the client to authorize charges up to $1000; I will get back to you on that issue as soon as possible.

Thank you.

Mave

Mave A. Gasaway ▪ Associate Attorney

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A LexMundi Member

From: Wirtschafter, Joshua [mailto:Wirtschafter.Joshua@epa.gov]
Sent: Friday, December 29, 2017 1:44 PM
To: Gasaway, Mave <Mave.Gasaway@dgslaw.com>
Cc: Cohen, Adam <Adam.Cohen@dgslaw.com>; Sullivan, Julie <sullivan.julie@epa.gov>
Subject: FOIA request regarding Leviathan and Diamond X Ranch

Dear Ms. Gasaway,

I am the attorney at EPA Region 9 assigned to the Leviathan Mine Site. I have reviewed the request you submitted under the Freedom of Information Act on December 20, 2017 regarding communications between EPA Region 9 and the Diamond X Ranch from January 1, 2016 to the present.

I called your firm, Davis Graham & Stubbs LLP, to discuss the matter with you, and I was told you were not available today. I spoke to Adam Cohen instead. As you know, he is our regular contact on Leviathan Mine matters, representing Atlantic Richfield Company regarding that site. He assured me he was authorized to discuss the FOIA request.

I asked if we could interpret the request to relate only to communications *between* EPA personnel and Diamond X LLC and its representatives, thus excluding internal EPA

communication. Adam said that would be fine, though the FOIA should also be understood to include internal memos recording oral and telephone communication between EPA and Diamond X LLC personnel and representatives.

I would appreciate your confirmation of this clarification of the request.

Also, I note that your request authorizes search and copying charges of up to $500.00 and requests further contact if the charges are likely to exceed this amount. Our best estimate at this time is that the costs could be $1,000. Please confirm your willingness to pay up to that amount for this FOIA response.

We are currently submitting a form for email search, which we have to provide to a central office. When we hear back from them regarding when they can perform the search, I will contact you with a projected FOIA response date.

Regards,

Josh

Joshua Wirtschafter

Assistant Regional Counsel

U.S. EPA, Region IX

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