DAVID R. ERICKSON
CHRISTOPHER M. MCDONALD
JUSTIN D. SMITH
ATTORNEYS FOR PLAINTIFF
SHOOK, HARDY & BACON L.L.P.
2555 Grand Blvd.
Kansas City, MO 64108-2613
Telephone: (816) 474-6550
Fax: (816) 421-5547
derickson@shb.com
cmcdonald@shb.com
jxsmith@shb.com

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

LOWER PASSAIC RIVER STUDY AREA COOPERATING PARTIES GROUP, *Plaintiff,* vs. U.S. ENVIRONMENTAL PROTECTION AGENCY, *Defendant.*	HON. JOSE L. LINARES *Civil Action No.* 15-cv-7828 (JLL)(JAD)

PLAINTIFF LOWER PASSAIC RIVER STUDY AREA COOPERATING PARTIES GROUP'S MEMORANDUM OF LAW IN OPPOSITION TO EPA'S MOTION FOR SUMMARY JUDGMENT

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Plaintiff, the Lower Passaic River Study Area Cooperating Parties Group ("CPG"), hereby responds to Defendant United States Environmental Protection Agency's ("EPA's") Motion for Summary Judgment. EPA's motion should be denied because genuine issues of fact remain whether EPA has properly withheld information responsive to the CPG's requests for records under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 522. Limited discovery is therefore warranted.

INTRODUCTION

EPA is improperly withholding documents that might provide an understanding of the $1.4 billion remedy it ordered for the Lower Passaic River in March 2016. EPA has claimed the planned bank-to-bank dredging of 3.5 million cubic yards of river sediment is "one of the largest Superfund projects in EPA history."[1]

EPA's chosen remedy raises many questions, beginning with why EPA did not follow its normal Superfund process of completing a remedial investigation / feasibility study ("RI/FS") and using that study as the basis to select a remedy. In 2007, EPA entered into a settlement agreement with the CPG for the CPG to take over and complete a RI/FS that EPA and another private party had been unable to finish after almost 15 years. EPA advised the CPG that the RI/FS was essential to the cleanup of the Passaic River and necessary before a final remedy could be selected. Unknown to the CPG, even before it directed the CPG to perform the RI/FS the EPA had been working with the NJDEP and other agencies outside the normal Superfund statutory and regulatory process to impose a pre-determined remedy that is based on economic and political grounds, rather than CERCLA-authorized, science-based factors. Copies of documents reflecting communications and the agreement between the EPA and other agencies on

[1] EPA Press Release, *EPA Finalizes Passaic River Cleanup; One of the Largest Superfund Projects in EPA History Will Protect People's Health and the Environment*, March 4, 2016, available at https://yosemite.epa.gov/opa/admpress.nsf/0/DB3D10F149C262CC85257F6C005EE7F1.

critical elements of the remedy design before the RI/FS was even commenced have been obtained by the CPG from other sources, but have not been produced by the EPA in response to the CPG's FOIA requests. EPA even claims that it decided to implement the FFS before the CPG took over the RI/FS in 2007.[2]

After spending more than $130 million, the CPG submitted to EPA the RI/FS for the entire 17 miles of the Lower Passaic River in Spring 2015.[3] But EPA did not wait for the CPG to finish the RI/FS to select a remedy, nor did it take advantage of all the data the CPG gathered. Instead, EPA did an end-run around the RI/FS by preparing and finalizing an 8.3-mile "Focused Feasibility Study" that covers half of the lower river and that orders a technically questionable, costly, and massive river bank-to-bank dredge-and-cap remedy. Significantly, the FFS remedy is consistent with the back channel agreement between the EPA, NJDEP and other agencies before the RI/FS process even started.

Because of the large scale of that remedy, and the unprecedented action by EPA to moot the $130 million RI/FS that it required, the CPG has made reasonable attempts to gather information to understand EPA's actions and ensure that a complete administrative record is prepared. In response, EPA has worked diligently for several years to avoid producing all

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[2] "[I]n 2006, the EPA concluded that, since the Lower 8.3 Miles contain the bulk of the contaminated sediment, addressing this portion of the river first would better support the overall protection of human health and the environment than would awaiting the outcome of the 17 Miles RI/FS to make a decision for the entire Lower Passaic River." Mugdan Decl. ¶ 10 (emphasis added).

[3] The RI/FS is based on a thorough evaluation of more than 12,000 samples and 2.5 million contaminant measurements generated since 2004. Unlike the Focused Feasibility Study RI, which originally was intended only as an "early action," the RI/FS considers all of the RI/FS data and presents viable remedial options based on LPRSA-specific data. The RI/FS represents the only complete, and comprehensive, technically sound evaluation of the LPRSA data.

documents responsive to the CPG's FOIA requests. In addition to the CPG's four FOIA requests,[4] the CPG filed four corresponding administrative appeals, on which EPA never ruled.[5]

A federal agency withholding requested records bears the burden of justifying the withholdings. Despite their length, EPA's *Vaughn* index and declaration included with its motion still leave many glaring holes and little more than generalizations and conclusory statements. EPA's material supporting its motion is a mile wide and an inch deep. Many genuine issues of material fact remain, including:

- EPA's inadequate search. Pursuant to its legal obligations, EPA should have collected all potentially responsive work-related documents, whether sent by official e-mail accounts or personal e-mail accounts. The CPG also expressly requested certain e-mails sent by any EPA personnel from a personal e-mail account. Yet EPA's declaration addresses only a single personal e-mail account of Ms. Judith Enck; according to the *Vaughn* index, multiple EPA personnel used their personal e-mail account for official business. Furthermore, the declaration is inaccurate. Although it claims that no responsive e-mails exist on Ms. Enck's personal e-mail account that purportedly was searched, EPA has produced responsive e-mails from this personal account to another FOIA requestor. As another example of inadequacy, the declaration provides a vague description of the search process that does not identify custodians from whom EPA collected documents.

- EPA's failure to provide adequate information for certain requested records. Some documents on the *Vaughn* index do not identify the author, sender, recipient, or subject matter of the document; only the date is provided. Other documents only contain a vague subject matter description, such as "Passaic."

- EPA's misapplication of the deliberative process privilege. EPA has withheld factual information, such as raw data and model outputs, and only offered conclusory statements to support its withholding. EPA also has withheld documents created after the deliberation was over or the final decision had been made or after withheld materials were incorporated into the final decision.

- EPA's misapplication of the attorney-client privilege. EPA does not identify the position or title of senders or recipients, making it impossible to know whether the

[4] *See* Pl.'s Supp. Stmnt. of Material Facts Not in Dispute ("Pl.'s Supp. SOMF") ¶¶ 1-3, 10-11, 19-22, 34-36. For background on and facts surrounding the FOIA requests and subsequent administrative appeals, see Pl.'s Supp. SOMF and the accompany affidavits and exhibits.

[5] *See* Pl.'s SOMF ¶¶ 7-9, 16-18, 32-33, 40-41.

attorney-client privilege applies. EPA improperly withheld at least one document, sent to the State of New Jersey, under the attorney-client privilege.

- EPA's misapplication of the law enforcement privilege. EPA did not compile the requested documents for law enforcement purposes or demonstrate an adequate "articulable harm" necessary to establish the privilege. Moreover, EPA did not create the withheld documents for law enforcement purposes.

Sadly, this is not the first time EPA has run afoul of FOIA. Senior EPA officials have attempted to evade FOIA by using secret official e-mail addresses,[6] personal e-mail addresses,[7] and text messages.[8] Other EPA employees met with lobbyists at cafes and parks near EPA, so the lobbyists' names would not appear on EPA visitor logs.[9]

FOIA litigation and discovery have been necessary to reveal some of these abuses. EPA leaders "may have purposely attempted to skirt disclosure under FOIA," suspected one court handling FOIA litigation concerning whether EPA delayed issuing regulations until after an election. *Landmark Legal Foundation v. E.P.A.*, 959 F. Supp. 2d 175, 184 (D.D.C. 2013). Following discovery, the court concluded, "Either EPA intentionally sought to evade Landmark's lawful FOIA request so the agency could destroy responsive documents, or EPA demonstrated apathy and carelessness toward [the] request." *Landmark Legal Foundation v. E.P.A.*, 82 F. Supp. 3d 211, 213 (D.D.C. 2015). In general, observed the court: "EPA continues

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[6] *See, e.g.*, Julian Hattem, *Former EPA Chief Under Fire for New Batch of 'Richard Windsor' Emails*, THE HILL, May 1, 2013, available at http://thehill.com/regulation/energy-environment/297255-former-epa-chief-under-fire-for-new-batch-of-richard-windsor-emails.

[7] *See, e.g.*, Emily Yehle, *New Trove of Emails Shows Jackson Used Personal Account for Official Business*, E&E PUBLISHING, Aug. 14, 2013, available at http://www.eenews.net/stories/1059986010; Mark Flatten, *Acting EPA Head, Regional Official Ensnared in Windsorgate Email Scandal*, WASHINGTON EXAMINER, Feb. 20, 2013, available at http://www.washingtonexaminer.com/acting-epa-head-regional-official-ensnared-in-windsorgate-email-scandal/article/2521960.

[8] *See, e.g.*, S.A. Miller, *Subpoena Proper After EPA Chief Gina McCarthy Deletes Nearly 6,000 Text Messages, Experts Testify*, WASHINGTON TIMES, Mar. 26, 2015, available at http://www.washingtontimes.com/news/2015/mar/26/subpoena-proper-after-epa-chief-gina-mccarthy-dele/.

[9] H. Sterling Burnett, *So Much for President Obama's Pledge to Transparency*, FORBES, Mar. 2, 2016, available at http://www.forbes.com/sites/realspin/2016/03/02/so-much-for-obamas-pledge-to-transparency/#2eb8f9286abc.

to demonstrate a lack of respect for the FOIA process." *Id.* at 227. In another FOIA lawsuit regarding whether EPA pre-determined a mine decision, a court found, "The problem is that [EPA] withheld documents in full that it should have released in redacted form." *Pebble Ltd. P'ship v. E.P.A.*, No. 3:14-cv-0199-HRH, 2016 WL 128088, at *3 (D. Alaska Jan. 12, 2016).

EPA's obstruction is understandable given what has been revealed when EPA has been forced to disclose documents. EPA has been caught colluding with environmental activists to write regulations,[10] respond to studies adverse to EPA's desired action,[11] plan public hearings,[12] and prepare congressional press statements,[13] among many other inappropriate activities.

The CPG has attempted to develop a complete administrative record for EPA's decision. Yet EPA has repeated its strategy of delay, deny, and obstruct. Well before the CPG submitted its FOIA requests in 2014, EPA entered into an agreement with other federal and state agencies that dramatically attempts to change the FOIA framework and obligations. For example, the agreement allows any Party to object to release of any document sought under FOIA. This effectively provides multiple New Jersey state agencies with veto power over any EPA interpretation of FOIA and enables them—not the United States—to be the final arbiter of what

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[10] Majority Staff Report, United States Senate Committee on Environment and Public Works, "Obama's Carbon Mandate: An Account of Collusion, Cutting Corners, and Costing America Billions," Aug. 4, 2015, available at https://www.epw.senate.gov/public/_cache/files/386eb25d-b723-4ffd-9fcf-218425a33191/epw-staff-report-obama-carbon-mandate.pdf.

[11] Lachlan Markay, *Emails Show Steyer-EPA Coordination to Undermine Agency Critics*, WASHINGTON FREE BEACON, Jan. 27, 2016, available at http://freebeacon.com/issues/emails-show-steyer-epa-coordination-to-undermine-agency-critics/.

[12] Lachlan Markay, *Emails Show Extensive Collaboration Between EPA, Environmental Orgs*, WASHINGTON FREE BEACON, Jan. 15, 2014, available at http://freebeacon.com/issues/emails-show-extensive-collaboration-between-epa-environmentalist-orgs/.

[13] Energy & Environmental Legal Institute Report, "Improper Collusion Between Environmental Pressure Groups and the Environmental Protection Agency as Revealed by Freedom of Information Act Requests, 79, Sept. 2014, available at http://eelegal.org/wp-content/uploads/2014/09/EE-Legal-FOIA-Collusion-Report-9-15-2014.pdf.

should be released under FOIA.[14] FOIA never contemplated such state agency control over a federal agency.

In addition, the agreement preemptively and arbitrarily decides that all predecisional drafts of studies, reports, or analyses shall be labeled prominently on the first page as "DRAFT," and deemed confidential, unless and until the Parties agree to the document's release. Perhaps not surprisingly, EPA relies on this agreement as a basis for withholding certain documents. However, as a non-party to this agreement, the CPG should not be prevented from obtaining responsive documents that should otherwise be released under FOIA.

EPA's motion for summary judgment should be denied because many genuine issues of material fact remain. EPA has failed to meet its burden of justifying its nondisclosure of requested records. The CPG therefore respectfully asks the Court for the following relief:

- Deny EPA's motion for summary judgment;
- In light of EPA's inadequate and non-responsive approach, require EPA at this time to produce all identified responsive documents in un-redacted form;
- Allow the CPG to take limited discovery to develop the factual record to determine the universe of withheld records, the scope of EPA's clearly inadequate search, and properly assess the applicability of the claimed exemptions; and
- Require EPA to submit a sufficient declaration and *Vaughn* index.

ARGUMENT

I. Legal Standards

Summary judgment is appropriate only when "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a

[14] Though not at issue in this litigation, after the New Jersey Department of Environmental Protection ("NJDEP") made available documents for the CPG's review and copying, NJDEP cited the agreement in an effort to claw back some of the documents obtained by the CPG. At the request of NJDEP, EPA struck these documents from the administrative record for its Record of Decision.

matter of law." Fed. R. Civ. P. 56(c); *see also Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986).

The purpose of FOIA is "to facilitate public access to Government documents." *U.S. Dep't of State v. Ray*, 502 U.S. 164, 173 (1991). "The Act creates a strong presumption in favor of disclosure . . . and requires the district court to conduct a *de novo* review of a government agency's determination to withhold requested information." *Davin v. U.S. Dep't of Justice*, 60 F.3d 1043, 1049 (3d Cir. 1995) (citing *Dep't of Air Force v. Rose*, 425 U.S. 352, 361 (1976)), *holding modified on other grounds by Abdelfattah v. U.S. Dep't of Homeland Sec.*, 488 F.3d 178 (3d Cir. 2007). Congress enacted FOIA "to pierce the veil of administrative secrecy and to open agency action to the light of public scrutiny." *Pub. Citizen, Inc. v. Office of Mgmt. and Budget*, 598 F.3d 865, 869 (D.C. Cir. 2010) (quoting *Rose*, 425 U.S. 352 at 360-61.)

The defendant agency has the burden of justifying nondisclosure. *See* 5 U.S.C. § 552(a)(4)(B); *Al-Fayed v. CIA*, 254 F.3d 300, 305 (D.C. Cir. 2001). The "agency must show, viewing the facts in the light most favorable to the requester, that there is no genuine issue of material fact." *Steinberg v. U.S. Dep't of Justice*, 23 F.3d 548, 551 (D.C. Cir. 1994). Summary judgment will not lie for the agency in a FOIA action where agency affidavits are conclusory and "do not provide information specific enough to enable [the requester] to challenge the procedures utilized." *Weisberg v. Dep't of Justice*, 705 F.2d 1344, 1348 (D.C. Cir. 1983) (quoting *Weisberg v. U.S. Dep't of Justice*, 627 F.2d 365, 371 (D.C. Cir. 1980)).

Genuine issues of material fact remain regarding whether EPA has withheld non-privileged documents and whether EPA has met its burden of justifying the withholdings under the claimed FOIA exemptions. EPA's motion for summary judgment must therefore be denied.

II. EPA's *Vaughn* Index and Declaration in Support of Its Asserted FOIA Exemptions Are Insufficient to Justify EPA's Withholding of Requested Records Because They Lack the Requisite Specificity.

Under FOIA, a federal agency must fully disclose all requested records unless an enumerated exemption applies. *Dep't of the Interior v. Klamath Water Users Protective Ass'n*, 532 U.S. 1, 7 (2001). These limited exemptions "do not obscure the basic policy that disclosure, not secrecy, is the dominant objective of the [FOIA]," and thus the exemptions are given a narrow interpretation. *Id.* at 7-8 (quoting *Rose*, 425 U.S. at 361); *see also FBI v. Abramson*, 456 U.S. 615, 630 (1982) (FOIA exemptions are to be "narrowly construed").

A federal agency withholding records has the burden of proof to show that a claimed exemption applies. *Pub. Citizen, Inc.,* 598 F.3d at 869. The agency will not satisfy this burden through conclusory assertions. 5 U.S.C. § 552(a)(4)(B); *Coastal States Gas Corp. v. Dep't of Energy*, 617 F.2d 854, 861 (D.C. Cir. 1980). Agencies normally submit a *Vaughn* index describing the reasons why the asserted exemption applies to each document. *See Vaughn v. Rosen*, 484 F.2d 820 (1973).

As the Third Circuit has remarked, "[t]he review of FOIA cases 'is made difficult by the fact that the party seeking disclosure does not know the contents of the information sought and is, therefore, helpless to contradict the government's description of the information or effectively assist the trial judge.'" *Davin v. U.S. Dep't of Justice*, 60 F.3d 1043, 1049 (1995) (quoting *Ferri v. Bell*, 645 F.2d 1213, 1222 (3d Cir. 1981), *modified*, 671 F.2d 769 (3d Cir. 1982)). Due to the disparity of knowledge between the withholding agency and the requesting party, courts require the agency to provide a "full and specific enough" of an explanation of the withheld documents "to afford the FOIA requester a meaningful opportunity to contest, and the district court an adequate foundation to review, the soundness of the withholding." *Davin*, 60 F.3d at 1049 (quoting *Coastal States Gas Corp. v. Dep't of Energy*, 644 F.2d 969, 974 (3d Cir. 1981)).

Accordingly, "when an agency seeks to withhold information, it must provide a relatively detailed justification, specifically identifying the reasons why a particular exemption is relevant and correlating those claims with the particular part of a withheld document to which they apply." *Davin*, 60 F.3d at 1050 (quoting *McDonnell v. United States*, 4 F.3d 1227, 1241 (3d Cir. 1993)) (emphasis added) (internal quotation marks omitted); *King v. Dep't of Justice*, 830 F.2d 210, 223 (D.C. Cir. 1987) ("A withholding agency must describe each document or portion thereof withheld, and for each withholding it must discuss the consequences of disclosing the sought-after information."). The Third Circuit has held that the agency's description must be detailed enough "'that the requester and the trial judge [are] able to derive from the index a clear explanation of why each document or portion of a document withheld is putatively exempt from disclosure.'" *Davin*, 60 F.3d 1050 (quoting *Hinton v. Dep't of Justice*, 844 F.2d 126, 129 (3d Cir. 1988)).

EPA is thus required to provide "a particularized description of how each document withheld falls within a statutory exemption." *Davin*, 60 F.3d at 1049; *see McDonnell*, 4 F.3d at 1241; *Lame v. Dep't of Justice*, 654 F.2d 917, 928 (3d Cir. 1981). This requirement is intended "to 'transform a potentially ineffective, inquisitorial proceeding against an agency that controls information into a meaningful adversarial process.'" *Id.* The agency's description must afford the requester an opportunity "to intelligently advocate release of the withheld documents and to afford the court an opportunity to intelligently judge the contest." *Wiener*, 943 F.2d at 979.

A. EPA's *Vaughn* index and categories are not specific enough to determine whether EPA is properly withholding requested records.

The function of a *Vaughn* index and agency affidavit is "to establish detailed factual basis for application of the claimed FOIA exemptions to each of the documents withheld." *Davin*, 60 F.3d at 1049. A proper *Vaughn* index therefore must have a specific factual description of each

withheld document. The "particularized description" requirement—which is notably lacking in EPA's *Vaughn* index—is imperative to the proper functioning of FOIA. *See Wiener v. FBI*, 943 F.2d 972, 979 (9th Cir. 1991). A *Vaughn* index and affidavit are insufficient if they are "'conclusory, merely reciting statutory standards, or if they are too vague or sweeping.'" *King*, 830 F.2d at 219 (quoting *Allen v. CIA*, 636 F.2d 1287, 1291 (D.C. Cir. 1980)).

While the Third Circuit has no set formula for a *Vaughn* index, "the hallmark test is 'that the requester and the trial judge be able to derive from the index a clear explanation of why each document or portion of a document withheld is putatively exempt from disclosure.'" *Id.* at 1050 (quoting *Hinton v. Dep't of Justice*, 844 F.2d 126, 129 (3d Cir. 1988)); *see Judicial Watch, Inc. v. Food & Drug Admin.*, 449 F.3d 141, 150 (D.C. Cir. 2006). Due to "the strong policy of FOIA that the public is entitled to know what its government is doing and why," more than vague descriptions of documents are required. *Id.* at 152. A *Vaughn* index with only generalized and otherwise commonly understood words and phrases sheds little light on the documents' subject or "the deliberative nature of the information contained in the document." *Id. at* 152 (holding "fax" and "Q&A" descriptions insufficient).

Specificity at a document-by-document level is required even if the withholding agency employs a "categorical" index method, as EPA has attempted to use. As the Third Circuit explained, "It is insufficient for the agency to simply cite categorical codes, and then provide a generic explanation of what the *codes* signify." *Id.* at 1051; *see also King*, 830 F.2d at 225 ("[T]he goal of descriptive accuracy is not to be sacrificed to the niceties of a particular classification scheme."). Accordingly, "an agency using justification codes must also include specific factual information concerning the documents withheld and correlate the claimed exemptions to the withheld documents." *Davin*, 60 F.3d at 1051; *see also Wiener*, 943 F.2d at

978-79 ("boilerplate" explanation are inadequate because "[n]o effort is made to tailor the explanation to the specific documents withheld"); *King*, 830 F.2d at 234 ("Categorical description of redacted material coupled with categorical indication of anticipated consequences of disclosure is clearly inadequate."). As the Third Circuit has held, "While the use of the categorical method does not per se render a *Vaughn* index inadequate, an agency using justification codes must also include specific factual information concerning the documents withheld and correlate the claimed exemptions to the withheld documents." *Davin*, 60 F.3d at 1051.

EPA's "Coded Vaughn Index" lacks the requisite specificity. The *Vaughn* index itself provides no justification beyond a categorical labeling of which exemptions allegedly applied to each document. Rather than providing an explanation of how each document satisfies the claimed exemption, EPA provides its alleged justification in a separate declaration (the Mugdan Declaration) and an attachment to this declaration (Exhibit "X"). In these documents EPA creates 18 categories, and purports to provide a justification for each category that covers every document withheld under that exemption.

EPA provides little information that would link a document factually to the claimed exemption. Listed below are a few illustrative examples of entries from EPA's index that provide the CPG and this Court no basis on which to determine if in fact the claimed exemption would apply to the document to prevent its disclosure.[15]

- **No identifying information other than date.** Many of the documents contain neither identification of the document's author, sender or recipient, nor the subject matter of the document. Without knowing even the subject matter (let alone a particularized description) there is no way to determine the responsiveness of the

[15] EPA's index of documents is the part of EPA's Exhibit X that is in a spreadsheet format. There are no page numbers to the exhibit. The documents identified in this brief are identified by the number listed in the "Doc ID Beg" column.

document or whether it fits in the EPA-designated category or is exempted from disclosure under FOIA. For documents for which EPA claims attorney-client privilege or attorney work product, there is no way to tell whether an attorney was involved, or whether legal advice was given, because no sender or recipient is identified. A few examples include:

Doc ID Beg	Date
DASS00000133	1/11/2013
DASS00000137	1/24/2013
DASS00000317	1/4/2013
DASS00000320	1/11/2013
DASS00001754	4/8/2014
DASS00003231	3/10/2014
DASS00003289	4/8/2014
DASS00003297	4/7/2014
DASS00003437	3/28/2014
DASS00007982	12/16/2013
DASS00007983	12/16/2013
DASS00007984	12/16/2013
DASS00008084	3/24/2014
FOIA_0601800002537	8/1/2012
FOIA_06018_Outlook00000376	10/25/2013
FOIA_06018_Outlook00000377	10/25/2013
FOIA_06018_Outlook00000380	10/25/2013
FOIA_06018_Outlook00000381	10/25/2013
FOIA_06018_Outlook00000483	9/16/2013
FOIA_06018_Outlook00000484	9/16/2013

- **Generic subject matter description.** Many of the document entries contain only a generic subject matter with common words, making it impossible to tell whether the document relates to the designated category or is covered by claimed FOIA exemption. A few examples this deficiency include document entries with a subject identification merely of "Passaic," "Passaic River":

Doc ID Beg	Date
DASS00025007	3/25/2014
DASS00025008	3/25/2014
DASS00025029	3/12/2014
DASS00025037	3/12/2014
DASS00025038	3/12/2014
DASS00025039	3/12/2014
DASS00025078	2/10/2014
DASS00025112	1/13/2014
DASS00025114	1/13/2014
DASS00025162	1/14/2014
DASS00025163	1/13/2014

- **No identification of position or title of senders or recipients.** EPA does not identify what position each author and recipient holds. Identification of authors, recipients, and their positions is essential in analyzing if a particular document is deliberative. *Brinton v. Dept. of State*, 636 F.2d 600, 605 (D.C. Cir. 1980) (finding that "advisory opinions" normally flow from a subordinate to a superior where "final opinions" flow from a superior to a subordinate). Based on EPA's current *Vaughn* index and supporting declaration, neither the CPG nor this Court is able to determine if withheld documents are being sent from superiors to subordinates or another governmental employee of equal rank and authority. If these documents are authored by superiors or are being sent to other employees of equal rank, then it is likely that the policy of chilling the deliberative process between subordinates and superiors is not being advanced. Therefore, EPA's vague descriptions of documents and lack of identification of authors and recipients prevents the CPG and this Court from determining if EPA is properly withholding documents under Exemption 5.

- **No identification of attorney.** For many or most of the withheld documents, EPA has claimed a privilege of attorney-client privilege or attorney work product. Yet many of the index entries do not indicate whether an attorney was involved. EPA also has not provided a list of attorneys so that the CPG or this Court could determine if a sender or recipient is an attorney. A few examples of such documents include:

Doc ID Beg	Date
DASS00003023	4/3/2014
DASS00003202	4/7/2014
DASS00003209	3/28/2014
DASS00003723	2/8/2014
DASS00003802	3/24/2014
DASS00004174	1/6/2014
DASS00004180	1/15/2014

EPA's *Vaughn* index is therefore inadequate and provides no meaningful assistance to the CPG or this Court in evaluating whether the alleged exempted documents are being properly withheld. *See Davin,* 60 F.3d at 1051. EPA's generic description of most documents provides little to no factual link between the document and the coded category.

EPA's "Key to Coded Vaughn Index and Substantive Descriptions"("Coded Key") is also inadequate. It provides little more specifics regarding the documents than EPA has listed in the index. The descriptions of the communications and documents are written in generalities that

tell the CPG and this Court next to nothing about whether the specific documents withheld are exempt from disclosure. For example:

> These documents consist of email communications exchanged among [EPA technical staff and attorneys] concerning attached documents that were subject to review by all. These email communications and attached documents included comments and discussions of aspects of the Proposed Plan for the lower 8.3 miles of the Lower Passaic River and the Focused Feasibility Study. (Excerpt from Category 5.)

The withholding justifications in the Coded Key merely recite standards, are described with conclusory statements, and seem to be simply copied and pasted from one category to another. For example:

> The withheld documents and email communications [in Category 1] are deliberative because they contain the candid views of [EPA staff and attorneys]. . . . The documents are predecisional because they . . . [are] related to the development of the Agency's final documentation." (Ex. X, Coded Key, Category 1.)
>
> The documents and email communications within Category 2 are deliberative because they contain individual opinions and analyses of EPA staff . . . .which addressed the NRRB/CSTAG memo and Region 2 response. . . . The documents and email communications are all predecisional because they were part of the process leading up to finalized documents." (*Id.* at Category 2.)

These selected, illustrative statements are among many of EPA's conclusory statements claiming that nearly 2,200 communications and documents are fully exempt from disclosure. These conclusory statements demonstrate that EPA has failed to provide a particularized description of how each document falls within a claimed statutory exemption. EPA's motion for summary judgment should thus be denied.

B. EPA's statements about segregability are wholly conclusory and fail to demonstrate that the agency has released all reasonably segregable portions of each withheld document.

An agency withholding documents from a FOIA requester must release "[a]ny reasonably segregable portion of a record. . . after deletion of the portions which are exempt". 5 U.S.C. §

552(b). The law is clear: An "agency cannot justify withholding an entire document simply by showing that it contains some exempt material." *Mead Data Central v. U.S. Dep't of Air Force,* 566 F.2d 242, 260 (D.C. Cir. 1977). Instead, "the agency must demonstrate that all reasonably segregable, nonexempt information was released." *Abdelfattah v. U.S. Dep't of Homeland Sec.*, 488 F.3d 178, 186 (3d Cir. 2007); *see also Davin*, 60 F.3d at 1052 ("The statements regarding segregability are wholly conclusory, providing no information that would enable [plaintiff] to evaluate the FBI's decisions to withhold.").

In *Abdelfattah*, the agency provided no basis for which the court could make a "reasonably segregable" finding. The agency had provided "no description of the agency's process for making such a determination, no factual recitation of why certain materials are not reasonably segregable, and no indication of 'what proportion of the information in a document is non-exempt and how that material is dispersed throughout the document.'" *Abdelfattah*, 488 F.3d at 186-87 (*quoting Mead Data Central*, 566 F.2d at 261). The Third Circuit thus remanded the action to the district court for a specific segregability finding.

Here, of the 2,461 responsive documents, EPA withheld 2,191 of them in full (approximately 90%), while it has released only approximately 270 redacted documents. EPA would have this court believe factual and privileged information are so intertwined in each of these documents that there is no way to redact the privileged information. This defense seems to defy common sense, especially when one considers that environmental documents typically contain pages upon pages of factual information conveyed through charts, tables, figures and maps. As an example, one could ask whether any part of the NRRB/CSTAG memorandum or EPA Region 2's response, *both dated April 11, 2014*, had been finalized before that date. Are we simply to trust EPA that every fact, figure, table, decision—in each document—was not made

final until that date? If some aspects of those withheld records had been finalized, then they could not be pre-decisional for purposes of the deliberative-process privilege, and they should have been released, at least in redacted form.

III. Genuine Issues of Material Fact Remain Regarding the Adequacy of EPA's Search.

An agency must make a good faith effort to conduct a search for records requested under FOIA. *Oglesby v. U.S. Dep't of Army*, 920 F.2d 57, 68 (D.C. Cir. 1990). The agency has a duty to construe a FOIA request liberally. *Truitt v. Dep't of State*, 897 F.2d 540 , 544-45 (D.C. Cir. 1990).

To prevail on summary judgment, the defending agency "must show *beyond material doubt* that it has conducted a search reasonably calculated to uncover all relevant documents." *Morley v. CIA*, 508 F.3d 1108, 1114 (D.C. Cir. 2007) (emphasis added). The "agency must demonstrate that it has conducted a 'search reasonably calculated to uncover all relevant documents.'" *Steinberg v. U.S. Dep't of Justice*, 23 F.3d 548, 551 (D.C. Cir. 1994) (quoting *Weisberg v. Dep't. of Justice*, 745 F.2d 1476, 1485 (D.C. Cir. 1984)).

A reasonably detailed affidavit "is necessary to afford a FOIA requester an opportunity to challenge the adequacy of the search and to allow the district court to determine if the search was adequate in order to grant summary judgment." *Oglesby*, *v.* 920 F.2d at 68. General descriptions will not suffice; the affidavit must "describe in . . . detail what records were searched, by whom, and through what process." *Steinberg*, 23 F.3d at 552. The agency must identify "the search terms and the type of search performed" and must aver "all files likely to contain responsive materials (if such records exist) were searched." *Oglesby*, 920 F.2d at 68. Agency affidavits that lack "information specific enough to enable [the plaintiff] to challenge the procedures utilized" are insufficient to support summary judgment. *Weisberg v. U.S. Dep't of Justice*, 627 F.2d 365, 370 (D.C. Cir. 1980),

A. EPA's description of its search process is too vague and generalized to satisfy EPA's burden of justifying nondisclosure.

EPA has failed to meet its burden of showing that its search for responsive documents was reasonably calculated to uncover all relevant documents. The declaration EPA has submitted is vague and generalized as it pertains to the search process. Here are a couple of examples:

- With respect to the CPG's FOIA Request number 1, for all but three of the sub-requests, the affidavit states that Alice Yeh spoke to "several employees" of sub-contractors and asked them to "assist her in identifying documents or information . . . that might be responsive to the sub-requests for technical data and information (sub-requests #1, 2, 3, 4, 5, 6, 10, 11, 12, and 14)." Mugdan Decl. ¶ 63; EPA SOF ¶ 60. No information is provided regarding who the sub-contractors' employees were, what their role was pertaining to the Passaic River, what files were searched, whether search terms were used, or the like.

- Regarding sub-request numbers 8 and 9 of FOIA Request Number 1, the declaration says that "Alice Yeh, Sarah Flanagan and Patricia Hick determined that Region 2 employees (both current and retired) from ERRD, Office of Regional Counsel and Office of the Regional Administrator might be custodians of [responsive] emails." Mugdan Decl. ¶ 64; EPA SOF ¶ 61. The declaration goes on to indicate that the "custodians and search queries" were entered into a spreadsheet to allow a search. Again, no information is provided as to who the custodians were, why they may have responsive records, or what the search queries were. The "EERD staff person" identified as the "potential custodian" of responsive records is not identified by name, title, or role. According to the declaration, "[i]nformation responsive to [sub-request] #12 was located in EPA's files by Alice Yeh," but EPA provides no description of the search process. Moreover, the declaration provides little information regarding searches for non-email or documents kept in non-electronic format.

The declaration and *Vaughn* index also appear to indicate that EPA drew an arbitrary line at 2006 for its search for responsive documents. *See, e.g.*, Mugdan Decl. ¶ 85; EPA SOF ¶ 82. Because recently uncovered documents suggest that EPA was considering "early action" long before 2006, using 2006 as an arbitrary cut-off is inappropriate and results in EPA's searches being inadequate.

Finally, EPA's declaration relies on multiple layers of hearsay. *See, e.g.*, Mugdan Decl. ¶ 105 ("On June 10, 2014, Steve Carrea, Ms. Enck's Special Assistant, sent Alice Yeh an email

stating that Ms. Enck's materials responsive to the request described above had been uploaded to FOIAOnline."); EPA SOF ¶ 102 (same). EPA's declaration claims to be "based on [the declarant's] own personal knowledge or on information contained in the records of the [EPA] or on information supplied to me by EPA employees under my supervision and employees in other EPA offices." Mugdan Decl. at p. 1 (emphasis added). The declaration reveals, however, that Mr. Mugdan lacks personal knowledge pertaining to the key components of the search and review of the documents relevant to this FOIA litigation. Namely, the declaration reveals that he was not involved in identifying potentially responsive custodians or documents, reviewing documents, or deciding which documents to release or withhold.

EPA's declaration states that each FOIA request was assigned to Ms. Yeh, who worked with Sarah Flanagan and Patricia Hick "to plan and manage the search, collection and review of responsive information." *See* Mugdan Decl. ¶¶ 57, 60. Thereafter, those three individuals and various unidentified "Region 2 staff"—and notably, *not* Mr. Mugdan—engaged in:

- Corresponding with the CPG regarding EPA's review status (*id.* at ¶¶ 58, 60, 62, 68, 79, 81-83, 99-101, 114-117);
- Interpreting the FOIA requests (*id.* at ¶¶ 61, 80, 98);
- Identifying relevant individuals and EPA staff email accounts where potentially responsive documents may be located (*id.* at ¶¶ 61, 64, 66, 80, 85, 98, 103);
- Developing instructions for conducting the search, including which collection software to use, as well as which search terms and defined search parameters to employ (*id.* at ¶¶ 61, 64, 66, 80, 84, 85, 98, 102-103);
- Discussing and categorizing which documents were not responsive, which could be released in full or in part, and which needed to withheld (*id.* at ¶¶ 61, 70, 80 87-89, 98, 110-111); and
- Producing and uploading documents (*id.* at ¶¶ 73-75, 91-93, 113, 118, 129).

Not only was Mr. Mugdan not an identified part of this process, but his declaration also recounts conversations that he was not a party to. For example, the declaration recounts that, to identify responsive documents, Ms. Yeh had conversations with the Louis Berger Group and Battelle (*id.* at ¶ 63), Regional Administrator Judith Enck (*id.* at ¶¶ 104-106), the Public Affairs Division (*id.* at ¶ 107), Clean Water Division staff (*id.* at ¶¶ 122-126), and the ERRD (*id.* at ¶¶ 122, 127). Indeed, if one excised the portions of Mr. Mugdan's declaration based on hearsay, no information would be left to substantiate EPA's document collection and review process.

EPA cannot satisfy its burden of proof based solely on a declarant who lacks personal knowledge on nearly every facet of the document search, collection, review, and production process, particularly when serious questions exist about each of these steps. EPA's declaration is therefore insufficient evidence on which to grant summary judgment, and instead demonstrates why discovery is necessary in this case.

B. EPA's inadequate search of personal e-mail accounts in which official business was conducted warrants denial of the summary judgment motion and discovery.

Work-related e-mails are subject to FOIA as "agency records" even when they are in personal e-mail accounts rather than official e-mail accounts. *See Judicial Watch, Inc. v. Dep't. of State*, No. 14-1242 (RCL), at *1 (Mar. 29, 2016); *Landmark Legal Foundation v. E.P.A.*, 959 F. Supp. 2d 175, 181-82 (D.D.C. 2013). Discovery is appropriate in a FOIA case when an agency did not search personal e-mail accounts in which official government business was being conducted. *See id.*

In *Landmark Legal*, the court denied summary judgment and ordered discovery because personal e-mail accounts of EPA officials had not been searched. 959 F. Supp. 2d at 184 ("The possibility that unsearched personal email accounts may have been used for official business raises the possibility that leaders in the EPA may have purposefully attempted to skirt disclosure

under the FOIA."). Other courts also have ordered discovery when a personal e-mail account used for official business was not searched by an agency to respond to a FOIA request. *See, e.g.*, *Judicial Watch, Inc. v. Dep't. of State*, No. 13-1363 (EGS) (D.D.C. May 4, 2016); *Judicial Watch, Inc. v. Dep't. of State*, No. 14-1242 (RCL), at *2-3 (Mar. 29, 2016).

The CPG specifically requested work-related e-mails sent on personal e-mail accounts by EPA personnel or Region 2 Administrator Judith Enck to members of the public:

> Any and all communications regarding the LPRSA between: 1. Any U.S. EPA personnel and any member of the Community Advisory Group or any other person purporting to be a representative of the community; and 2. Any member of the public and Judith Enck, including any alter egos or aliases of Administrator Enck. This information would include but not be limited to all letters, email (both official accounts and personal accounts used for official business), and any notes, records, reports, summaries or memoranda taken during or prepared after communications with members of the public relating to the LPRSA.

Request EPA-R2-2014-006476, May 14, 2014, Request #4.

Furthermore, every CPG request included any work-related e-mails sent on personal e-mail accounts because such e-mails are "agency records." *See Landmark Legal Foundation*, 959 F. Supp. 2d at 181-82.

1. EPA's declaration is not based on personal knowledge, does not address fundamental search parameters relating to Ms. Enck's e-mails, and is contradicted by other disclosed records.

Based on the declaration provided by EPA, the agency failed to properly search the Region 2 administrator's private email account. Mr. Mugdan describes events to which he does not have personal knowledge. Mugdan Decl. ¶¶ 104-106; EPA SOF ¶¶ 101-103. According to the declaration, Alice Yeh e-mailed Ms. Enck to inform her that Region 2 would use EPA's eDiscovery software to search Ms. Enck's work e-mail account, and that she would need to search her personal e-mails and other documents for other responsive information. *Id.* at ¶ 104; EPA SOF ¶ 101. In a response three weeks later, Ms. Enck's special assistant reported that Ms.

Enck's materials responsive "to the request described above" had been uploaded to FOIA online. *Id.* at ¶ 105; EPA SOF ¶ 102. Mr. Mugdan's declaration concludes this topic by stating:

> As of May 2016, Ms. Enck has confirmed that her search included all locations reasonably likely to contain responsive information to CPG's Third Request. Ms. Enck has confirmed that she did not use her personal email account for communications regarding the Lower Passaic River Study Area with any members of the public. . . .

Id. at ¶ 106; EPA SOF ¶ 103.

It is not clear from Mr. Mugdan's declaration who searched Ms. Enck's e-mails or how the search was conducted. It is not clear why Ms. Enck apparently was allowed to forego use of EPA's eDiscovery software. The declaration reports that Ms. Enck searched for responsive information to CPG's Third Request, but does not state whether Ms. Enck searched for information responsive to the other FOIA requests. And while Mr. Mugdan's declaration reports that Ms. Enck "did not use her personal e-mail account for communications regarding the Lower Passaic River Study Area with members of the public," it does not state whether Ms. Enck sent *any* work-related e-mails from her personal e-mail account that might be responsive to the CPG's other requests.

The declaration by Mr. Mugdan is not sufficient to certify Ms. Enck's actions. Only Ms. Enck can certify her actions to respond to the CPG's requests. And information from Ms. Enck is necessary to answer the many questions surrounding her search, collection, and production of potentially responsive information from her files.

This is especially true since the confirmation reported by Mr. Mugdan is inaccurate. Even though Ms. Enck confirmed she "did not use her personal e-mail account for communications regarding the Lower Passaic River Study Area with members of the public," documents produced by EPA in response to other FOIA requests tell a different story. On June 12, 2011, Ms. Enck sent an e-mail from her personal e-mail account to Miriam Gordon, the California state

director of Clean Water Action. In response to Ms. Gordon's inquiry about "stronger methods for waterway cleanup than TMDLs," Ms. Enck discussed the use of Superfund for the Passaic River: "140 miles of the Hudson river was declared a federal superfund site – and it's an estury [*sic*]. **same thing with the passaic river.** it is slow slow slow, but a much more effective strategy than tmdl's." Hyatt Aff., Exhibit J, p. 5 (emphasis added). Ms. Enck forwarded the e-mail to herself on December 19, 2013. Even though this was a communication regarding the Lower Passaic River Study Area with a member of the public, Ms. Enck claimed she had *no such e-mails* and none were produced or listed as exempt by EPA in response to the CPG's FOIA requests.

Ms. Enck also described communications with members of the public about the Passaic River in a June 16, 2010 e-mail to the declarant, Walter Mugdan: "can we talk in detail about sediment washing? **Some of the nj groups have raised this with me regarding the passaic** and the desire to clean up the seident [*sic*] and use it as a bud locally." *Id.* at p. 3 (emphasis added). Ms. Enck's e-mail to Mr. Mugdan was in response to an e-mail she received from a member of the public about a New York site.

These e-mails demonstrate that Ms. Enck used her personal e-mail account to discuss the Passaic River, including with members of the public. EPA did not produce or list on the *Vaughn* index any e-mails from Ms. Enck's personal e-mail account. Instead, Ms. Enck confirmed that no responsive e-mails existed, when clearly they do.

EPA's motion for summary judgment should be denied because Mr. Mugdan's declaration is inaccurate and EPA's search was inadequate. *See Valencia-Lucena v. U.S. Coast Guard*, 180 F.3d 321, 327 (D.C. Cir. 1999) (reversing summary judgment because of the agency's inadequate search) ("[W]hat causes us to conclude that the search was inadequate arises

from the fact that the record itself reveals 'positive indications of overlooked materials.'"). In addition, discovery regarding Ms. Enck's collection efforts should be allowed.

2. EPA's declaration does not address personal e-mail accounts by any EPA official other than Ms. Enck.

In *Landmark Legal*, the court denied EPA's motion for summary judgment and ordered discovery based on a single e-mail that indicated EPA officials used personal e-mail accounts for official business. 959 F. Supp. 2d at 181-82. According to the court:

> [EPA's] failure to deny the allegations that personal accounts were being used to conduct official business leaves open the possibility that they were. Because any search in response to Landmark's request that left out these possibly key sources would not be 'reasonably calculated to uncover all relevant documents,' the Court finds that there is an outstanding issue of material fact precluding summary judgment as to the adequacy of the EPA's search.

Id. at 182.

Mr. Mugdan's declaration does not identify searches of any personal e-mail accounts other than Ms. Enck's. This is despite the CPG's express request for certain documents in personal e-mail accounts by any EPA personnel. (Request EPA-R2-2014-006476, May 14, 2014, Request #4.) In addition, *all* of the CPG's requests included work-related e-mails sent from personal e-mail accounts because those are "agency records." *See Judicial Watch, Inc. v. Dept. of State*, No. 14-1242 (RCL), at *1 (Mar. 29, 2016); *Landmark Legal Foundation v. E.P.A.*, 959 F. Supp. 2d 175, 181-82 (D.D.C. 2013).

EPA's *Vaughn* index demonstrates that multiple EPA officials—including the declarant, Mr. Mugdan—used personal e-mail addresses for official business. For example:

- Mr. Mugdan sent an e-mail from his personal AOL account to an EPA official regarding the Passaic. DASS00007971 (Jan. 3, 2014).
- The site project manager, Eugenia Naranjo, used her personal Hotmail account for EMBM comments. FOIA_0601800007232 (Aug. 8, 2007).

- Another EPA employee, who later worked for the Army Corps, used a personal Yahoo address. FOIA_0601800007925 (Jan. 16, 2008); FOIA_0601800007926 (Jan. 17, 2008).

Because personal e-mail accounts were used for official business, EPA should have searched these accounts for responsive records. EPA does not identify or describe any such search.

EPA's search for responsive records was inadequate. *See Valencia-Lucena*, 180 F.3d at 327 ("It is well-settled that if an agency has reason to know that certain places may contain responsive documents, it is obligated under FOIA to search barring an undue burden."). The above-described deficiencies in the search process are but a few examples. Similar deficiencies can be found throughout EPA's descriptions of the agency's search. EPA has failed to meet its burden to show that it conducted a search reasonably calculated to uncover all relevant documents. The motion for summary judgment should be denied. In addition, discovery regarding EPA's collection efforts from personal e-mail accounts should be allowed.

IV. Genuine Issues of Material Fact Remain Regarding the Documents and Communications EPA Has Withheld under FOIA Exemption 5.

FOIA's "Exemption 5" allows the federal government to withhold "inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency." 5 U.S.C. § 552(b)(5). The provision has been construed to protect "documents that are normally privileged in the civil discovery context." *NLRB. v. Sears, Roebuck & Co.*, 421 U.S. 132, 149 (1975). The agency cannot use a privilege to hide behind a veil of secrecy. *Coastal State Gas Corp. v. Dep't of Energy*, 617 F.2d 854, 867 (D.C. Cir. 1980).

A. EPA has improperly withheld requested records under the deliberative process privilege.

If an agency claims the "deliberative process privilege" under Exemption 5, the agency must show that the information in question is both pre-decisional and deliberative. *Id.* at 866.

To be pre-decisional, the communication must be "generated before the adoption of an agency policy." *Judicial Watch, Inc. v. Food & Drug Admin.* 449 F.3d 141, 151 (D.C. Cir. 2006). A "document that is predecisional at the time of preparation," however, "may lose exempt status if 'adopted, formally or informally, as the agency position on an issue or is used by the agency in its dealings with the public.'" *Taxation With Representation Fund v. IRS*, 646 F.2d 666, 678 (D.C. Cir. 1981) (quoting *Coastal States Gas Corp.*, 617 F.2d at 866).

To qualify as deliberative, the communication must reflect advisory opinions, recommendations, and deliberations comprising part of a process by which the government decision or policy was formulated, or the personal opinions of the writer prior to the agency's adoption of the policy. *Pub. Citizen, Inc. v. Office of Mgmt. and Budget*, 598 F.3d 865, 875 (D.C. Cir. 2010); *Klamath Water Users Protective Ass'n*, 532 U.S. at 8. Factual information generally is not covered by the deliberative process privilege, as its release would not expose the agency's deliberations. *See EPA v. Mink*, 410 U.S. 73, 91 (1973).

An agency fails to justify a FOIA exception when it offers only conclusory statements to the effect that information is exempted simply because it was discussed internally. *Chesapeake Bay v. U.S. Army Corps of Eng'rs*, 677 F. Supp. 2d 101, 107 (D.D.C. 2009). This is true because "[t]he deliberative process privilege does not generally shield purely factual information from disclosure." *Id.* at 108. By offering nothing "beyond the most conclusory statements," an agency fails to carry its burden that Exemption 5 applies. *Id.*

Here, EPA has done exactly what the U.S. Army Corps of Engineers attempted in *Chesapeake Bay*, by withholding factual information and offering only conclusory statements to support its withholding. EPA attempts to cloak its conclusory statements by the use of categories. Although the CPG agreed in concept that categories could be used to aid EPA in describing why documents were being withheld, EPA has not used its proposed categories in such a way here. Instead, EPA lists categories in the *Vaughn* index and then, as shown above (on pages 13-14), uses conclusory statements in the Coded Key that do not help this Court or the CPG in determining why the documents are deliberative and pre-decisional.

Exemption 5 also does not apply if a document is adopted, formally or informally, into the final decision. *Nat'l Council of La Raza v. Dep't of Justice*, 411 F.3d 350, 357-60 (2d Cir. 2005). As the U.S. Supreme Court reasoned:

> The probability that an agency employee will be inhibited from freely advising a decisionmaker for fear that his advice *if adopted*, will become public is slight. First, when adopted, the reasoning becomes that of the agency and becomes its responsibility to defend. Second, agency employees will generally be encouraged rather than discouraged by public knowledge that their policy suggestions have been adopted by the agency. Moreover, the public interest in knowing the reasons for a policy actually adopted by an agency supports [disclosure].

Id. at 357 (quoting *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132, 161 (1975)); *see also Shemco Indus. v. Sec'y of the Air Force*, 613 F.2d 1314, 1319 (5th Cir. 1980) (finding that communication is no longer exempt once the agency adopts the employee's advice as its own).

EPA cannot claim protection under the deliberative process privilege for post-decisional documents. The agency has not sufficiently demonstrated that the withheld documents were pre-decisional. Many of the documents on the *Vaughn* index designated as deliberative process have no date. (*E.g.*, FOIA_05768_000090, FOIA_05768_000090). Furthermore, even for dated documents, the date alone is not determinative. A document that is predecisional at the time of preparation could lose its exempt status if it becomes the final agency position on the issue.

Taxation with Representation Fund, 646 F.2d at 678 (quoting *Coastal States Gas Corp.*, 617 F.2d at 866).

EPA asserts that records withheld under the deliberative process privilege are pre-decisional as they relate to four "final documents": (1) Conceptual Site Model ("CSM"); (2) Empirical Mass Balance Model ("EMBM"); (3) Lower 8.3 Miles RI/FFS; and (4) Proposed Plan. The CSM and EMBM were released in June 2008.[16] The RI/FFS and Proposed Plan were released on April 11, 2014. Further, the RI/FFS and Proposed Plan were then incorporated to a final ROD released in March 2016.

Documents created and communications exchanged after these decision dates are post-decisional and cannot be withheld under the deliberative process privilege. Thus, the following documents are illustrative of post-decisional documents related to the CSM or EMBM that improperly have been withheld:

Doc ID Beg	Date	Subject
FOIA_0601800002006	11/5/2009	Fw: CSM Summit Preparation
FOIA_0601800002018	11/17/2009	Re: Action Items from CSM Summit
FOIA_0601800002020	11/17/2009	Re: Action Items from CSM Summit
FOIA_0601800002021	11/17/2009	Re: Action Items from CSM Summit
FOIA_0601800002025	11/18/2009	Re: Action Items from CSM Summit
FOIA_0601800002128	11/18/2009	CSM Summit Action Items
FOIA_0601800002036	4/25/2012	Appendix C - EMBM
FOIA_0601800002365	4/29/2011	Comparing of CSM Trajectories and Model Forecasts
FOIA_0601800002367	4/29/2011	RE: Comparing of CSM Trajectories and Model Forecasts
FOIA_0601800002470	11/3/2009	CSM Summit Summary info

[16] *See* https://cfpub.epa.gov/si/si_public_record_Report.cfm?dirEntryID=74699 (last visited June 2, 2016) (stating that the "CSM-EMB was submitted for external peer review in June 2008). CSMs were also completed in August 2005 and February 2007. *See* http://ourpassaic.org/ConceptualSiteModel.aspx (last visited on June 2, 2016).

FOIA_0601800002677	8/26/2008	Re: Fw: comments on the CSM peer review document
FOIA_0601800002722	8/12/2008	are you reviewing the Passaic CSM peer review document?
FOIA_0601800002723	8/12/2008	Re: are you reviewing the Passaic CSM peer review document?
FOIA_0601800003053	2/16/2011	Draft CSM
FOIA_0601800003054	2/16/2011	Draft CSM
FOIA_0601800003301	7/9/2008	RE: Passaic River CSM Peer Review Consensus Teleconference - Files for Clarifying Question for Bopp
FOIA_0601800003627	6/17/2010	Draft CSM presentation
FOIA_0601800008203	6/16/2010	EMBM Abstract
FOIA_0601800008204	6/16/2010	CSM abstract
FOIA_0601800008206	6/16/2010	CSM abstract
FOIA_0601800008217	6/28/2010	EMBM Abstract
FOIA_0601800008965	8/12/2008	Comments on CSM-EMBM peer review
FOIA_0601800008969	8/20/2008	Re: Passaic - History of EMB - SAVE; TO 0002/WVN4
Tst_0601800000479	12/13/2012	Updated EMBM Trajectories
Tst_0601800000480	12/13/2012	Draft EMBM Results table
Tst_0601800001781	4/26/2012	RE: Appendix C - EMBM

Accordingly, EPA should immediately release any documents and communications related to the CSM or EMBM that were created or exchanged after June 2008. Such documents cannot be deliberations comprising part of a process by which the government decision or policy was formulated in June 2008.

As pertaining to the RI/FFS and Proposed Plan, EPA emphasizes the date of April 11, 2014, when the documents were released. But that date doesn't necessarily mean that no decisions were final until that point. It is likely that EPA's decisions, or parts therein, were final before EPA released its decision to the public on April 11. EPA's *Vaughn* index and declaration

are not specific enough to be able to determine at what point various decisions or data became final for purposes of the deliberative process privilege.

Many of the requested documents likely have been confirmed and incorporated into the final documents. They are no longer protected and should be produced. *See NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132, 161 (1975). The descriptions provided by EPA in no way reject that these documents were confirmed and incorporated into FFS, Proposed Plan, or the Rule of Decision. In fact, EPA asserts that certain documents, including the recommendations and comments of the CSTAG and the NRRB, "were incorporated into the eventual selected remedy and Record of Decision." (EPA's SOF ¶ 40) Under applicable FOIA case law, these materials are not exempt from disclosure and should have been released.

As seen in these examples, EPA has failed to demonstrate that the withheld records are protected by the Exemption 5 deliberative process privilege. Genuine issues of material fact exist regarding whether Exemption 5 applies to these non-deliberative documents, and summary judgment should not be granted as a matter of law.

1. Purely factual information or factual information within a deliberative memorandum is not exempt under FOIA Exemption 5.

Purely factual information or factual portions of a deliberative memorandum are not protected by Exemption 5. *See generally EPA v. Mink*, 410 U.S. 73, 91 (1973). EPA appears to have withheld documents that contain only factual information related to the Passaic River.

The *Vaughn* index contains descriptions for the following documents, among others, which on their face suggest that EPA has improperly withheld factual, technical, or purely data material:

Doc ID Beg	Date	Subject
DASS00006174	1/8/2014	2-page fact sheet for administrator briefing

DASS00006691	1/7/2014	attachment – Sediment Texture Maps
DASS00006693	1/7/2014	attachment – FFS Tables and Figures
DASS00006695	1/7/2014	attachment – FFS Tables and Figures
Tst_0601800001475	7/26/2011	Attachment: "factsheet1.pdf"
Tst_0601800004534	9/27/2013	Summary of 2012 and 2013 Sediment PRGs and Model Outputs
Tst_0601800004540	9/25/2013	Summary of 2012 and 2013 Sediment PRGs and Model Outputs
Tst_0601800004694	8/9/2013	BSAF Regression - Delivery
Tst_0601800004695	8/9/2013	BSAF Regression - Delivery
Tst_0601800004698	8/9/2013	BSAF Regression - Delivery
Tst_0601800004699	8/9/2013	BSAF Regression – Delivery (UNCLASSIFIED)
Tst_0601800004700	8/9/2013	BSAF Regression – Delivery (UNCLASSIFIED)
Tst_0601800004701	8/9/2013	BSAF Regression - Delivery
Tst_0601800004702	8/9/2013	BSAF Regression - Delivery
FOIA_0601800002115	10/2/2008	Re: Fact Sheet: Passaic
FOIA_0601800002116	10/2/2008	Hot Issue Fact Sheet
FOIA_0601800002180	10/2/2008	Fw: Fact Sheet: Passaic
FOIA_0601800002181	10/2/2008	Re: Fact Sheet: Passaic
FOIA_0601800003308	11/4/2008	Draft Figure
FOIA_0601800003311	8/28/2006	Draft Table
FOIA_0601800003935	3/2/2012	FFS fact sheet
FOIA_0601800004055	5/30/2007	Draft FFS fact sheet
FOIA_0601800004734	9/9/2008	Early Action Fact Sheet
FOIA_0601800004736	9/11/2008	Early Action Fact Sheet
FOIA_05768_000090		2012-01-25 Fish-Crab Ingestion Tech
FOIA_05768_000090		Burger raw data & calculations – for

Further, factual investigative material information is not protected by Exemption 5 unless it is inextricably intertwined with pre-decisional, deliberative information that is protected. *Gold Anti-Trust Action Comm., Inc. v. Bd. of Governors of the Fed. Reserve Sys.*, No. 09-2336, 2011

WL 332541, at *7 (D.C. Cir. Feb. 3, 2011); *Morley v. CIA*, 508 F.3d 1108, 1128 (D.C. Cir. 2007). EPA has the burden "to show that the exempt portions of the documents are not segregable from the non-exempt material." *Missouri Coalition for the Env't v. U.S. Army Corps of Eng'rs*, 542 F.3d 1204, 1212 (8th Cir. 2008). "[EPA's] justification must be relatively detailed, correlating specific parts of the requested documents with the basis for the applicable exemption." *Id.*

EPA incorrectly argues (at 26) that the deliberative process privilege coupled with the work product doctrine permits the EPA to throw a blanket over *all factual material*. The attorney work product is not that broad. Instead, to be protected from disclosure, the material must be created in anticipation of litigation and, if disclosed, would reveal the attorney's thought processes and strategic thinking, as discussed further below. Many of the documents listed are pure factual or technical documents that would not reveal an attorney's strategies (even if it could be claimed that the material was prepared in anticipation of litigation).

B. EPA is improperly withholding requested records under the attorney-client privilege and work-product doctrine.

For the attorney-client privilege to apply, the withheld records must contain "confidential communications" between attorneys and their clients "relating to a legal matter for which the client has sought professional advice." *Mead Data Central, Inc., v. U.S. Dep't of Air Force*, 566 F.2d 242, 252 (D.C. Cir. 1977). Moreover, facts supplied by other persons or sources (such as facts found in technical environmental data) are not protected from disclosure under the attorney-client privilege unless the facts reflect client confidences. *Brinton v. Dep't of State*, 636 F.2d 600, 603 (D.C. Cir. 1980).

EPA's justification for **cloaking 657 documents under the attorney-client privilege** is wholly inadequate. (Mugdan Dec. ¶ 142.) As shown in examples above, one cannot tell from the

Vaughn index whether an attorney was involved in the communications withheld as attorney-client privileged. In most instances, the subject matter identified is so general that it is impossible to tell whether the communication sought or provided legal advice. EPA says that its attorneys provide legal advice to EPA staff "concerning the interpretation of CERCLA and its implementing regulations and guidance." (Mugdan ¶ 142.) But memoranda from governmental agency attorneys are not protected under the attorney-client privilege if they contain "neutral, objective analyses" of the environmental regulations, because "Exemption 5 and the attorney-client privilege may not be used to protect . . . agency law from disclosure to the public." *Tax Analysts v. IRS*, 117 F.3d 607 619 (D.C. Cir. 1997) (citing *Coastal States Gas Corp.*, 617 F.2d at 863).

EPA makes conclusory statements that the documents withheld under the attorney-client privilege contained confidential communications, but nothing in the *Vaughn* index demonstrates the alleged confidential nature or whether the documents were ever shared with third parties. It is the government's burden to prove that the claimed privilege applies, and this court should not simply assume the elements have been met simply because EPA says so. *See Mead Data*, 566 F.2d at 254.

Next, according to EPA's declaration, the agency **withheld in full or in part approximately 599 documents as attorney work product**. (Mugdan Decl. ¶ 143.) The work-product doctrine applies only to materials "prepared in anticipation of litigation and not in the ordinary course of business, or pursuant to public requirements unrelated to litigation." *Manna v. U.S. Dep't of Justice*, 815 F. Supp. 798, 814 (D.N.J. 1993) (quoting *United States v. Rockwell Int'l*, 897 F.2d 1255, 1265 (3d Cir. 1990)) (internal quotation marks omitted). The work-product

privilege ordinarily does not attach until at least "some articulable claim, likely to lead to litigation," has arisen. *Coastal States Gas Corp.*, 617 F.2d at 865.

The Third Circuit requires the government to demonstrate a close nexus between the creation of the allegedly protected document and the prospect of litigation. As articulated in *Rockwell*, the doctrine can be invoked only if, "in light of the nature of the document and the factual situation in the particular case, the document can fairly be said to have been prepared or obtained because of the prospect of future litigation." 897 F.2d at 1266 (emphasis added) (quoting *In re Grand Jury Proceedings*, 604 F.2d 798, 803 (3d Cir. 1979)); *see also id.* at 1265 (discussing that "primary motivating purpose" of document should be to aid in possible litigation).

"[T]he mere possibility of future litigation is insufficient to meet the 'in anticipation of litigation' standard.'" *Maertin v. Armstrong World Indus., Inc.*, 172 F.R.D. 143, 148 (D.N.J. 1997). Instead, the party invoking the work-product doctrine must identify a "'specific claim or impending litigation when the materials are prepared.'" *Id.* (quoting *Leonen v. Johns-Manville*, 135 F.R.D. 94, 97 (D.N.J. 1990)).

Here, EPA fails to demonstrate that the withheld documents were prepared because of the prospect of litigation or that an articulable or specific claim was contemplated when the materials were drafted. The factual, data, and technical materials were created to identify the remedial needs and measures for an appropriate cleanup of the Passaic River, not for litigation. EPA cites no actual litigation that was the focus of the withheld documents. (Mugdan Dec. ¶ 143.) As courts have observed, "'the policies of the FOIA would be largely defeated,'" if agencies "were allowed 'to withhold any document prepared by any person in the Government with a law degree simply because litigation *might someday occur*.'" *Senate of the Com. of Puerto Rico v. U.S.*

Dep't of Justice, 823 F.2d 574, 587 (D.C. Cir. 1987) (quoting *Coastal States Gas Corp.*, 716 F.2d at 865) (emphasis added).

Because EPA has "failed to supply . . . even the minimal information necessary to make a determination" whether the documents were created because of litigation, the motion for summary judgment fails as a matter of law as it pertains to documents EPA claims to be attorney work product. *Id.* For similar reasons, EPA's motion also fails as a matter of law as it pertains to the claim of attorney-client privilege.

V. Genuine Issues of Material Fact Remain Regarding the Documents and Communications EPA Has Withheld under FOIA Exemption 6 Because the Withholdings Are Not Sufficiently Justified.

FOIA Exemption 6 protects from disclosure "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." 5 U.S.C. § (b)(6). In determining whether disclosure is warranted, courts analyze "whether the information sought is subject to privacy protection and, if so, whether the invasion of privacy is 'clearly unwarranted.' This inquiry involves a balancing of the public interest served by disclosure against the harm resulting from the invasion of privacy.'" *McDonnell v. United States*, 4 F.3d 1227, 1251-52 (3d Cir. 1993) (quoting *I.B.E.W. Local Union No. 5 v. U.S. Dep't of Hous. & Urban Dev.*, 852 F.2d 87, 89 (3d Cir. 1988), holding modified by *Sheet Metal Workers Int'l Ass'n, Local Union No. 19 v. U.S. Dep't of Veterans Affairs*, 135 F.3d 891 (3d Cir. 1998)).

The Court "must keep in mind that there is <u>a presumption in favor of disclosure</u>" and that "<u>Congress' dominant objective</u> under FOIA to provide <u>full disclosure</u>." *McDonnell*, 4 F.3d at 1252 (emphasis added); *Citizens for Env. Quality v. U.S. Dep't of Agric.*, 602 F. Supp. 534, 538, 540 (D.D.C. 1984) (denying agency's summary judgment motion "in light of the heavy burden on the government under Exemption 6, and the government's failure to submit facts creating

more than a mere possibility of identification or to controvert the plaintiff's assertion of the public's interest in the documents sought").

Here, EPA has failed to meet its burden of showing that the release of the withheld documents that allegedly contain personnel or medical information would constitute a clearly unwarranted invasion of personal privacy. As shown above, EPA has not described the documents with sufficiently particularized detail. Thus, EPA has established "no more than a 'mere possibility'" that exempted information might be disclosed, which "is not enough." *Finkel v. U.S. Dep't of Labor*, 2007 WL 1963163, *9 (D.N.J. June 29, 2007) (quoting *Arieff v. U.S. Dep't of Navy*, 712 F.2d 1462, 1467 (D.C. Cir. 1983)).

On the other hand, the CPG and the public have an interest in understanding what information EPA considered in arriving at its decisions and to be able to fully understand the basis for the Proposed Plan (EPA estimates the cost of the remedy to be $1.38 billion[17]) and the FFS. Further, even if EPA is shielding certain personnel information of document custodians, the CPG must be able to determine whether EPA conducted an adequate search for records responsive to the CPG's FOIA requests.

The identified subject matter of many of the documents on the *Vaughn* index for which EPA has claimed Exemption 6 are simply too general to be able to provide the CPG and the Court with any meaningful information to conduct the requisite balancing of the public interest served by disclosure against the harm resulting from the alleged invasion of privacy. For example, several documents are labeled simply with a subject of "top secret info." (EPA Ex. X, FOIA_0601800008322, 8323, 9140, 9141.) Another document has a subject of "RE: FW: Final FFS Table of Contents" (FOIA_0601800002370) and another is titled "RE: FW: CSTAG

[17] *See* http://www.ourpassaic.org/ (last visited June 1, 2016).

briefing" (FOIA_0601800007689). Such descriptions provide no basis on which to consider whether personnel or medical information may be included in the fully withheld document.

These are illustrative examples of documents throughout EPA's *Vaughn* index. In some cases the Coded Key sheds some light on the Exemption 6 claim, but in others, there is *no justification* given for the claimed exemption. *Compare* Category 5 (describing "personal information such as discussions of child-care, vacation, and other use of personal time or leave) *with* Category 4 (providing no justification for Exemption 6, despite identifying 3 documents to which the exemption allegedly applies). EPA thus has failed to meet its burden of demonstrating that Exemption 6 applies.

VI. Genuine Issues of Material Fact Remain Regarding Whether EPA Improperly Withheld Documents under FOIA Exemption 7(A), and EPA Has Not Justified Withholding Documents under This Exemption.

EPA improperly claims that certain withheld documents are exempt under Exemption 7(A), located at 5 U.S.C. § 553(b)(7)(A). (*See* EPA's MSJ, pp. 32-38; Mugdan Decl. ¶¶ 139-140; *Vaughn* index Categories 8, 9, 10, 12, 15, and 18). This exemption applies to "records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information could reasonably be expected to interfere with enforcement proceedings."

Exemption 7 contains an initial threshold requirement that the records withheld must have been "compiled" for law enforcement purposes. Thereafter, even if the documents were "compiled" for law enforcement purposes, "[t]o fit within Exemption 7(A), the government must show that (1) a law enforcement proceeding is pending or prospective and (2) release of the information could reasonably be expected to cause some articulable harm." *Manna v. U.S. Dep't of Justice*, 51 F.3d 1158, 1164 (3d Cir. 1995) (citing *FBI v. Abramson*, 456 U.S. 615, 630 (1982); *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 224 (1978))

EPA fails to satisfy its burden to demonstrate that any of these requirements have been met. *First*, the withheld documents were not "compiled" for law enforcement purposes. In particular, the documents were neither created nor subsequently gathered for law enforcement purposes. *Second*, there was no pending or prospective law enforcement proceeding at the time these materials were created and compiled. *Third*, EPA has failed to provide information sufficient to determine what (if any) harm would reasonably follow from releasing the requested documents. EPA failed to provide the required factual basis demonstrating why each document individually satisfied the claimed exemption. Rather, EPA provided a single conclusory paragraph (repeated nearly verbatim in its "Justifications for Withholding" portion of its *Vaughn* index, Mr. Mugdan's Declaration, and the argument portion of its brief in support of summary judgment) that purports to cover all 56 documents withheld under Exemption 7(A). Not only is this approach unacceptable under FOIA, the purported justification provided is insufficient to justify withholding the documents under the law enforcement exemption. Moreover, EPA improperly attempted to bolster its unsupported justification by claiming a heightened need to withhold the information based on who the requestors were, a consideration inappropriate under FOIA.

A. The documents requested were not compiled for law enforcement purposes

The documents requested have never been compiled for law enforcement purposes and, therefore, EPA inappropriately invoked Exemption 7(A). This threshold requirement requires EPA demonstrate that it gathered the requested documents <u>at some point</u> for a law enforcement purpose. *See John Doe Agency v. John Doe Corp.*, 493 U.S. 146, 155 (1989). When making this determination, the primary function of the agency withholding the documents is a key consideration. Appropriately, "courts apply a more deferential standard to a claim that information was compiled for law enforcement purposes when the claim is made by an agency

whose primary function involves law enforcement." *Tax Analysts v. IRS*, 294 F.3d 71, 77 (D.C. Cir. 2002). In contrast, however, "an agency whose principal function is not law enforcement bears the burden of proving that the records it seeks to shelter under Exemption 7 were compiled for adjudicatory or enforcement purposes." *Davin v. United States Dep't of Justice*, 60 F.3d 1043, 1054 n.3 (3d Cir. 1995) (quoting *Stern v. FBI*, 737 F.2d 84, 88 (D.C. Cir. 1984)) (internal quotation marks omitted).

Further, the timing of when the documents were compiled must be considered. *See Tax Analysts*, 294 F.3d at 78 ("In assessing whether records are compiled for law enforcement purposes . . . the focus is on how and under what circumstances the requested files were compiled . . .") (quoting *Jefferson v. Dep't of Justice, Office of Prof'l Responsibility*, 284 F.3d 172, 176 (D.C. Cir. 2002)). In particular, courts should be cautious to ensure that the withholding agency does not make a "compilation" after a FOIA request is submitted solely to frustrate that request. *See John Doe Agency*, 493 U.S. at 155 n.6 (suggesting that "the chronology of [a] case [can] raise[] a question about the bona fides of the Government's claim that any compilation was not made solely in order to defeat the FOIA request"). Because of this fear, logically, the required "compiling" should occur prior to the time a FOIA request is made.

EPA provides a single conclusory sentence concerning when the requested documents were compiled, claiming: "Here, the records withheld by the EPA were compiled pursuant to the EPA's statutory authority under CERCLA, as part of the agency's efforts to enforce that statute with respect to the 17 Miles and the Lower 8.3 Miles." (Mugdan Decl. ¶ 144; EPA's MSJ, p. 33).

EPA's primary function is to implement congressionally enacted environmental laws by writing regulations and national standards. Because EPA's primary function does <u>not</u> involve

law enforcement,[18] no deference should be afforded to EPA's self-serving determination that the documents requested related to a law enforcement purpose. As such, EPA is required to demonstrate that the documents were in fact compiled for a law enforcement purpose.

EPA's single sentence on this issue fails to satisfy this burden. Specifically, it fails to provide any details regarding when or for what specific purpose these documents were allegedly "compiled." EPA includes no information to determine when EPA allegedly "compiled" the documents. The available, limited information reveals that the withheld documents were not originally created for a law enforcement purpose. Nearly all of these documents are technical in nature, and not related to any specific PRPs. For example, EPA is withholding documents concerning a Newark Bay Ecological Risk Assessment, an Empirical Mass Balance Model, biota analysis, a Conceptual Site Model, and various data evaluation reports, including a discussion of whether the Passaic should be classified as freshwater or saline, and the mercury content in fish tissue.[19]

Because the withheld documents were not originally compiled for a law enforcement purpose, EPA can justify using Exemption 7(A) only if it can demonstrate that it subsequently compiled the documents for such a purpose. With no evidence from EPA's Declaration that the documents were compiled by EPA prior to the FOIA request for any collective purpose, let alone

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[18] *See* "The Basics of the Regulatory Process," available at https://www.epa.gov/laws-regulations/basics-regulatory-process (last visited June 2, 2016) ("One of our [EPA's] most significant tools is writing regulations.").

[19] *See, e.g.,* FOIA_0618_Outlook00000084, FOIA_06018_Outlook00002002, and FOIA_06018_Outlook00002008 (related to Newark Bay Ecological Risk Assessment); FOIA_0601800002712, FOIA_0601800002716, FOIA_0601800002719, Tst_0601800000048, Tst_0601800001782, Tst_0601800001783, Tst_0601800001784, Tst_0601800001786, Tst_0601800001787, Tst_0601800001789, Tst_0601800001790, Tst_0601800001793, and Tst_0601800001798 (Empirical Mass Balance Model); FOIA_0601800003161, Tst_0601800000115, Tst_0601800001929, Tst_0601800001930, Tst_0601800001931, Tst_0601800001946, Tst_0601800001947, Tst_0601800001997, Tst_0601800002002, and Tst_0601800004509 (biota analysis); Tst_0601800000170 and Tst_0601800000171 (Conceptual Site Model); Tst_0601800001475 ("Passaic River Designation as Freshwater vs Saline"); and Tst_0601800002000 and Tst_0601800002001 (mercury in fish tissue).

a law enforcement purpose, EPA has failed to satisfy its burden of demonstrating that the documents were compiled for a law enforcement purpose.

B. There is no "pending or prospective" law enforcement proceeding.

Although EPA claims the documents were compiled to "enforce" CERCLA (*see* Mugdan Decl. ¶ 144; EPA's MSJ, p. 33), no relevant enforcement actions were initiated by EPA during the time period in which the withheld documents were created. Similarly, there was no relevant prospective law enforcement proceeding during that period. The earliest document withheld under Exemption 7(A) is dated November 14, 2006. From that date to present, the only known enforcement action initiated by EPA is an unrelated UAO issued in June 2012 to Occidental Chemical Corporation related to the River Mile 10.9 Settlement Agreement.

EPA dismisses the fact, however, that it did not bring any relevant enforcement proceedings during this 10-year period, by arguing that "given the long history of litigation involving the Lower Passaic River the EPA has properly concluded that enforcement proceedings are reasonably anticipated." (EPA's MSJ, p. 36). EPA cites two cases involving FOIA requests related to CERCLA sites in support of this position; however, both were brought **after** EPA had started enforcement proceedings. *See Goodrich Corp. v. EPA*, 593 F. Supp. 2d 184, 193 (D.D.C. 2009) (noting that EPA had issued a UAO prior to FOIA request); *Gen. Elec. Co. v. EPA*, 18 F. Supp. 2d 138, 144 (D. Mass. 1998) (noting that EPA had issued CERCLA § 106 orders prior to the FOIA request).

The situation before this Court, in which no UAO has yet been issued, is clearly distinguishable. To accept EPA's position that a law enforcement proceeding is "prospective" whenever such proceedings may occur (at some unspecified future date) would expand the law enforcement exemption so dramatically that it would thereafter encompass every document created in relation to a CERCLA site. The technical documents in question here were created to

help select and implement an appropriate cleanup of the Passaic River, not to develop arguments or positions for future enforcement proceedings. If EPA's argument were accepted, **every** document related to a CERCLA-site cleanup (including the technical documents at issue here) would be covered by the law enforcement exemption. For example, EPA could use a technical document as support for its claim that its chosen remedy is appropriate, whereas PRPs could use the document to show the opposite or to show that their responsibility is less than alleged. Accordingly, because EPA has not demonstrated that there is a prospective law enforcement proceeding, it has improperly withheld the requested documents under Exemption 7(A).

C. EPA failed to provide adequate support for its alleged justification for withholding the requested documents.

Further, EPA's purported justification for withholding the requested documents is insufficient under both general FOIA law and under the standard required for Exemption 7(A). Specifically, as addressed earlier, EPA has failed to provide a particularized description of how each document falls within a statutory exemption, instead providing a single justification that purports to cover all withheld documents. Not only is this insufficient under FOIA, but the alleged justification also fails to meet the "articulable harm" necessary to withhold a document under Exemption 7(A).

With regard to Exemption 7(A), EPA specifically argues that releasing the withheld documents would "provide the CPG and other interested parties with undue insight into EPA's investigation of the Lower 8.3 Miles and the development of the enforcement case." (Mugdan Decl. ¶ 145*; see also Vaughn* index Categories 8, 9, 10, 12, 15, and 18). The harm that EPA claims will stem is that "[t]his insight could enable the CPG and other PRPs to devise litigation and/or enforcement avoidance strategies to counter EPA's enforcement effort and impair EPA's ability to ultimately present its case." (Mugdan Decl. ¶ 145; see also *Vaughn* index Categories 8,

9, 10, 12, 15, and 18). Because this single justification fails to adequately explain why each document withheld satisfies the purported exemption, it is insufficient under FOIA.

1. EPA has failed to demonstrate an adequate, specific "articulable harm" it could reasonably expected to be caused by release of the requested documents.

The conclusory harm EPA says would result from providing PRPs an advantage in civil litigation is not the type of "articulable harm" sufficient harm to satisfy Exemption 7(A). In *Goodrich Corp. v. EPA*, another CERCLA case involving a PRP's request for possibly exonerating documents, the court rejected a similar argument raised by EPA. The Court held that "a conclusion that a civil litigation (or discovery) advantage potentially realized by the production of a document is enough to warrant protection under Exemption 7(A) would risk unbounded expansion of the law enforcement exemption." 593 F. Supp. 2d at 195. Further, "it is not sufficient for an agency merely to state that disclosure would reveal the focus of an investigation; it must rather demonstrate *how* disclosure would reveal that focus." *Sussman v. U.S. Marshals Serv.*, 494 F.3d 1106, 1114 (D.C. Cir. 2007) (citing *Campbell v. Dep't of Health & Human Servs.*, 682 F.2d 256, 265 (D.C. Cir. 1982)). This requires the agency provide "specific information about the impact of the disclosures." *Id.* at 1114.

EPA improperly claims that to demonstrate an articulable harm it need only show that disclosing the requested documents would provide "advance access to the government's case." (*See* EPA's MSJ, pp. 35-37). Pure knowledge, however, is insufficient to satisfy the exemption. It is not this knowledge alone itself that the courts analyze, but whether the use of that knowledge could "jeopardize any future law enforcement proceedings." *See NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 236 (1978). As the cases cited by EPA explain, knowledge could only interfere with future law enforcement proceedings if the party obtaining the knowledge could use it improperly to intimidate or harass potential witnesses, tamper or destroy

evidence, or "construct" defenses. *See, e.g., id.* at 240-41. None of these rationales for withholding documents is applicable here. There is simply no way any party could use the technical documents withheld to intimidate witnesses or destroy evidence.

Here, EPA does not explain how release of the documents would lead to the purported justifications. Accordingly, EPA has failed to meet its burden to demonstrate the applicability of Exemption 7(A) to the requested documents.

2. EPA improperly considered the requester's identity when deciding to withhold documents.

EPA's attempt to withhold documents from the CPG because the requesting parties were PRPs at the site in question (*see* EPA's MSJ, pp. 35, 36; Mugdan Decl. ¶ 145) is contrary to FOIA's intended purposes of providing transparency in governmental affairs. If accepted, EPA's position would create a barrier to this transparency, and would in fact make governmental affairs least transparent to the people most concerned.

Indeed, this precise withholding justification was rejected in *Horsehead Industries, Inc. v. EPA*, 999 F. Supp. 59 (D.D.C. 1998). The court rejected EPA's argument that it could read a FOIA request from a PRP at a CERCLA request more narrowly than it would read the same request made by a non-PRP. The court acknowledged that "one occasionally finds evidence of judicial disapproval when FOIA requests have been used in lieu of discovery" but clarified that there is "no legal basis for such commentary." 999 F. Supp. at 67. The court emphasized how "FOIA is founded on an equality principle or non-discrimination principle that makes irrelevant . . . the identity of [the] requester or his or her particular interest in the information sought." *Id.* As such, "all members of the public, <u>including those who happen to be parties litigant against their government</u>, are entitled to access to government records subject to disclosure under FOIA." *Id.* (emphasis added).

In fact, the court clarified, EPA is "obliged" to read FOIA requests "more generously than [it] might read an identically-worded discovery request . . . even if the FOIA request is made by an adverse party or a potentially adverse party in litigation against the Government." *Id.* at 68 (emphasis in original). The court held that "EPA lacked a reasonable basis for withholding" the documents and held that "when a FOIA request is made to further a complainant's litigation objective against the government, an agency may not discriminate and construe such a request more narrowly . . . than a request made by a non-litigant complainant." *Id.* Likewise, EPA cannot justify withholding records simply because the CPG is potentially made up of PRPs.

VII. This Court May Order Several Remedies to Ensure that EPA Releases All Requested Records.

The CPG therefore respectfully requests this Court to deny EPA's motion for summary judgment. In light of EPA's inadequate justification for withholding the documents, the agency should be ordered to release all requested documents in un-redacted form.

The Court also has various remedies it could order to ensure that EPA releases all requested documents. Under Fed. R. Civ. P. 56(d), the CPG asks the Court to allow the CPG to take limited discovery to develop the factual record to determine the universe of withheld records and properly assess the applicability of the claimed exemptions. EPA should also be required to submit a sufficient declaration and *Vaughn* index.

Discovery is warranted. The CPG has appealed EPA's production of documents administratively and has instituted this FOIA lawsuit, yet EPA still is improperly withholding certain documents. EPA has showed its general attitude of lack of responsiveness and non-disclosure and its refusal to create a satisfactory *Vaughn* index over the course of over two years

through multiple FOIA requests, administrative appeals, and its current *Vaughn* index. EPA has failed to meet its burden of justifying that the withheld records fall under a FOIA exemption.[20]

FOIA also authorizes a court to examine withheld documents *in camera* to determine whether the documents should be disclosed. 5 U.S.C. § 552(a)(4)(B). Courts have generally disfavored such review and undertake it only when the affidavits or the *Vaughn* index are insufficient. *Manna II*, 832 F. Supp. at 874; *se e also Int'l Collision Specialists, Inc. v. IRS*, No. 93-2500, 1994 WL 395310, at *3 (D.N.J. Mar. 4, 1994); *Berger v. I.R.S.*, 487 F. Supp. 2d 482, 494 (D.N.J. 2007), *aff'd*, 288 F. App'x 829 (3d Cir. 2008).

CONCLUSION

For the foregoing reasons, genuine issues of material fact prevent this Court from granting EPA's motion for summary judgment, and it should be denied.

Respectfully submitted,

Dated June 10, 2016

SHOOK, HARDY & BACON L.L.P.

By: ___s/ Justin D. Smith_____
David R. Erickson, MO #31532
Christopher M. McDonald, MO #39559
Justin D. Smith, NJ #039692012

2555 Grand Blvd.
Kansas City, MO 64108-2613
Telephone: (816) 474-6550
Fax: (816) 421-5547
derickson@shb.com
cmcdonald@shb.com
jxsmith@shb.com

ATTORNEYS FOR THE LOWER PASSAIC RIVER STUDY AREA COOPERATING PARTIES GROUP ("CPG")

[20] If this Court does not deny EPA's motion for summary judgment outright, then the CPG should be permitted to supplement this Opposition after discovery to adequately respond to EPA's motion for summary judgment.

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of June, 2016, the foregoing Memorandum of Law, Response to Local 56.1 Statement, Affidavit of William H. Hyatt (with exhibits), Affidavit of Robert Paul La Gravenis (with exhibits), and Proposed Order were sent by e-mail to opposing counsel at Kristin.Vassallo@usdoj.gov. In addition, a hard copy will be sent by first-class mail to:

Kristin L. Vassallo
Assistant United States Attorney
Deputy Chief, Civil Division
United States Attorney's Office
District of New Jersey
970 Broad Street
Newark, New Jersey 07102

Dated: June 10, 2016

/s/ Justin D. Smith
Attorney for the Lower Passaic River Study Area Cooperating Parties Group ("CPG")

7612420

DAVID R. ERICKSON
CHRISTOPHER M. MCDONALD
JUSTIN D. SMITH
ATTORNEYS FOR PLAINTIFF
SHOOK, HARDY & BACON L.L.P.
2555 Grand Blvd.
Kansas City, MO 64108-2613
Telephone: (816) 474-6550
Fax: (816) 421-5547
derickson@shb.com
cmcdonald@shb.com
jxsmith@shb.com

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

LOWER PASSAIC RIVER STUDY AREA COOPERATING PARTIES GROUP, *Plaintiff,* vs. U.S. ENVIRONMENTAL PROTECTION AGENCY, *Defendant.*	**HON. JOSE L. LINARES** ***Civil Action No.* 15-cv-7828 (JLL)(JAD)**

[PROPOSED] ORDER DENYING SUMMARY JUDGMENT TO DEFENDANT

This matter has been presented to the Court on motion of Defendant U.S. Environmental Protection Agency for an order granting summary judgment to Defendant and dismissing Plaintiff's Complaint. The Court, having considered the moving papers, and the opposition thereto, finds that summary judgment is not appropriate. Genuine issues of material fact remain, and Defendant is not entitled to a judgment as a matter of law.

It is, therefore, on this __ day of _____, 2016,

ORDERED as follows:

1. Summary judgment in favor of Defendant is hereby DENIED;

2. Defendant must release to Plaintiff all documents previously withheld, in un-redacted form, that are responsive to Plaintiff's requests under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 522;

3. Plaintiff is permitted to engage in discovery under the Federal Rules of Civil Procedure to develop the factual record to determine the universe of withheld records, the scope of Defendant's search for requested records, and properly assess the applicability of the claimed exemptions; and

4. If Defendant withholds additional documents not produced under Paragraph 2 of this Order on the basis that the documents are exempt from disclosure under FOIA, Defendant must submit a sufficient declaration and *Vaughn* index regarding such documents.

The Honorable Jose L. Linares, U.S.D.J.
United States District Court

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

LOWER PASSAIC RIVER STUDY AREA COOPERATING PARTIES GROUP, *Plaintiff,* vs. U.S. ENVIRONMENTAL PROTECTION AGENCY, *Defendant.*	HON. JOSE L. LINARES *Civil Action No.* 15-cv-7828 (JLL)(JAD) **AFFIDAVIT OF WILLIAM H. HYATT, JR., ESQ., IN SUPPORT OF PLAINTIFF'S RESPONSE TO THE U.S. ENVIRONMENTAL PROTECTION AGENCY'S SUPPLEMENTAL STATEMENT OF MATERIAL FACTS NOT IN DISPUTE**

WILLIAM H. HYATT, JR., having been duly sworn according to law, deposes and states:

1. I am an attorney admitted to practice law in the State of New Jersey. I am a partner with the law firm of K&L Gates LLP, which serves as coordinating counsel for Plaintiff Lower Passaic River Study Area Cooperating Parties Group ("CPG") in the above-captioned matter. I respectfully submit this affidavit in support of the CPG's Supplemental Statement of Material Facts Not in Dispute.

2. On or around June 17, 2014, I submitted a letter on behalf of the CPG to the Assistant Regional Counsel for EPA Region 2 to follow up on the CPG's FOIA requests, including FOIA Request EPA-R2-2014-005768 (Apr. 21, 2014). Attached as **Exhibit A** is a true and correct copy of the June 17, 2014 letter. The June 17, 2014 letter explained that the EPA's responses to the FOIA requests had been inadequate and that the CPG needed the requested information and records in order to evaluate the Proposed Plan and prepare comments during the public comment period.

3. As I wrote on behalf of the CPG to the National Freedom of Information Officer

on or about November 26, 2014, EPA did not release all materials responsive to FOIA Request EPA-R2-2014-005768. Attached as **Exhibit B** is a true and correct copy of the November 26, 2014 letter. Among other things, EPA did not produce:

a. electronic files that identify biota tissue sample IDs and locations;

b. datasets used to generate the normalized tissue and sediment concentration data pairs that EPA used in turn to generate a regression model and BSAF curve presented in the FFS;

c. correspondence between EPA and NJDEP discussing NJDEP's angler surveys that included sites on the LPRSA, or any data or analysis from those surveys;

d. technical bases (analyses, calculations, modeling files and results, mapping, and any other relevant materials) used to develop the capping area footprints for Alternative 4; and

e. the dataset used in the Ecological Risk assessment.

4. On or around November 7, 2014, I timely filed a FOIA administrative appeal on behalf of the CPG of the April 21, 2014 FOIA Request EPA-R2-2014-005768. Attached as **Exhibit C** is a true and correct copy of the November 7, 2014 letter.

5. On or around November 12, 2014, by letter addressed to me from Barbara Bruce, FOIA Specialist, EPA acknowledged receipt of the FOIA appeal related to FOIA Request R2-2014-005768. Attached as **Exhibit D** is a true and correct copy of the November 12, 2014 letter.

6. EPA did not rule on the CPG's administrative appeal of FOIA Request EPA-R2-2014-005768.

7. My letter to EPA Region 2 dated on or around June 17, 2014, previously described in Paragraph 2 *supra* and attached as Exhibit A, also addressed the inadequacy of EPA's response to FOIA Request EPA-R2-2014-006018.

8. With regard to FOIA Request EPA-R2-2014-006018, as I wrote to the National Freedom of Information Officer by letter dated on or about February 4, 2015, EPA produced neither the 2008 CSM and EMBM developed as part of the FFS and Proposed Plan nor the comments, revisions or changes to the CSM that were considered by EPA in the development and issuance of the Proposed Plan. Attached as **Exhibit E** is a true and correct copy of the February 4, 2015 letter.

9. On or around February 4, 2015, on behalf of the CPG, I timely appealed EPA's decision to withhold agency records pursuant to the April 28, 2014 FOIA Request EPA-R2-2014-006018 to EPA's National Freedom of Information Officer. *See* Exhibit E.

10. EPA did not rule on the CPG's administrative appeal of FOIA Request EPA-R2-2014-006018.

11. My letter to EPA Region 2 dated on or around June 17, 2014, previously described in Paragraph 2 *supra* and attached as Exhibit A, also addressed the inadequacy of EPA's response to FOIA Request EPA-R2-2014-006476.

12. On or around November 4, 2014, I submitted a letter on behalf of the CPG to EPA to review the status of the FOIA requests and information that remained outstanding. Attached as **Exhibit F** is a true and correct copy of the November 4, 2014 letter. I informed EPA that, apart from scheduling-related emails, EPA had not produced "any substantive email communications between Judith Enck and members of the community (on either personal or official email accounts)." I asked EPA to confirm that no such emails existed.

13. On or around November 13, 2014, I received a letter from EPA responding that it had provided information responsive to the FOIA request for communications between members of the public and Administrator Enck and stating that that it was "beyond the scope of [EPA's] FOIA review" to determine whether or not the communications released were "substantive." Attached as **Exhibit G** is a true and correct copy of the November 13, 2014 letter.

14. As I wrote to the National Freedom of Information Officer on or around April 17, 2015, among other things, EPA did not produce:

a. an accounting of funds spent or committed to be spent in developing the Proposed Plan and the reports and appendices thereto, including but not limited to the Remedial Investigation and Focused Feasibility Study;

b. documents authorizing the expenditure of funds for the Proposed Plan;

c. documents that explain EPA's decision to designate of any portion of the Diamond Alkali Superfund Site as an operable unit; and

d. all responsive emails between Administrator Enck, including responsive emails from her official email account and responsive emails from personal email accounts.

Attached as **Exhibit H** is a true and correct copy of the April 17, 2015 letter.

15. On or around April 17, 2015, on behalf of the CPG, I timely appealed EPA's decision to withhold agency records in response to the May 14, 2014 FOIA Request EPA-R2-2014-006476 to EPA's National Freedom of Information Officer. *See* Exhibit H.

16. EPA neither acknowledged receipt of nor ruled on the CPG's administrative appeal of FOIA Request EPA-R2-2014-006476.

17. My letter to EPA Region 2 dated on or around June 17, 2014, previously described in Paragraph 2 *supra* and attached as Exhibit A, also addressed the inadequacy of EPA's response to FOIA Request EPA-R2-2014-007546.

18. On or around June 19, 2014, EPA responded to my June 17, 2014 letter regarding "the four [FOIA] requests that the Cooperating Parties Group ("CPG") has submitted to EPA in the last two months." Attached as **Exhibit I** is a true and correct copy of the June 19, 2014 letter. The June 19, 2014 letter purported that EPA had processed the CPG's FOIA requests, had provided some responsive information, and that more responsive information would be forthcoming.

19. On or around November 13, 2014, EPA sent a letter to the CPG purporting that all responsive information to FOIA Request EPA-R2-2014-007546 had been released. *See* Exhibit G.

20. However, in response to FOIA Request EPA-R2-2014-007546, EPA did not provide documentation relating to the technical basis of the "trigger levels," including toxicity values and exposure assumptions, that are listed in the FFS.

21. On or around November 26, 2014, on behalf of the CPG, I timely appealed EPA's decision to withhold agency records in response to the June 17, 2014 FOIA Request EPA-R2-2014-007546 to EPA's National Freedom of Information Officer. *See* Exhibit B.

22. EPA neither acknowledged receipt of nor ruled on the CPG's administrative appeal of FOIA Request EPA-R2-2014-007546.

23. On February 13, 2014, EPA responded to FOIA Request EPA-R2-2014-1585 submitted by the Competitive Enterprise Institute. Attached as **Exhibit J** is a true and correct copy of the February 13, 2014 response.

24. In its response to FOIA Request EPA-R2-2014-1585, EPA produced approximately 439 pages of records from Ms. Enck's personal e-mail account. The records response demonstrated that Ms. Enck sent at least two e-mails from her personal e-mail account with references to the Passaic River, and that Ms. Enck discussed the Passaic River with a member of the public in at least one e-mail from her personal account. *See* Exhibit J.

I hereby certify that the foregoing statements made by me are true. I am aware that should any of the foregoing statements made by me are willfully false, I am subject to punishment.

STATE OF NEW JERSEY)
) ss:
COUNTY OF ESSEX)

William H. Hyatt, Jr.

Dated: June 7, 2016

EXHIBIT A

K&L GATES

K&L GATES LLP
ONE NEWARK CENTER
TENTH FLOOR
NEWARK, NJ 07102
T 973.848.4000 F 973.848.4001

William H. Hyatt, Jr.
D 973.848.4045
F 973.848.4001
william.hyatt@klgates.com

June 17, 2014

Sarah P. Flanagan, Esquire
Assistant Regional Counsel
Office of Regional Counsel
U.S. EPA Region 2
290 Broadway
New York, NY 10007

Re: Lower Passaic River Study Area

Dear Sarah:

As you know, our firm represents the Cooperating Parties Group ("CPG") with respect to the Lower Passaic River Study Area ("LPRSA"). I am writing to follow-up on four FOIA requests submitted by the CPG: [EPA-R2-2014-005758 - 04/21/14 ("First Request"); EPA-R2-2014-00618 - 04/28/14 ("Second Request"); EPA-R2-2014-006476 - 05/14/14 (amended on 05/15/14) ("Third Request"); and EPA-R2-007546 - 06/17/14 ("Fourth Request")) related to EPA's Proposed Plan for the lower eight miles of the LPRSA ("Proposed Plan"). To date, EPA has provided partial responses to the First and Second Requests. However, the information provided by EPA is of limited value and in many instances includes documents submitted by the CPG to EPA.

The EPA's response is very concerning as the information requested should be part of EPA's underlying data/analysis, and accordingly, should have been part of the publicly available administrative record so that interested stakeholders could fully understand, evaluate and reproduce EPA's results. For example, it is troubling that EPA cannot readily and immediately provide the underlying calculations and data set used to calculate biota sediment accumulation factors that are used in its Proposed Plan. The CPG requires EPA's full and complete response to all of its information requests in order to evaluate the Proposed Plan and prepare comments during the public comment period. Without waiving its right to receipt of a full and complete response from EPA, the CPG has identified the below items as priorities and requests that EPA expedite the portions of its response related to:

1. An Access or Excel file containing each normalized tissue and sediment concentration data pair (with units, basis and data qualifiers) used to generate a regression model, Biota-Sediment Accumulation Factor (BSAF) curve or Biota Accumulation Factor (BAF) curve presented in Final FFS Appendix A, Data Evaluation Report 6 (Biota Analysis). The Access or Excel file should identify, for each biota tissue sample location, all tissue and sediment sample IDs used to generate the normalized tissue and sediment concentration data pair for that location

2. Sample IDs (including coordinates) and chemistry data for the four core samples, four grab samples and two dam catchment samples used by EPA to define upriver (above the dam) surface sediment background conditions.

3. Data files, including database query output (e.g., sample ID, analytical results, qualifiers) and ProUCL input file, for tissue samples included in current baseline Human Health Risk Assessment (HHRA) fish and crab tissue Exposure Point Calculations (EPC).

4. Technical bases (analyses, calculations, model files and results, and any other relevant materials) for EPA's sliding scale of annual averages based on receptor exposure duration (used to estimate future concentrations).

Please do not hesitate to contact me if you have any questions.

Very truly yours,

William H. Hyatt, Jr.

cc: Ms. Alice Yeh

EXHIBIT B

K&L GATES

K&L GATES LLP
ONE NEWARK CENTER
TENTH FLOOR
NEWARK, NJ 07102
T +1 973 848 4000 F +1 973 848 4001 klgates.com

November 26, 2014

William H. Hyatt, Jr.
973.848.4045
F: 973.848.4001
william.hyatt@klgates.com

Via Electronic (hq.foia@epa.gov) and Regular Mail

National Freedom of Information Officer
U.S. Environmental Protection Agency
FOIA and Privacy Branch
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460

Re: Lower Passaic River Study Area
Freedom of Information Act Appeals: EPA-R2-2014-005768 and EPA-R2-2014-007546

Dear Sir/Madam:

Our firm represents the Cooperating Parties Group ("CPG") with respect to the Lower Passaic River Study Area ("LPRSA"). In follow-up to my letter dated November 7, 2014, I am writing to supplement an appeal of Freedom of Information Act Request ("FOIA Request") EPA-R2-2014-005768 submitted to the United States Environmental Protection Agency ("EPA") Region 2 on April 21, 2014, in relation to EPA's Proposed Plan for the lower eight miles of the LPRSA ("Proposed Plan"). A copy of the FOIA Request is enclosed.

The CPG also submitted FOIA Request EPA-R2-2014-007546 to EPA on June 17, 2014 in relation to EPA's Proposed Plan, which requested:

> [A]ny and all documents, including but not limited to emails, memos, reports and correspondence, that form the technical basis for the New Jersey Department of Environmental Protection's ("NJDEP") Fish Advisory Levels, including but not limited to exposure assumptions, toxicity values, and target risk levels used by the NJDEP to derive the Fish Advisory Levels.

A copy of this FOIA Request is also enclosed. EPA sent a letter to the CPG dated November 13, 2014, which provides that all responsive information to this request had been released. The CPG does not believe that EPA has adequately and fully responded to this request, and, therefore, also appeals the same.

FOIA Appeal: EPA-R2-2014-005768

The CPG's FOIA Request EPA-R2-2014-005768 was comprised of 14 sub-points, of which the CPG appeals the following:

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- Numbers 1 and 2. EPA has failed to provide an Access or Excel file that identifies, for each biota tissue sample location, all tissue and sediment sample IDs used to generate the normalized tissue and sediment concentration data pair for that location. EPA has also not provided a flat file dataset in Access or CSV, including requested fields for each sample, that was used to generate the normalized tissue and sediment concentration data pairs that were in turn used to generate a regression model, BSAF curve, or BAF curve presented in Final FFS Appendix A, Data Evaluation Report 6 (Biota Analysis).

    - The bioaccumulation calculations used by the Region are a critical component of the prediction of future recovery and risk estimates for consumption of fish and crabs by the public; the incomplete information provided in the Region's April 2014 FFS and Proposed Plan make it impossible for any interested stakeholder to verify the correctness of the calculations provided in these documents. For example, in the absence of the requested information, it is not possible for the CPG or the public to evaluate spatial and temporal co-location of paired samples, comparability of data (e.g., consistency of tissue type and basis across samples), data relevance (e.g., sediment sample depth), ecological context (i.e., exposure conditions) and influence of non-detects. It is thus not possible to evaluate the quality and relevance of EPA's statistical models that is called for in the recommendations of EPA's Office of Research and Development Ecological Risk Assessment Center (ERASC), produced at the request of the EPA Ecological Risk Assessment Forum (EPA/600/R-06/047).

    - Moreover, it is essential that interested parties are able to independently verify the Region's bioaccumulation calculations since the Region deviated from its own 2006 Modeling Work Plan for bioaccumulation modeling in the LPRSA.

    - Appendix E of the CPG's August 20, 2014 comments on the Proposed Plan provides detail as to how the CPG or any other interested party were unable to adequately review and provide timely comments on the Region's bioaccumulation calculations.

- Number 7. EPA did not provide any correspondence between EPA and NJDEP discussing NJDEP's angler surveys that included sites on the LPRSA, or any data or analysis from those surveys. Draft undated articles/documents by agency staff were provided, including a draft document entitled Consumption Patterns and Risk Assessment of Crab Consumers from the Newark Bay Complex, which summarizes results of Newark Bay Complex angler surveys from 1995, 2002, and 2005. However, raw data files were not provided and it is not known whether sites on the LPRSA were included in these surveys.

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- Number 8 and 9. While limited and largely non-substantive correspondence has been provided, EPA withheld responsive information to these request numbers as outlined in a 60-page withholding log. The withholding log includes the following categories: email from; email to; sent date; subject/file name; and exemption explanation. Each of the documents was withheld on the basis of Exemption 5 of FOIA. However, the CPG believes that the type of information requested would not be generally protected in civil discovery. *See Burka v. U.S. Dep't of Health and Human Services*, 87 F.3d 508 (D.C. Cir. 1996). Further, there was correspondence that was produced that appears to be of a similar nature as correspondence that was withheld based on the limited information identified in the withholding log (e.g., e-mails between A. Yeh and A. Legare dated 2/22/13, 2/25/13 and 3/11/13 regarding NRRB recommendations for Passaic? -- Produced; e-mail from A. Legare to A. Yeh dated 3/12/13 regarding NRRB recommendations for Passaic? - Withheld on the basis of Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative). In addition, there was correspondence labeled as exempt under attorney-client communications, but that was not sent among attorneys. Thus, the CPG does not believe that EPA has met its burden to justify its decision to withhold the documents.

- Number 10. EPA has not provided materials responsive to Request Number 10 for technical bases (analyses, calculations, modeling files and results, mapping, and any other relevant materials) used to develop the capping area footprints for Alternative 4. EPA referred the CPG to files provided in Appendix B of the FFS, but such materials are not responsive to this request.

- Number 14. In response to the CPG's request for data set used to develop EPCs used in the Ecological Risk assessment and shown in Table 7-6 of the FFS RI, EPA indicated information was in datasets in the appendices to the FFS. However, the CPG has not been able to recreate the UCLs and cannot independently verify the sample counts and basic statistics for the UCLs. Further, EPA has not documented over what area it used the data.

FOIA Appeal: EPA-R2-2014-007546

EPA also has not adequately and fully responded to FOIA Request EPA-R2-2014-007546. EPA provided a 2001 NJDEP memo entitled, "Options for Development of Risk-based Fish Consumption Advisories for PCBs", an email from Gary Buchanan to Marian Olsen dated 2/1/2006 that discusses use of the risk range in setting advisory levels, and a 2013 NJDEP routine tissue monitoring report. While a range of PCB tissue concentrations triggering fish advisories are presented in the 2001 memo, the NJDEP's "trigger levels" that were listed in the EPA's FFS PRG tables ("Do not eat" values of 0.0077 ng/g, 240 ng/g, and 540 ng/g for TCDD-TEQ, PCBs, and mercury, respectively) are not presented in these

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documents. Thus, documentation providing the technical basis of the trigger levels, including toxicity values and exposure assumptions, has not been provided.

As the CPG has advised Region 2, most, if not all, of the outstanding requested documents should have been considered by EPA as part of its supporting analysis in preparation of the Proposed Plan and FFS. Therefore, this information should have been part of the administrative record. However, because it was not part of the administrative record, the CPG and other members of the public were not able to adequately comment on all aspects of the Proposed Plan and FFS by the August 20, 2014 deadline. Further, since such information has still not been provided, the CPG and the public remain unable to fully understand the basis for the Proposed Plan.

Very truly yours,

William H. Hyatt, Jr.

Enclosures

cc: Sarah P. Flanagan, Esq., EPA Region 2, Assistant Regional Counsel
(via regular mail)

EXHIBIT C

K&L GATES

K&L GATES LLP
ONE NEWARK CENTER
TENTH FLOOR
NEWARK, NJ 07102
T +1 973 848 4000 F +1 973 848 4001 klgates.com

November 7, 2014

William H. Hyatt, Jr.
973.848.4045
F: 973.848.4001
william.hyatt@klgates.com

Via Electronic (hq.foia@epa.gov) and Regular Mail

National Freedom of Information Officer
U.S. Environmental Protection Agency
FOIA and Privacy Branch
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460

Re: Lower Passaic River Study Area
Freedom of Information Act Appeal: EPA-R2-2014-005768

Dear Sir/Madam:

Our firm represents the Cooperating Parties Group ("CPG") with respect to the Lower Passaic River Study Area ("LPRSA"). I am writing to appeal a Freedom of Information Act Request ("FOIA Request") submitted to the United States Environmental Protection Agency ("EPA") Region 2 on April 21, 2014, in relation to EPA's Proposed Plan for the lower eight miles of the LPRSA ("Proposed Plan"). A copy of the FOIA Request is enclosed.

By letter dated May 22, 2014, Region 2 advised that it would take until the end of July 2014 to respond to the FOIA Request. On May 27, 2014, EPA produced an interim release of documents. By letter dated June 17, 2014, the CPG expressed concern to EPA that the information provided to date related to the FOIA Request, as well as three other FOIA requests, was of limited value and the information requested by the CPG should have been part of the publicly available administrative record so that interested stakeholders could fully understand and evaluate EPA's results in the Proposed Plan. By email dated July 24, 2014, EPA revised the estimated completion date to the end of August 2014. By email dated August 28, 2014, EPA revised the estimated completion date to the end of September 2014. EPA's email further indicates that information responsive to all of the questions in the FOIA Request has been released, except 8, 9, and 11 (number 13 was withdrawn as duplicative). The CPG disagreed with this conclusion by letter dated September 19, 2014. By email dated September 26, 2014, EPA revised the estimated completion date to October 3, 2014. By email dated October 3, 2014, EPA notified the CPG that additional documents were available in response to the FOIA Request.

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Region 2 subsequently provided the CPG with a letter from Eric Schaaf, Regional Counsel, advising that the FOIA Request was completed, except for certain documents that EPA claims are exempt from FOIA as set forth in an enclosed withholding log. The letter was stamped with the date October 10, 2014, but was not transmitted to the CPG until October 29, 2014 via email. Copies of the October 10, 2014 letter and October 29, 2014 email transmittal are enclosed. Thus, the letter, which was accompanied by an invoice dated October 27, 2014, appears, for some unknown reason, to have been backdated to October 10, 2014. The backdating of the letter becomes significant because, as the letter states, "[y]our appeal must be made in writing, and it must be submitted no later than 30 days from the date of this letter."

The CPG cannot be expected to conduct any meaningful review of the adequacy of EPA's response to our FOIA Request and evaluate the withholding log by November 9, 2014, when we only just received EPA's letter on October 29, 2014. However, the CPG currently does not believe that EPA has adequately and fully responded to the FOIA Request. Therefore, we are submitting this appeal in preservation of our rights. We will supplement this appeal by 30 days from receipt of EPA's letter, or by November 28, 2014.

Very truly yours,

William H. Hyatt, Jr.

Enclosures
cc: Sarah P. Flanagan, Esq., EPA Region 2, Assistant Regional Counsel

Request Details

Tracking Number : *EPA-R2-2014-005768*

Submitted Evaluation Assignment Processing

Request Information

Closed

Full Name : Robert Paul La Gravenis

Date Submitted : 04/21/2014

Estimated Date of Completion : May 19, 2014

Organization : K&L Gates LLP

Final Disposition : Undetermined

Description :

United States Environmental Protection Agency
Region 2
Freedom of Information Officer
U.S. EPA Region 2
290 Broadway, 26th Floor
New York, NY 10007-1866

Re: Diamond Alkali Superfund Site

To Whom It May Concern:

I am submitting this document request pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 et seq. This request concerns the United States Environmental Protection Agency's ("EPA") files relating to the Diamond Alkali Superfund Site (the "Site") which includes the former pesticides manufacturing plant and surrounding properties at 80 and 120 Lister Avenue in Newark, New Jersey, the Lower Passaic River Study Area and the Newark Bay Study Area. The EPA Site ID number is NJD980528996.

Specifically, I request copies the documents listed in Attachment A annexed hereto, which relate to EPA's recently Proposed Plan for the Site.

I would ask that you contact me at your earliest convenience to discuss arrangements for providing the requested documents. This firm will of course take responsibility for any necessary copying and/or shipping charges. Your prompt attention to this matter is greatly

appreciated. Thank you for your anticipated cooperation.

Sincerely,

Robert Paul La Gravenis

Senior Paralegal
K&L Gates LLP
One Newark Center, 11th Floor
Newark, NJ 07102
robertpaul.lagravenis@klgates.com

Attached Supporting Files

Attached File	Type	Size (MB)
04_21_14_FOIA_Request_to_USEPA_Region_2.docx	Microsoft Word	0.02

Released Records

No records have been released.

United States Environmental Protection Agency
Region 2
Freedom of Information Officer
U.S. EPA Region 2

290 Broadway, 26th Floor
New York, NY 10007-1866

Re: Diamond Alkali Superfund Site

To Whom It May Concern:

I am submitting this document request pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 et seq. This request concerns the United States Environmental Protection Agency's ("EPA") files relating to the Diamond Alkali Superfund Site (the "Site") which includes the former pesticides manufacturing plant and surrounding properties at 80 and 120 Lister Avenue in Newark, New Jersey, the Lower Passaic River Study Area and the Newark Bay Study Area. The EPA Site ID number is NJD980528996.

Specifically, I request copies the documents listed in Attachment A annexed hereto, which relate to EPA's recently Proposed Plan for the Site.

I would ask that you contact me at your earliest convenience to discuss arrangements for providing the requested documents. This firm will of course take responsibility for any necessary copying and/or shipping charges. Your prompt attention to this matter is greatly appreciated. Thank you for your anticipated cooperation.

Sincerely,

Robert Paul La Gravenis

Senior Paralegal
K&L Gates LLP
One Newark Center, 11th Floor
Newark, NJ 07102
robertpaul.lagravenis@klgates.com

ATTACHMENT A

Documents Requested from EPA Region 2 on 4/21/14

1. An Access or Excel file containing each normalized tissue and sediment concentration data pair (with units, basis and data qualifiers) used to generate a regression model, Biota-Sediment Accumulation Factor (BSAF) curve or Biota Accumulation Factor (BAF) curve presented in Final FFS Appendix A, Data Evaluation Report 6 (Biota Analysis).

- The Access or Excel file should identify, for each biota tissue sample location, all tissue and sediment sample IDs used to generate the normalized tissue and sediment concentration data pair for that location.

2. A flat file dataset in Access or CSV including at least the following fields for each sample that was used to generate the normalized tissue and sediment concentration data pairs that were used to generate a regression model, BSAF curve or BAF curve presented in Final FFS Appendix A, Data Evaluation Report 6 (Biota Analysis):

- Source
- Study
- Location
- Coordinates
- River mile (if appropriate)
- Species and tissue type (for each tissue sample)
- Sample depth (for each sediment sample)
- Sample ID
- Sample type (e.g., field duplicate)
- Analyte name, including all contaminants, lipid, TOC and iron
- Numeric concentration for each analyte, including numeric concentrations for each sum component (e.g., for Polycyclic Aromatic Hydrocarbon (PAH) mixtures) and calculated totals
- Data qualifiers
- Units
- Basis (e.g., dry weight)

3. Data files, including database query output (e.g., sample ID, analytical results, qualifiers) and ProUCL input file, for tissue samples included in current baseline Human Health Risk Assessment (HHRA) fish and crab tissue Exposure Point Calculations (EPC)

4. Technical bases (analyses, calculations, model files and results, and any other relevant materials) for EPA's sliding scale of annual averages based on receptor exposure duration (used to estimate future concentrations)

5. Technical back-up/documentation for EPA's analysis of 2000 US Census data for Essex and Hudson counties (used to estimate residence time)

6. Technical back-up/documentation for EPA's re-analysis of Joanna Burger's 1999 survey of Newark Bay anglers (used to estimate fish and crab consumption rates)

7. Any correspondence between Region 2 and NJDEP on NJDEP angler surveys that included sites on the LPR, and any data and analysis from those surveys

8. Any correspondence between the Region and the National Remedy Review Board (NRRB) since the group's comments were submitted in Nov. 2012 and issuance of the NRRB/Contaminated Sediments Technical Advisory Group (CSTAG)final comments on April 11, 2014

9. Any correspondence between the Region 2 and HQ on draft versions of the Proposed Remedial Action Plan(PRAP) and Focused Feasibility Study (FFS) documents

10. Technical bases (analyses, calculations, modeling files and results, mapping, and any other relevant materials) used to develop the capping area footprints for Alternative 4

11. Technical backup/documentation for all unit or rollup cost items > $5,000 that cite to "Internal Database" in FFS Appendix H

12. The Louis Berger Group, Inc., 2007. "Staging and Processing Areas, Treatment Technologies, and Transportation Logistics Review." Lower Passaic River Contract. Prepared for the NJDEP. April 2007.

13. Data and technical basis for 1) modeled background tissue concentrations, and 2) modeled future tissue concentrations, including the technical basis of EPA's sediment-tissue regression models for HHRA species evaluated in the FFS.

14. The data set used to develop EPCs used in the Ecological Risk assessment and shown in Table 7-6 of the FFS RI. This would include EPCs for sediment, the tissue concentrations for the 'generic fish', biota tissue for mummichog, and crab EPCs.

La Gravenis, Robert Paul

From:	keating.robert@epa.gov
Sent:	Wednesday, October 29, 2014 12:38 PM
To:	La Gravenis, Robert Paul
Subject:	Final Disposition, Request EPA-R2-2014-005768
Attachments:	EPA-R2-2014-005768 response final.pdf; EPA-R2-2014-005768 Invoice 20141027.pdf

nullRecords were released to the public as a result of this request. You may retrieve these records immediately using the following link: View Records.Over the next 2 hours, these records are also being added to FOIAonline's search pages, further enabling you to retrieve these documents associated with your FOIA request at any time.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 2, 290 Broadway, 17th Floor
New York, NY 10007

OCT 10 2014

BY FOIA ONLINE

Robert Paul La Gravenis
K&L Gates, LLP
1085 Raymond Boulevard
One Newark Center, 11th Floor
Newark, New Jersey 07102-5252

Re: Freedom of Information Act (FOIA) Request EPA-R2-2014-005768

Dear Mr. La Gravenis:

This will respond to your Freedom of Information Act ("FOIA") request EPA-R2-2014-005768 seeking documents as set forth in Attachment A to your FOIA requested, modified by the subsequent withdrawal of #13 as duplicative. This completes our response.

Previously, on May 27, 2014, EPA released information responsive to #5, #6, #7 and #12 of Attachment A to your FOIA request, and directed you to information either already provided to the Cooperating Parties Group (CPG), or that was already publicly available, responsive to #3, #4, #10 and #14 of your request.

The second and final release, uploaded to FOIAonline on October 3, 2014, included information responsive to #1, #2, #6, #7, #8, #9 and #11 of Attachment A. The document entitled BSAF Tissue Sediment Data, responsive to #1 and #2, was also made available to the public on ourpassaic.org in July 2014.

EPA is withholding certain responsive information that is exempt from disclosure as set forth on the enclosed withholding log.

You may appeal this denial response to the National Freedom of Information Officer, U.S. EPA, FOIA and Privacy Branch, 1200 Pennsylvania Avenue, N.W. (2822T), Washington, D.C. 20460 (U.S. Postal Service Only), E-mail: hq.foia@epa.gov. Only items mailed through the United States Postal Service may be delivered to 1200 Pennsylvania Avenue, N.W. If you are submitting your appeal via hand delivery, courier service or overnight delivery, you must

address your correspondence to 1301 Constitution Avenue, N.W., Room 6416J, Washington, D.C. 20004.

Your appeal must be made in writing, and it must be submitted no later than 30 calendar days from the date of this letter. The Agency will not consider appeals received after the 30 calendar day limit. The appeal letter should clearly identify the determination being appealed, including the assigned FOIA request number shown above. For quickest possible handling, the appeal letter and its envelope should be marked "Freedom of Information Act Appeal." See 40 C.F.R. §2.104(j) for further information regarding appeals of adverse determinations under FOIA.

Pursuant to 40 C.F.R. § 2.107, EPA will transmit a bill for the costs incurred by EPA in searching our files, reproducing documents, and preparing our response to your FOIA request, which total $3,360. You should receive the bill through FOIAonline, along with instructions for payment.

Please contact Sarah Flanagan of my staff at 212-637-3136 if you have any questions concerning this matter.

Sincerely yours,

Eric Schaaf
Regional Counsel

Enclosure

cc: Wanda Calderon
Jacqueline Ferreras-De Jesus

Documents Withheld
FOIA No. EPA-R2-2014-005768

Doc ID Beg	Email From	Email To	Sent Date	Subject/File name	Exemption Explanation
DASS_JF00000001	Amy Legare	Sarah Flanagan	11/21/2012	Re: NRRB Question	Exemption 5: attorney-client communications; predecisional and deliberative
DASS00000032	Ray Basso	Steve Ells	12/5/2012	Re: Additional site data for next Wed.	Exemption 5: predecisional and deliberative
DASS00000051	Amy Legare	Doug Tomchuk	1/15/2013	Re: Please visit rrb - Passaic recommendations memo draft 2 - comments due 1/11/13	Exemption 5: predecisional and deliberative
DASS00000052	Amy Legare	Doug Tomchuk	1/16/2013	Re: Please visit rrb - Passaic recommendations memo draft 2 - comments due 1/11/13	Exemption 5: predecisional and deliberative
DASS00000071			1/11/2013	NRRB-CSTAG Memo -JJH comments.doc	Exemption 5: predecisional and deliberative
DASS00000072	Doug Tomchuk	Amy Legare	1/15/2013	Re: Please visit rrb - Passaic recommendations memo draft 2 - comments due 1/11/13	Exemption 5: predecisional and deliberative
DASS00000125	Steve Ells	Ray Basso; Alice Yeh	12/5/2012	Additional site data for next Wed.	Exemption 5: predecisional and deliberative
DASS00000133			1/11/2013	Passaic Lower 8 draft 2 - Overview of Proposed Action.docx	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00000137			1/24/2013	Passaic Lower 8 draft 3 - R2 edits.docx	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00000140	Amy Legare	Charles Openchowski;Ray Basso; Alice Yeh; Patricia Hick;Sarah Flanagan;Mike Jasinski	2/5/2013	PTW recommendation	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00000145	Ray Basso	Steve Ells	12/5/2012	Re: Additional site data for next Wed.	Exemption 5: deliberative process/ predecisional and deliberative
DASS00000317			1/4/2013	Passaic Lower 8 draft 2.docx	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS0D000320			1/11/2013	Passaic Lower 8 draft 2- Region 2 comments-final.docx	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative

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Doc ID Beg	Email From	Email To	Sent Date	Subject/File name	Exemption Explanation
DASS00000366	Sarah Flanagan	Amy Legare	11/21/2012	NRRB Question	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00000367	Sarah Flanagan	Amy Legare	11/21/2012	NRRB Question	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASSQ800000511	Amy Legare	John Frisco	11/21/2012	Re: Request for other stakeholder comments	Exemption 5: attorney-client communications; predecisional and deliberative
DASSQ800000512	Sarah Flanagan	Amy Legare	11/21/2012	NRRB Question	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASSQ800000514	Sarah Flanagan	Amy Legare	11/21/2012	NRRB Question	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASSQ800000557	Alice Yeh	Amy Legare; Charles Openchowski	2/1/2013	Request for call on NRRB recommendation	Exemption 5: predecisional and deliberative
DASSQ800000558	Charles Openchowski	Alice Yeh	2/4/2013	Re: Fw: Request for call on NRRB recommendation	Exemption 5: predecisional and deliberative
DASSQ800000572			11/29/2012	2012-09-19 FFS Appendix D Risk Assessment.pdf	Exemption 5: predecisional and deliberative
DASSQ800000574			11/30/2012	Passaic_Attachments5-6.pdf	Exemption 5: predecisional and deliberative
DASSQ800000590			2/6/2013	Passaic Lower 8 draft 4-R2 edits.docx	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00001701			1/30/2014	rrb%20Passaic%20Lower%201-1.17.14.docx	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00001748	Yeh, Alice	Legare, Amy; Basso, Ray	4/10/2014	RE: Edit to NRRB ecological risk recommendation	Exemption 5: deliberative process/predecisional and deliberative
DAS500001749	Legare, Amy	Yeh, Alice; Basso, Ray	4/10/2014	RE: Edit to NRRB ecological risk recommendation	Exemption 5: deliberative process/predecisional and deliberative
DASS00001750	Yeh, Alice	Legare, Amy; Basso, Ray	4/10/2014	RE: NRRB memo - please respond	Exemption 5: deliberative process/predecisional and deliberative

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Doc ID Beg	Email From	Email To	Sent Date	Subject/File name	Exemption Explanation
DASS00001751	Legare, Amy	Yeh, Alice; Basso, Ray	4/10/2014	NRRB memo - please respond	Exemption 5: deliberative process/predecisional and deliberative
DASS00001752	Yeh, Alice	Legare, Amy; Basso, Ray	4/10/2014	RE: Edit to NRRB ecological risk recommendation	Exemption 5: deliberative process/predecisional and deliberative
DASS00001754			4/8/2014	2014-04-08 Lower 8 Proposed Plan draft-last 2 issues.docx	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00001760	Legare, Amy	Yeh, Alice; Basso, Ray	4/7/2014	Edit to NRRB ecological risk recommendation	Exemption 5: deliberative process/predecisional and deliberative
DASS00001884	Yeh, Alice	openchowski, charles	2/4/2013	Re: Invitation: NRRB recommendation on PTW (Feb 5 01:00 PM EST in call 866-299-3188	Exemption 5: attorney-client; deliberative process/predecisional and deliberative
DASS00001918			4/1/2014	nrrb%20Passaic%20Lower%201-1-17-14-final.docx	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00001933			3/26/2014	NRRB-CSTAG response 031214draft11.docx	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00001934	Karlen, Delmar	Salo, Earl	3/26/2014	RE: Draft of Proposed Plan with Conforming Language to Mathy/Judith Memo.	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00001979	Karlen, Delmar	Salo, Earl; Schaaf, Eric	2/7/2014	RE: Lower Passaic follow up letter	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00003023	Stalcup, Dana	Yeh, Alice; Prince, John	4/3/2014	Fw: Passaic River additional suggetsions	Exemption 5: Predecisional and deliberative.
DASS00003163	Mugdan, Walter	Woolford, James	1/13/2014	FW: Passaic	Exemption 5: Attorney-client communications; predecisional and deliberative.
DASS00003202	Basso, Ray	Stalcup, Dana	4/7/2014	Email relating information on future navigation and CAD cells	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00003203	Basso, Ray	Stalcup, Dana	4/4/2014	RE: Another draft of Passaic Proposed Plan	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003204	Basso, Ray	Stalcup, Dana; Yeh, Alice; Mugdan, Walter; Woolford, James; Ammon, Doug	4/4/2014	RE: Another draft of Passaic Proposed Plan	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003205	Basso, Ray	Stalcup, Dana	4/2/2014	RE: Passaic Proposed Plan	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003206	Basso, Ray	Stalcup, Dana	4/2/2014	RE: Passaic Proposed Plan	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003207	Basso, Ray	Woolford, James	3/28/2014	RE: Discussion of Passaic Proposed Plan language related to Mathy's email	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003208	Basso, Ray	Woolford, James	3/28/2014	RE: Discussion of Passaic Proposed Plan language related to Mathy's email	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003209	Basso, Ray	Woolford, James	3/28/2014	RE: Discussion of Passaic Proposed Plan language related to Mathy's email	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003210	Basso, Ray	Woolford, James	3/28/2014	FW: Discussion of Passaic Proposed Plan language related to Mathy's email	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003212	Basso, Ray	Stalcup, Dana	3/24/2014	RE: How can we help Ray?	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00003219	Basso, Ray	Stalcup, Dana	3/14/2014	RE: Passaic River joint memo	Exemption 5: attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00003220	Basso, Ray	Stalcup, Dana	3/14/2014	FW: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003221			3/14/2014	Passaic draft memo 3 13 14.pdf	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003222	Basso, Ray	Stalcup, Dana; Thompson, BrianK; Ammon, Doug	3/13/2014	RE: latest draft of Passaic Memo	Exemption 5: Attorney-client communications; predecisional and deliberative.
DASS00003223	Basso, Ray	Stalcup, Dana	3/13/2014	FW: Passaic email	Exemption 5: Attorney-client communications; predecisional and deliberative.
DASS00003230	Basso, Ray	Stalcup, Dana	3/10/2014	Draft Passaic Memo to Adm.	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003231			3/10/2014	Draft Note from Stanislaus and Enck to Administrator-WM-2-Clean.doc.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003233	Basso, Ray	Stalcup, Dana	2/26/2014	FW: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003240	Basso, Ray	Stalcup, Dana	2/12/2014	RE: proposed agenda for today's discussion on Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003241	Basso, Ray	Naranjo, Eugenia; Ells, Steve	2/10/2014	RE: Dioxin levels in Newark Bay fish	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00003246	Basso, Ray	Mugdan, Walter; Woolford, James	2/3/2014	RE: Potential Qs	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003247	Basso, Ray	Woolford, James	1/31/2014	RE: Meeting Request	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00003249	Basso, Ray	Legare, Amy	1/30/2014	RE: Passaic River memo	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00003250	Basso, Ray	Legare, Amy	1/30/2014	RE: Passaic River memo	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00003252	Basso, Ray	Mugdan, Walter; Woolford, James	1/28/2014	RE: Passaic - Not urgent and it may be a short response.	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00003257	Basso, Ray	Ells, Steve ; Yeh, Alice ; Legare, Amy	12/30/2013	RE: Another draft of Proposed Plan (Figs/Tables 1 of 3)	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00003261	Basso, Ray	Legare, Amy ; Yeh, Alice	11/26/2013	RE: Passaic meeting - any agenda items?	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00003262	Basso, Ray	Legare, Amy ; Yeh, Alice	11/26/2013	RE: Got your VM - FW: Passaic - status of agenda	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00003273	Stanislaus, Mathy	Woolford, James; Mugdan, Walter; Stalcup, Dana ; Cooper, DavidE ; Breen, Barry; Natarajan, Nitin; Bergman, Shawna Fine, Ellyn ; Brooks, Becky	4/9/2014	Re: Latest on Passaic draft proposed plan.	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003275	Woolford, James	Stanislaus, Mathy; Mugdan, Walter; Stalcup, Dana; Cooper, DavidE; Breen, Barry; Natarajan, Nitin; Bergman, Shawna; Fine, Ellyn; Brooks, Becky	4/9/2014	Re: Latest on Passaic draft proposed plan.	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00003277	Stanislaus, Mathy	Mugdan, Walter; Stalcup, Dana; Cooper, DavidE ; Breen, Barry; Natarajan, Nitin; Bergman, Shawna; Fine, Ellyn; Brooks, Becky	4/9/2014	Re: Latest on Passaic draft proposed plan.	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003279	Woolford, James	Mugdan, Walter ; Stanislaus, Mathy; Stalcup, Dana; Cooper, DavidE ; Breen, Barry; Natarajan, Nitin; Bergman, Shawna; Fine, Ellyn ; Brooks, Becky	4/8/2014	Re: Latest on Passaic draft proposed plan.	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003281	Mugdan, Walter	Stanislaus, Mathy; Stalcup, Dana; Cooper, DavidE; Breen, Barry ; Natarajan, Nitin; Bergman, Shawna ; Fine, Ellyn; Brooks, Becky	4/8/2014	RE: Latest on Passaic draft proposed plan.	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003283	Stalcup, Dana	Basso, Ray	4/8/2014	Fw: Latest on Passaic draft proposed plan.	Exemption 5: Attorney-work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003285	Stanislaus, Mathy	Stalcup, Dana; Cooper, DavidE ; Breen, Barry ; Natarajan, Nitin; Bergman, Shawna; Fine, Ellyn ; Brooks, Becky	4/8/2014	RE: Latest on Passaic draft proposed plan.	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003287	Stalcup, Dana	Stanislaus, Mathy ; Cooper, DavidE ; Breen, Barry ; Natarajan, Nitin; Bergman, Shawna ; Fine, Ellyn ; Brooks, Becky	4/8/2014	RE: Latest on Passaic draft proposed plan.	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00003289			4/8/2014	2014-04-08 Lower 8 Proposed Plan draft-last 2 issues-rev.docx	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003290	Mugdan, Walter	Stalcup, Dana; Cooper, DavidE	4/8/2014	Re: Latest on Passaic draft proposed plan.	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003292	Stalcup, Dana	Cooper, DavidE	4/7/2014	RE: Latest on Passaic draft proposed plan.	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003294	Stanislaus, Mathy	Cooper, DavidE ; Breen, Barry ; Natarajan, Nitin; Bergman, Shawna ; Fine, Ellyn ; Brooks, Becky	4/7/2014	RE: Latest on Passaic draft proposed plan.	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003296	Cooper, DavidE	Stanislaus, Mathy ; Breen, Barry; Natarajan, Nitin; Bergman, Shawna ; Fine, Ellyn ; Brooks, Becky	4/7/2014	Latest on Passaic draft proposed plan.	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003297			4/7/2014	2014-04-07 Lower 8 Proposed Plan draft-end of day.docx	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003299	Yeh, Alice	Stalcup, Dana; Woolford, James ; Richardson, RobinH; Ammon, Doug ; Fonseca, Silvina; Legare, Amy ; Scozzafava, MichaelE ; Ells, Steve ; Mugdan, Walter ; Basso, Ray	4/7/2014	RE: Proposed OSRTI response to Mathy	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003300	DeLeon, Rafael	Schaaf, Eric ; Mugdan, Walter	4/7/2014	Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00003312	DeLeon, Rafael	Mugdan, Walter	3/19/2014	RE: Passaic -- Final Version of Note to Administrator	Exemption 5: Attorney-client communications; predecisional and deliberative.
DASS00003330	Starfield, Lawrence	Schaaf, Eric	3/14/2014	RE: Joint Memo to Administrator McCarthy - Re: Lower Passaic River Proposed Plan	Exemption 5: Attorney-client communications; predecisional and deliberative.
DASS00003337	Starfield, Lawrence	Schaaf, Eric	3/13/2014	FW: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003347	DeLeon, Rafael	Starfield, Lawrence ; Schaaf, Eric	3/11/2014	RE: Passaic River	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003348	DeLeon, Rafael	Patterson, Kenneth ; Leff, Karin	3/11/2014	FW: Passaic River	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003350	Starfield, Lawrence	Schaaf, Eric ; DeLeon, Rafael	2/27/2014	Re: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003351	DeLeon, Rafael	Patterson, Kenneth ; Thompson, BrianK	2/26/2014	Fw: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003352	DeLeon, Rafael	Starfield, Lawrence ; Schaaf, Eric	2/26/2014	Re: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003353	Lynch, Mary-Kay	Schaaf, Eric	2/14/2014	Re: Passaic briefing of the Administrator	Exemptioni 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003357	Lynch, Mary-Kay	Schaaf, Eric	2/13/2014	Re: Passaic briefing of the Administrator	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00003363	Woolford, James	Schaaf, Eric ; Mugdan, Walter ; Basso, Ray	2/12/2014	Fw: Passaic: Response to CPG letter	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003365	Starfield, Lawrence	Schaaf, Eric	2/11/2014	RE: passaic river remedy	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003369	Salo, Earl	Karlen, Delmar ; Schaaf, Eric	2/7/2014	FW: Lower Passaic follow up letter	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00003372	Starfield, Lawrence	Schaaf, Eric	2/1/2014	RE: Briefing	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00003376	Starfield, Lawrence	DeLeon, Rafael ;Schaaf, Eric	1/27/2014	RE: Passaic meeting on Friday	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00003384	DeLeon, Rafael	Starfield, Lawrence ; Patterson, Kenneth	1/25/2014	Re: Passaic River – CAD cell questions	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003387	DeLeon, Rafael	Lynch, Mary-Kay; Mugdan, Walter ; Woolford, James ; Schaaf, Eric	1/23/2014	RE: Passaic (Pre-Briefing before Administrator's meeting)	Exemption 5: Attorney-client communications; predecisional and deliberative.
DASS00003396	Starfield, Lawrence	DeLeon, Rafael ; Schaaf, Eric	1/13/2014	FW: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003398	Stalcup, Dana	DeLeon, Rafael ; Mugdan, Walter ; Schaaf, Eric	1/9/2014	RE: Passaic	Exemption 5: Attorney-client communications.
DASS00003399	DeLeon, Rafael	Mugdan, Walter ; Schaaf, Eric	1/9/2014	RE: Passaic	Exemption 5: Attorney-client communications.
DAS500003402	Basso, Ray	Stalcup, Dana	4/9/2014	We are done with the Prposed Plan . . .	Exemption 5: Predecisional and deliberative

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Doc ID Beg	Email From	Email To	Sent Date	Subject/File name	Exemption Explanation
DASS00003436	Woolford, James	Mugdan, Walter	3/28/2014	Fw: Discussion of Passaic Proposed Plan language related to Mathy's email	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003437			3/28/2014	PRAP Doug and Silvina's comments few minor edits.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003453	Woolford, James	Mugdan, Walter	3/20/2014	Fw: FYI. Follow UP - My take on meeting w/Tierra et al. 3/18 at OSRTI's Crystal City offices. Privileged/Confidential.	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003454	Woolford, James	Stanislaus, Mathy ; Enck, Judith ; Feldt, Lisa ; Breen, Barry ; Pavlou, George ; Giles, Cynthia ; Corman, Bicky ; Starfield, Lawrence ; Natarajan, Nitin ; Fine, Ellyn; Bergman, Shawna; Brooks, Becky	3/20/2014	Re: FYI. Follow UP - My take on meeting w/Tierra et al. 3/18 at OSRTI's Crystal City offices. Privileged/Confidential.	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003459			3/19/2014	Draft Note from Stanislaus and Enck to Administrator-3-19- 4 PM-Reline.docx	Exemption 5: Attorney-client communications; Attorney Work Product
DASS00003468	Woolford, James	Breen, Barry ; Mugdan, Walter	3/18/2014	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003472	Breen, Barry	Mugdan, Walter	3/18/2014	RE: three more edits from Mathy and me	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003473	Breen, Barry	Mugdan, Walter	3/18/2014	three more edits from Mathy and me	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00003479	Woolford, James	Breen, Barry ; Mugdan, Walter	3/18/2014	Re: Passaic river email	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003494	Woolford, James	Stanislaus, Mathy ; Breen, Barry ; Mugdan, Walter ; Pavlou, George ; Enck, Judith	3/5/2014	Fw: Fish trading info	Exemption 5: predecisional and deliberative.
DASS00003499	Stalcup, Dana	Mugdan, Walter ; Basso, Ray	2/21/2014	FW: Privileged: FW: Summary of Today's Passaic Call, and Talking Points for Tomorrow	Exemption 5: Attorney-Client Communications; Attorney Work-Product
DASS00003612	Enck, Judith	Stanislaus, Mathy ; Mugdan, Walter ; Pavlou, George	3/21/2014	Re: Next Steps on Passaic	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; deliberative process/predecisional and deliberative
DASS00003614	Enck, Judith	McCarthy, Gina	3/20/2014	Re: Passaic next steps	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; deliberative process/predecisional and deliberative
DASS00003615	Enck, Judith	Stanislaus, Mathy	3/19/2014	Re: Passaic next steps	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; deliberative process/predecisional and deliberative
DASS00003616	Enck, Judith	Mugdan, Walter ; Stanislaus, Mathy	3/19/2014	Re: Passaic -- Final Version of Note to Administrator	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; deliberative process/predecisional and deliberative
DASS00003618	Enck, Judith	Stanislaus, Mathy	3/18/2014	Re: Passaic river email	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; deliberative process/predecisional and deliberative

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DASS00003619	Enck, Judith	Mugdan, Walter ; Breen, Barry ; Woolford, James	3/18/2014	Re: Passaic river email	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; deliberative process/predecisional and deliberative
DASS00003622	Enck, Judith	Stanislaus, Mathy	3/14/2014	RE: Joint Memo to Administrator McCarthy - Re: Lower Passaic River Proposed Plan	Exemption 5: Attorney-client communications; deliberative process/predecisional and deliberative
DASS00003623	Enck, Judith	Basso, Ray ; Stanislaus, Mathy	3/14/2014	RE: Joint Memo to Administrator McCarthy - Re: Lower Passaic River Proposed Plan	Exemption 5: Attorney-client communications; deliberative process/predecisional and deliberative
DASS00003624	Enck, Judith	Stanislaus, Mathy	3/13/2014	Passaic river email	Exemption 5: attorney-client; deliberative process/predecisional and deliberative
DASS00003645	Enck, Judith	Woolford, James; Basso, Ray; Mugdan, Walter	3/2/2014	Re: Meeting with Ana Bautista and Debbie Mans, Passaic CAG	Exemption 5: deliberative process/predecisional and deliberative
DASS00003646	Enck, Judith	McCarthy, Gina ; Perciasepe, Bob; KeyesFleming, Gwendolyn; Fritz, Matthew ; Ganesan, Arvin ; Feldt, Lisa ; Reynolds, Thomas ; Vaught, Laura ; Rupp, Mark ; Fried, Hannah	2/28/2014	Region 2 weekly report	Exemption 5: deliberative process/predecisional and deliberative
DASS00003649	Enck, Judith	Feldt, Lisa	2/25/2014	FW: CAD table, including Passaic	Exemption 5: Attorney-client communications; deliberative process/predecisional and deliberative
DASS00003650			2/25/2014	Confidential-SF sites CAD-CDFused 20140129-with Passaic added for RA.xlsx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; deliberative process/predecisional and deliberative
DASS00003656	Enck, Judith	Stanislaus, Mathy	2/17/2014	Re: Followup mtg with Gina re: Passaic	Exemption 5: Deliberative process/predecisional and deliberative
DASS00003657	Enck, Judith	Stanislaus, Mathy	2/17/2014	Re: Followup mtg with Gina re: Passaic	Exemption 5: Deliberative process/predecisional and deliberative

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DASS00003658	Enck, Judith	Fritz, Matthew	2/14/2014	Passaic River briefing materials	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; deliberative process/predecisional and deliberative
DASS00003660	Enck, Judith	Schaaf, Eric ; Garbow, Avi ; Giles Cynthia	2/13/2014	Re: Passaic briefing of the Administrator	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; deliberative process/predecisional and deliberative
DASS00003662	Enck, Judith	McCarthy, Gina ; Perciasepe, Bob; Keyes-Fleming, Gwendolyn; Ganesan, Arvin; Reynolds, Thomas; Rupp, Mark; Fritz, Matthew; Vaught, Laura; Fried, Hannah; Feldt, Lisa	2/8/2014	R2 weekly update	Exemption 5: Deliberative process/predecisional and deliberative
DASS00003664	Enck, Judith	McCarthy, Gina; Feldt, Lisa; Stanislaus, Mathy; Giles, Cynthia; Garbow, Avi; Corman, Bicky	2/5/2014	passaic river remedy	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; deliberative process/predecisional and deliberative
DASS00003665			2/5/2014	bullets for HQ-4.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; deliberative process/predecisional and deliberative
DASS00003667	Enck, Judith	Feldt, Lisa	2/5/2014	RE: passaic discussion	Exemption 5: Deliberative process/predecisional and deliberative
DASS00003668	Enck, Judith	Feldt, Lisa	2/5/2014	RE: passaic discussion	Exemption 5: deliberative process/predecisional and deliberative
DASS00003670	Enck, Judith	Feldt, Lisa	2/5/2014	passaic discussion	Exemption 5: Deliberative process/predecisional and deliberative
DASS00003672	Enck, Judith	McCarthy, Gina	2/3/2014	passaic river	Exemption 5: Deliberative process/predecisional and deliberative
DASS00003673	Enck, Judith	McCarthy, Gina	1/31/2014	Re: Do u have time to talk on monday?	Exemption 5: Deliberative process/predecisional and deliberative

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DASS00003685	Enck, Judith	Stanislaus, Mathy; Woolford, James; Giles, Cynthia; Ganesan, Arvin; Feldt, Lisa; Mugdan, Walter	1/16/2014	FW: Meeting request with Mathy Stanislaus	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00003688	Enck, Judith	Giles, Cynthia	1/13/2014	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003696	Rupp, Mark	McCarthy, Gina	4/4/2014	Re: R2 weekly update	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00003697	McCarthy, Gina	Enck, Judith	4/4/2014	Re: R2 weekly update	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00003699	Mugdan, Walter	Stanislaus, Mathy ; Enck, Judith ; Breen, Barry	3/28/2014	Passaic Proposed Plan	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003723	Corman, Bicky	Plevin, Lisa	2/8/2014	Re: passaic river remedy	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003744	Plevin, Lisa	Corman, Bicky	2/7/2014	passaic river remedy	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003800	Ridenour, Steve	Stalcup, Dana ; Ammon, Doug	3/24/2014	RE: Senior Staff Notes and Week of March 24th Items	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003801	Stalcup, Dana	Ridenour, Steve ; Ammon, Doug	3/24/2014	RE: Senior Staff Notes and Week of March 24th Items	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003802	Ridenour, Steve	Ammon, Doug ; Stalcup, Dana	3/24/2014	FW: Senior Staff Notes and Week of March 24th Items	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00003814	Mugdan, Walter	Woolford, James	12/27/2013	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003818	Woolford, James	Mugdan, Walter	12/10/2013	Re: Cancellation of General Motors Central Foundry (Massena, NY) Superfund Site - Conference Call Originally Scheduled for Dec. 10 at 4 PM	Exemption 5: Attorney-client communications.
DASS00003823	Wells, Suzanne	Basso, Ray	11/25/2013	fish exchange	Exemption 5: First page: predecisional and deliberative. Rest is not responsive
DASS00003824			11/25/2013	Fishing Compensation & Offset Programs (1.14.2013). Pptx	Exemption 5: predecisional and deliberative.
DASS00003835	LaPadula, John	Ammon, Doug	3/14/2014	when you have a chance.....	Exemption 5: predecisional and deliberative.
DASS00003929	Feldt, Lisa	Paviou, George	3/4/2014	RE: You got a minute to talk about a different approach on the proposed plan for the Passaic? Thanks.	Exemption 5: Predecisional and deliberative.
DASS00004112	Yeh, Alice	Ells, Steve ; Basso, Ray	2/25/2014	RE: Any changes to table 2-2? Need Figure 4-3.	Exemption 5: deliberative process/predecisional and deliberative
DASS00004113			2/25/2014	2014-02-18 FFS Figure 4-3 for Ells.pdf	Exemption 5: deliberative process/predecisional and deliberative
DASS00004114	Ells, Steve	Yeh, Alice ; Basso, Ray	2/25/2014	RE: Any changes to table 2-2? Need Figure 4-3.	Exemption 5: deliberative process/predecisional and deliberative
DASS00004115	Yeh, Alice	Ells, Steve ; Basso, Ray	2/25/2014	RE: Any changes to table 2-2?	Exemption 5: deliberative process/predecisional and deliberative
DASS00004140			2/10/2014	Passaic questions and answers Feb 10 draft 3 dls final.docx	Exemption 5: deliberative process/predecisional and deliberative
DASS00004174	Ells, Steve	Basso, Ray	1/16/2014	Proposed Plan	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00004180			1/15/2014	Proposed Plan text-121813 draft8-to Partners (2) SJE al.docx	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00004182			1/15/2014	NRRB-CSTAG response 010714draft8-sent to HQs al.docx	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative

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DASS00004191			1/7/2014	NRRB-CSTAG response 010714draft8-sent to HQs.docx	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00004192			1/7/2014	Chlorobenzene & Total DDx Alt3 Maps v2.pdf	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00004193			1/7/2014	FFS Appendix G Fig 2-1 2-2.pdf	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00004194			1/7/2014	FFS Tables 2-2 2-3 2-5.pdf	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00004200	Woolford, James	Stanislaus, Mathy ; Breen, Barry ; DeLeon, Rafael ; Lynch, Mary-Kay ; Thompson, BrianK ; Patterson, Kenneth ; Salo, Earl ; Michaud, John ; Gardner, Monica	2/14/2014	FW: Privileged--Passaic River content [Brief-out on CPG bioaccumulation modeling code]	Exemption 5: Attorney-client communications; predecisional and deliberative.
DASS00004203	Woolford, James	DeLeon, Rafael; Thompson, BrianK; Gardner, Monica; Patterson, Kenneth; Stalcup, Dana; Cooper, DavidE; Ammon, Doug; Ells, Steve; Greenberg, Marc	2/13/2014	[email discussing legal research relating to the proposed plan]	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00004218	Feldt, Lisa	Mugdan, Walter	1/27/2014	Re: Privileged--Passaic River content [Brief-out on CPG bioaccumulation modeling code]	Exemption 5: Predecisional and deliberative.
DASS00004221	Woolford, James	Mugdan, Walter ; Basso, Ray	1/27/2014	FW: Passaic River Superfund Cleanup (For Monday - no response today required)	Exemption 5: predecisional and deliberative.
DASS00004231	Woolford, James	Mugdan, Walter	1/16/2014	FW: Meeting Request	Exemption 5: Deliberative material redacted.

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DASS00004236	Woolford, James	Mugdan, Walter	1/16/2014	Re: FYI re: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00004237	Mugdan, Walter	Woolford, James	1/16/2014	FYI re: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00004239	Basso, Ray	Ells, Steve	1/14/2014	RE: Cost effectiveness	Exemption 5: Predecisional and deliberative.
DASS00004245	Feldt, Lisa	Mugdan, Walter	1/10/2014	RE: Passaic River	Exemption 5: Predecisional and deliberative.
DASS00004504	Yeh, Alice	Ammon, Doug ; Clark, Becki	11/1/2013	RE: Draft Proposed Plan for your review	Exemption 5: Predecisional and deliberative.
DASS00004510	Yeh, Alice	Ammon, Doug ; Clark, Becki	10/21/2013	FW: Draft Proposed Plan for your review	Exemption 5: Predecisional and deliberative.
DASS00004513	Ells, Steve	Yeh, Alice	9/18/2013	RE: Draft Proposed Plan for your review	Exemption 5: Predecisional and deliberative.
DASS00004514			9/18/2013	Proposed Plan HQ draft SJE 9 18.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00004515	Ells, Steve	Yeh, Alice ; Ammon, Doug ; Clark, Rebecca	9/12/2013	RE: Draft Proposed Plan for your review	Exemption 5: Predecisional and deliberative.
DASS00004516	Ammon, Doug	Clark, Becki	9/12/2013	Fw: Draft Proposed Plan for your review	Exemption 5: Predecisional and deliberative.
DASS00004713	Thompson, BrianK	Flanagan, Sarah	4/8/2014	RE: Latest on Passaic draft proposed plan.	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00004715	Thompson, BrianK	Flanagan, Sarah	4/8/2014	RE: Latest on Passaic draft proposed plan.	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00004717	Thompson, BrianK	Flanagan, Sarah	4/7/2014	RE: Latest on Passaic draft proposed plan.	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00004719	Thompson, BrianK	Flanagan, Sarah	4/7/2014	RE: Proposed OSRTI response to Mathy	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00004720	Thompson, BrianK	Flanagan, Sarah	4/7/2014	RE: Proposed OSRTI response to Mathy	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00004724	Thompson, BrianK	Flanagan, Sarah	4/7/2014	RE: Update on Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00004725	Thompson, BrianK	Flanagan, Sarah	4/7/2014	RE: Update on Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00004726	Thompson, BrianK	Flanagan, Sarah	4/7/2014	RE: Update on Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00004753	Karlen, Delmar	Hick, Patricia ; Flanagan, Sarah	3/25/2014	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00004777	Thompson, BrianK	Hick, Patricia	3/19/2014	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00004778	Hick, Patricia	Thompson, BrianK	3/18/2014	FW: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00004779			3/18/2014	Draft Note from Stanislaus and Enck to Administrator-3-18 7PM-Clean.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DA5500004780			3/18/2014	Draft Note from Stanislaus and Enck to Administrator-3-18 7PM-Redline.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DA5500005200			3/28/2014	Passaic PRAP-Draft March 28-with Revisions Pertinent to March 19 Email. docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DA5500005207	Stanislaus, Mathy	Enck, Judith ; Mugdan, Walter ; Pavlou, George	3/21/2014	Next Steps on Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005213	Mugdan, Walter	Pavlou, George; Plevin, Lisa; Bellow, Bonnie; Basso, Ray; Schaaf, Eric; Yeh, Alice; Karlen, Delmar; LaPadula, John; Hick, Patricia; Flanagan, Sarah; Kluesner, Dave; Woolford, Jame ; Stalcup, Dana; DeLeon, Rafael; Patterson, Kenneth; Thompson, BrianK; Lynch, Mary-Kay	3/20/2014	Administrator's Response to Passaic River Note	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005214	McCarthy, Gina	Stanislaus, Mathy ; Perciasepe, Bob; Feldt, Lisa	3/20/2014	RE: Passaic next steps	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005215	Stanislaus, Mathy	McCarthy, Gina ; Perciasepe, Bob; Feldt, Lisa	3/19/2014	Passaic next steps	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005216	Stanislaus, Mathy	Mugdan, Walter ; Enck, Judith	3/19/2014	RE: Passaic -- Final Version of Note to Administrator	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00005217	Mugdan, Walter	Stanislaus, Mathy ; Enck, Judith	3/19/2014	RE: Passaic -- Final Version of Note to Administrator	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005218			3/19/2014	Draft Note from Stanislaus and Enck to Administrator-3-19 4 PM-Clean.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005219			3/19/2014	Draft Note from Stanislaus and Enck to Administrator-3-19 4 PM-Reline.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005220	Stanislaus, Mathy	Mugdan, Walter ; Enck, Judith	3/19/2014	RE: Passaic -- Final Version of Note to Administrator	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005221			3/19/2014	Draft Note from Stanislaus and Enck to Administrator-3-19 1130 AM-Clean.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005222	Woolford, James	Mugdan, Walter ; Breen, Barry	3/19/2014	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005223	Mugdan, Walter	Woolford, James ; Breen, Barry	3/19/2014	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005224			3/19/2014	Draft Note from Stanislaus and Enck to Administrator 3-19 830 AM-Clean.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005225	Mugdan, Walter	Breen, Barry	3/18/2014	Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00005226			3/18/2014	Draft Note from Stanislaus and Enck to Administrator-3-18 7PM-Clean.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005227			3/18/2014	Draft Note from Stanislaus and Enck to Administrator-3-18 7PM-Redline.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005228	Stanislaus, Mathy	Enck, Judith	3/18/2014	Re: Passaic river email	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005229	Mugdan, Walter	Breen, Barry ; Woolford, James	3/18/2014	RE: Passaic river email	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005230			3/18/2014	Draft Note from Stanislaus and Enck to Administrator-Breen-WM Comments.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005231	Mugdan, Walter	Breen, Barry ; Woolford, James	3/18/2014	RE: Passaic river email	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00005232	Woolford, James	Breen, Barry ; Mugdan, Walter	3/18/2014	Re: Passaic river email	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00005233	Mugdan, Walter	Breen, Barry ; Woolford, James	3/18/2014	RE: Passaic river email	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00005234	Breen, Barry	Woolford, James ; Mugdan, Walter	3/18/2014	RE: Passaic river email	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00005235			3/18/2014	Passaic note.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005236	Woolford, James	Breen, Barry	3/18/2014	Re: Passaic river email	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00005237	Breen, Barry	Enck, Judith	3/18/2014	RE: Passaic river email	Exemption 5: Deliberative process/predecisional and deliberative.

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DASS00005238	Stanislaus, Mathy	Enck, Judith ; Basso, Ray	3/14/2014	RE: Joint Memo to Administrator McCarthy - Re: Lower Passaic River Proposed Plan	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005239	Basso, Ray	Stanislaus, Mathy ; Enck, Judith	3/14/2014	Joint Memo to Administrator McCarthy - Re: Lower Passaic River-Proposed Plan	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DAS500005242			3/14/2014	Draft%20Note%20from%20and%20Enck%20to%20Administrator-final%20version-12noon14march2014.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005243	Stanislaus, Mathy	Enck, Judith	3/13/2014	Re: Passaic river email	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00005246	Woolford, James	Enck, Judith ; Stanislaus, Mathy ; Breen, Barry ; Giles, Cynthia ; Starfield, Lawrence ; Feldt, Lisa ; Lynch, Mary-Kay ; Corman, Bicky	3/11/2014	Fw: Passaic River	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005251	Woolford, James	Enck, Judith	3/2/2014	Re: Meeting with Ana Bautista and Debbie Mans, Passaic CAG	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00005252	Woolford, James	Stanislaus, Mathy ; Enck, Judith ; Plevin, Lisa	3/2/2014	RE: Meeting with Ana Bautista and Debbie Mans, Passaic CAG	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00005253	PERCIASEPE, BOB	Enck, Judith ; McCarthy, Gina ; KeyesFleming, Gwendolyn ; Fritz, Matthew ; Ganesan, Arvin ; Feldt, Lisa ; Reynolds, Thomas ; Vaught, Laura ; Rupp, Mark ; Fried,	2/28/2014	RE: Region 2 weekly report	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00005255	McCarthy, Gina	Enck, Judith	2/28/2014	Re: Region 2 weekly report	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00005257	Stanislaus, Mathy	McCarthy, Gina	2/25/2014	Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00005269	Woolford, James	Basso, Ray ; Enck, Judith; Pavlou, George ; Mugdan, Walter	2/12/2014	Fw: proposed agenda for today's discussion on Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005270	Fine, Ellyn	Feldt, Lisa ; Woolford, James ; Stalcup, Dana ; Stanislaus, Mathy ; Mugdan, Walter ; Enck, Judith ; Torres, Nelida ; Basso, Ray ; Breen, Barry; Giles, Cynthia; Garbow, Avi	2/12/2014	RE: Passaic Discussion	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005271			2/12/2014	Possible Agenda_Passaic.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005274	McCarthy, Gina	Enck, Judith	2/3/2014	RE: passaic river	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00005278	Woolford, James	Stanislaus, Mathy ; Mugdan, Walter ; Enck, Judith ; Pavlou, George	1/31/2014	RE: Meeting Request	Exenption 5: Attorney-Client Communications; Attorney Work-Product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005290			1/24/2014	AX_Passaic_Briefing_Ver_1-23-14(4).pptx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005292	Stanislaus, Mathy	Enck, Judith ; Woolford, James ; Giles, Cynthia ; Ganesan, Arvin ; Feldt, Lisa ; Mugdan, Walter	1/17/2014	Re: Meeting request with Mathy Stanislaus	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00005293	Feldt, Lisa	Enck, Judith ; Stanislaus, Mathy ; Woolford, James ; Giles, Cynthia ; Ganesan, Arvin ; Mugdan, Walter	1/16/2014	Re: Meeting request with Mathy Stanislaus	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00005500	Mugdan, Walter	DeLeon, Rafael ; Schaaf, Eric	1/9/2014	RE: Passaic	Exemption 5: Attorney-client communications.

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DASS00005501	DeLeon, Rafael	Schaaf, Eric ; Mugdan, Walter	1/9/2014	RE: Passaic	Exemption 5: Attorney-client communications
DASS00005502	DeLeon, Rafael	Mugdan, Walter ; Schaaf, Eric	1/9/2014	RE: Passaic	Exemption 5: Attorney-client communications.
DASS00005503	Mugdan, Walter	DeLeon, Rafael ; Schaaf, Eric	1/9/2014	RE: Passaic	Exemption 5: Attorney-client communications.
DASS00005504	Woolford, James	DeLeon, Rafael ; Mugdan, Walter ; Schaaf, Eric	1/9/2014	Re: Passaic	Exemption 5: Attorney-client communications.
DASS00005505	DeLeon, Rafael	Mugdan, Walter ; Schaaf, Eric	1/9/2014	Passaic	Exemption 5: Attorney-client communications.
DASS00005512	Stanislaus, Mathy	Mugdan, Walter ; Giles, Cynthia; Feldt, Lisa ; Kelly, Anne ; Wieder, Marla ; Capon, Virginia	12/10/2013	Re: Cancellation of General Motors Central Foundry (Massena, NY) Superfund Site - Conference Call Originally Scheduled for Dec. 10 at 4 PM	Exemption 5: Attorney-client communications; predecisional and deliberative.
DASS00005513	Mugdan, Walter	Stanislaus, Mathy ; Giles, Cynthia ; Feldt, Lisa ; Kelly, Anne Wieder, Marla ; Capon, Virginia	12/10/2013	Cancellation of General Motors Central Foundry (Massena, NY) Superfund Site - Conference Call Originally Scheduled for Dec. 10 at 4 PM	Exemption 5: Attorney-client communications; predecisional and deliberative.
DASS00005514	Mugdan, Walter	DeLeon, Rafael ; Schaaf, Eric	4/7/2014	Re: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DAS500005528	Starfield, Lawrence	Mugdan, Walter ; DeLeon, Rafael ; Patterson, Kenneth	2/6/2014	Re: passaic river remedy	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005530	Starfield, Lawrence	Patterson, Kenneth	1/25/2014	Passaic River -- CAD cell questions	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005539	Schaaf, Eric	Starfield, Lawrence	3/11/2014	RE: Passaic River	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00005540	Starfield, Lawrence	Schaaf, Eric	3/11/2014	FW: Passaic River	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005542	Schaaf, Eric	Starfield, Lawrence ; DeLeon, Rafael	2/26/2014	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005551	Schaaf, Eric	Starfield, Lawrence	3/14/2014	FW: Joint Memo to Administrator McCarthy - Re: Lower Passaic River Proposed Plan	Exemption 5: Attorney-client communications; predecisional and deliberative.
DASS00005565	Schaaf, Eric	Lynch, Mary-Kay	2/26/2014	FW: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005567	Schaaf, Eric	Lynch, Mary-Kay	2/14/2014	Re: Passaic briefing of the Administrator	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005572	Schaaf, Eric	Starfield, Lawrence	2/12/2014	RE: passaic river remedy	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005573	Schaaf, Eric	Starfield, Lawrence	2/11/2014	RE: passaic river remedy	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005574	Schaaf, Eric	Starfield, Lawrence	1/31/2014	Re: Briefing	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005577	Schaaf, Eric	Starfield, Lawrence ; DeLeon, Rafael	1/13/2014	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00005578	Schaaf, Eric	DeLeon, Rafael ; Mugdan, Walter	1/9/2014	RE: Passaic	Exemption 5: Attorney-client communications.
DASS00005613			12/2/2013	Draft Agenda for 12.docx	Exemption 5: deliberative process/predecisional and deliberative

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DAS500005686	Legare, Amy	Yeh, Alice	5/6/2013	RE: Please visit rrb - Passaic recommendations memo - final draft	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005801	Thompson, BrianK	Hick, Patricia ; Flanagan, Sarah ; Basso, Ray	4/7/2014	FW: Update on Passaic Proposed Plan - Concerns on new language	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005802	Stalcup, Dana	Woolford, James Richardson, RobinH Ammon, Doug ; Fonseca, Silvina ; Legare, Amy Scozzafava, MichaelE ; Ells, Steve ; Mugdan, Walter ; Basso, Ray ; Yeh, Alice	4/7/2014	RE: Proposed O5RTI response to Mathy	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005803			4/7/2014	2014-04-07 Lower 8 Proposed Plan draft-to address Stanislaus comments R20OSRTI.docx	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005804	Stalcup, Dana	Woolford, James ; Richardson, RobinH ; Ammon, Doug ; Fonseca, Silvina ; Legare, Amy ; Scozzafava, MichaelE ; Ells, Steve ; Mugdan, Walter Mugdan, Walter>; Basso, Ray ; Yeh, Alice	4/7/2014	Proposed O5RTI response to Mathy	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005805	Woolford, James	Mugdan, Walter	4/7/2014	RE: Update on Passaic	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005806	Mugdan, Walter	Woolford, James	4/7/2014	RE: Update on Passaic	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005807	Stalcup, Dana	Basso, Ray	4/4/2014	RE: Another draft of Passaic Proposed Plan	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00005808	Stalcup, Dana	Yeh, Alice ; Basso, Ray ; Mugdan, Walter ; Woolford, James ; Ammon, Doug ; Richardson, RobinH	4/4/2014	RE: Another draft of Passaic Proposed Plan	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005809	Yeh, Alice	Basso, Ray ; Stalcup, Dana ; Mugdan, Walter Woolford, James ; Ammon, Doug	4/4/2014	RE: Another draft of Passaic Proposed Plan	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005810			4/4/2014	2014-04-03 Lower 8 Proposed Plan draft-end of day.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005811	Stalcup, Dana	Yeh, Alice ; Mugdan, Walter ; Woolford, James Ammon, Doug	4/4/2014	RE: Another draft of Passaic Proposed Plan	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005812	Woolford, James	Yeh, Alice ; Mugdan, Walter ; Stalcup, Dana ; Ammon, Doug	4/4/2014	Re: Another draft of Passaic Proposed Plan	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005813	Woolford, James	Yeh, Alice Mugdan, Walter ; Stalcup, Dana ; Ammon, Doug	4/4/2014	Re: Another draft of Passaic Proposed Plan	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005816	Yeh, Alice	Mugdan, Walter ; Stalcup, Dana ; Woolford, James Ammon, Doug	4/3/2014	Another draft of Passaic Proposed Plan	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005817			4/3/2014	2014-04-03 Lower 8 Proposed Plan draft-rev.docx	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005818	Mugdan, Walter	Stalcup, Dana ; Woolford, James ; Ammon, Doug	4/3/2014	RE: Passaic River additional suggetsions	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005819	Stalcup, Dana	Mugdan, Walter ; Basso, Ray	4/3/2014	Passaic River additional suggetsions	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00005820			4/3/2014	Ecological PRGs-ORSTI edits Thursday.docx	Exemption 5: Deliberative process/predecisional and deliberative.

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DASS00005821			4/3/2014	PTW Proposed Language-RB + WM-CLEAN.docx - OSRTI edits Thursday.docx	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00005822	Stalcup, Dana	Basso, Ray	4/2/2014	RE: Passaic Proposed Plan	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005823	Stalcup, Dana	Basso, Ray ; Yeh, Alice	4/2/2014	FW: Passaic Proposed Plan	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005825	Yeh, Alice	Ammon, Doug	3/31/2014	RE: Another draft of Passaic Proposed Plan	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005826	Yeh, Alice	Ammon, Doug	3/31/2014	Another draft of Passaic Proposed Plan	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005827			3/31/2014	2014-03-28 Lower 8 Proposed Plan-all DSRTI comments-rev.docx	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005828			3/31/2014	R2 Response to Silvina comments on 0314draft of Proposed Plan-rev.docx	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005829			3/31/2014	Combined OSRTI comments3-12-14-R2 responses-rev.docx	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005833	Mugdan, Walter	Woolford, James	3/28/2014	RE: Discussion of Passaic Proposed Plan language related to Mathy's email	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005834	Woolford, James	Mugdan, Walter ; Basso, Ray	3/28/2014	RE: Discussion of Passaic Proposed Plan language related to Mathy's email	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005835	Mugdan, Walter	Woolford, James ; Basso, Ray	3/28/2014	RE: Discussion of Passaic Proposed Plan language related to Mathy's email	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00005836	Woolford, James	Basso, Ray	3/28/2014	RE: Discussion of Passaic Proposed Plan language related to Mathy's email	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005837			3/28/2014	PRAP Doug and Silvina's comments.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005838	Woolford, James	Basso, Ray	3/28/2014	RE: Discussion of Passaic Proposed Plan language related to Mathy's email	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005839	Woolford, James	Basso, Ray	3/28/2014	Re: Discussion of Passaic Proposed Plan language related to Mathy's email	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005840	Mugdan, Walter	Basso, Ray; Woolford, James; Stalcup, Dana; Ammon, Doug; Flanagan, Sarah; Hick, Patricia; Thompson, BrianK; Lynch, Mary-Kay; Karlen, Delmar; Simon, Paul; Salo, Earl; Michaud, John; Openchowski, Charles	3/27/2014	RE: Discussion of Passaic Proposed Plan language related to Mathy's email	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005841			3/27/2014	PRAP-Draft 27March2024 Bassoand2msfrev OECA ORC.docx	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005849	Woolford, James	Ells, Steve	3/21/2014	Re: Lower Passaic River - March 18th FFS Meeting	Exemption 5: Deliberative process/predecisional and deliberative.

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DASS00005860	Mugdan, Walter	Woolford, James; Stalcup, Dana; Ammon, Doug; DeLeon, Rafael; Patterson, Kenneth; Lammie, Benjamin; Thompson, BrianK; Lynch, Mary-Kay; Michaud, John; Salo, Earl	3/20/2014	FW: Passaic next steps	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005863	Mugdan, Walter	Pavlou, George ; Plevin, Lisa ; Schaaf, Eric ; Basso, Ray Yeh, Alice Karlen, Delmar ; Hick, Patricia la, John ; Woolford, James ; Stalcup, Dana ; DeLeon, Rafael ; Patterson, Ken ; Thompson, BrianK ; Lynch, Mary-Kay	3/19/2014	Fw: Passaic next steps	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005868	Lynch, Mary-Kay	Mugdan, Walter ; Patterson, Kenneth ; Thompson, BrianK; Stalcup, Dana ; Woolford, James; Breen, Barry; Basso, Ray ; Schaaf, Eric ; Karlen,, Delmar ; Flanagan, Sarah ; Hick, Patricia	3/19/2014	RE: Passaic -- Revised Final Section of Note to Administrator	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005869	Patterson, Kenneth	Mugdan, Walter ; Thompson, BrianK ; Lynch, Mary-Kay ; Stalcup, Dana ; Woolford, James Breen, Barry ; Basso, Ray ; Schaaf, Eric Karlen, Delmar ; Flanagan, Sarah ; Hick, Patricia	3/19/2014	Re: Passaic -- Revised Final Section of Note to Administrator	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00005870	Mugdan, Walter	Patterson, Kenneth ; Thompson, BrianK ; Lynch, Mary-Kay Stalcup, Dana ; Woolford, James ; Breen, Barry ; Basso, Ray ; Schaaf, Eric ;Karlen, Delmar ; Flanagan, Sarah ; Hick, Patricia	3/19/2014	Passaic -- Revised Final Section of Note to Administrator	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005871	Enck, Judith	Mugdan, Walter ; Woolford, James ; Breen, Barry	3/19/2014	Re: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005873	Mugdan, Walter	Woolford, James	3/19/2014	RE: Passaic - FROM OSRE	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005874	Woolford, James	Mugdan, Walter; Basso, Ray; Schaaf, Eric; Flanagan, Sarah; Stalcup, Dana; Ammon, Doug	3/19/2014	FW: Passaic - FROM OSRE	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005884	Woolford, James	Mugdan, Walter	3/18/2014	Re: Passaic river email	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005885	Mugdan, Walter	Woolford, James	3/18/2014	FW: Passaic river email	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005892	Stalcup, Dana	Stanislaus, Mathy ; Breen, Barry ; Natarajan, Nitin	3/14/2014	RE: Passaic River joint memo	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005893	Stalcup, Dana	Basso, Ray	3/14/2014	FW: Passaic River joint memo	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00005896	Stanislaus, Mathy	Stalcup, Dana ; Breen, Barry ; Natarajan, Nitin	3/14/2014	RE: Passaic River joint memo	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005897	Stalcup, Dana	Stanislaus, Mathy ; Breen, Barry ; Natarajan, Nitin	3/14/2014	RE: Passaic River joint memo	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005898	Schaaf, Eric	Starfield, Lawrence	3/13/2014	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005899	Stanislaus, Mathy	Stalcup, Dana ; Breen, Barry ; Natarajan, Nitin	3/13/2014	RE: Passaic River joint memo	Exemption 5: Attorney work product reflecting mental conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006100	Thompson, BrianK	Flanagan, Sarah	2/27/2014	WRDA	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006109	Thompson, BrianK	Hick, Patricia ; Flanagan, Sarah ; Karlen, Delmar	2/15/2014	FW: Privileged--Passaic River content [Brief-out on CPG bioaccumulation modeling code]	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006110	Thompson, BrianK	Flanagan, Sarah ; Hick, Patricia	2/14/2014	RE: Passaic Timeline	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006111			2/14/2014	[legal research relating to the proposed plan]	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006112			2/14/2014	[legal research relating to the proposed plan]	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006114	Thompson, BrianK	Flanagan, Sarah ; Hick, Patricia	2/14/2014	RE: Passaic Timeline	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00006115	Hick, Patricia	Thompson, BrianK ; Flanagan, Sarah	2/14/2014	RE: Passaic Timeline	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00006116	Thompson, BrianK	Hick, Patricia Flanagan, Sarah	2/14/2014	RE: Passaic Timeline	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00006117	Hick, Patricia	Thompson, BrianK ; Flanagan, Sarah	2/14/2014	RE: Passaic Timeline	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00006118	Thompson, BrianK	Flanagan, Sarah	2/14/2014	RE: Passaic Timeline	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00006119	Thompson, BrianK	Flanagan, Sarah	2/13/2014	RE: Passaic Timeline	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00006120	Thompson, BrianK	Flanagan, Sarah	2/13/2014	RE: Passaic Timeline	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00006121	Thompson, BrianK	Flanagan, Sarah ; Hick, Patricia ; Karlen, Delmar	2/12/2014	FW: PRIVILEGED - Summary of Passaic discussion this afternoon	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00006123	Thompson, BrianK	Karlen, Delmar ; Hick, Patricia ; Flanagan, Sarah	2/12/2014	FW: Letter to R2 RA from Co-Chairs of the Passaic River CAG	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00006125	Thompson, BrianK	Flanagan, Sarah ; Hick, Patricia	2/12/2014	[email discussing legal research relating to the proposed plan]	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative

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DASS00006126	Thompson, BrianK	Flanagan, Sarah Hick, Patricia	2/12/2014	[email discussing legal research relating to the proposed plan]	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006127	Thompson, BrianK	Flanagan, Sarah ; Hick, Patricia	2/11/2014	[email discussing legal research relating to the proposed plan]	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006128	Thompson, BrianK	Flanagan, Sarah ; Hick, Patricia	2/11/2014	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00006129	Karlen, Delmar	Patterson, Kenneth	2/11/2014	RE: Passaic River CPG Letter	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006130	Thompson, BrianK	Flanagan, Sarah ; Hick, Patricia	2/11/2014	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006131	Thompson, BrianK	Flanagan, Sarah ; Hick, Patricia	2/11/2014	FW: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006137	Thompson, BrianK	Flanagan, Sarah	1/30/2014	RE: Final Passaic River Briefing Package for Administrator	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006140	Thompson, BrianK	Flanagan, Sarah ; Hick, Patricia	1/27/2014	RE: Passaic River – CAD cell questions	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006141	Thompson, BrianK	Hick, Patricia ; Flanagan, Sarah	1/27/2014	FW: Passaic River – CAD cell questions	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00006142	Thompson, BrianK	Hick, Patricia ; Flanagan, Sarah	1/27/2014	RE: Passaic River -- CAD cell questions	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006143	Hick, Patricia	Thompson, BrianK ; Flanagan, Sarah	1/26/2014	RE: Passaic River -- CAD cell questions	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006144	Thompson, BrianK	Flanagan, Sarah ; Hick, Patricia	1/26/2014	FW: Passaic River -- CAD cell questions	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006147	Thompson, BrianK	Flanagan, Sarah	1/24/2014	RE: Passaic River Briefing Materials	Exemption 5: Attorney-client communications.
DASS00006150	Thompson, BrianK	Flanagan, Sarah	1/22/2014	RE: Letter to Seebode on nav channel	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00006154	Salo, Earl	Karlen, Delmar	1/16/2014	RE: Response to Mary Kay's Other Question re the navigation channel	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006155	Thompson, BrianK	Flanagan, Sarah	1/16/2014	RE: Diamond LPRSA - Issues from OECA	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006156	Karlen, Delmar	Salo, Earl	1/16/2014	Response to Mary Kay's Dther Question re the navigation channel	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006161	Ells, Steve	Thompson, BrianK ; Hick, Patricia ; Flanagan, Sarah ; Ammon, Doug	1/14/2014	RE: Discussion on Passaic CAD vs Offsite	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006162	Hick, Patricia	Thompson, BrianK ; Flanagan, Sarah ; Ammon, Doug ; Ells, Steve	1/14/2014	RE: Discussion on Passaic CAD vs Offsite	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00006163	Thompson, BrianK	Hick, Patricia ; Flanagan, Sarah ; Ammon, Doug Ells, Steve	1/14/2014	Discussion on Passaic CAD vs Offsite	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006164	DeLeon, Rafael	Karlen, Delmar ; Schaaf, Eric ; Hick, Patricia ; Flanagan, Sarah	1/13/2014	Re: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006165	Karlen, Delmar	DeLeon, Rafael ; Schaaf, Eric ; Hick, Patricia; Flanagan, Sarah	1/13/2014	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006166	Schaaf, Eric	DeLeon, Rafael Karlen, Delmar ; Hick, Patricia ; Flanagan, Sarah	1/13/2014	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006167	DeLeon, Rafael	Schaaf, Eric ; Karlen, Delmar ; Hick, Patricia ; Flanagan, Sarah	1/13/2014	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006168	Mugdan, Walter	Woolford, James	1/13/2014	FW: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006171	Schaaf, Eric	Karlen, Delmar ; Hick, Patricia ; Flanagan, Sarah	1/13/2014	FW: Passaic	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006174	Schaaf, Eric	DeLeon, Rafael	1/8/2014	FW: 2-page fact sheet for administrator briefing	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006175			1/8/2014	AX briefing-FFS 12032013.docx	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006187	Thompson, BrianK	Flanagan, Sarah	1/7/2014	RE: Draft Proposed Plan	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00006192	Thompson, BrianK	Hick, Patricia ; Flanagan, Sarah	12/11/2013	FW: Regional Briefing on Passaic River	Exemption 5: Confidential attorney-client communications relating to legal matter for which client has sought advice.
DASS00006193	Thompson, BrianK	Flanagan, Sarah ;; Hick, Patricia	12/11/2013	RE: Regional Briefing on Passaic River	Exemption 5: Confidential attorney-client communications relating to legal matter for which client has sought advice.
DASS00006194	Thompson, BrianK	Flanagan, Sarah ; Hick, Patricia	12/11/2013	FW: Regional Briefing on Passaic River	Exemption 5: Confidential attorney-client communications relating to legal matter for which client has sought advice.
DASS00006196	Thompson, BrianK	Flanagan, Sarah	12/5/2013	RE: Diamond Alkali Passaic River Briefing	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006198	Thompson, BrianK	Flanagan, Sarah	12/5/2013	RE: Passaic Briefing on Thursday	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00006199	Fishburn, Meredith	Flanagan, Sarah ; Hick, Patricia	12/5/2013	RE: Passaic Briefing on Thursday	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00006365	Yeh, Alice	Legare, Amy	5/3/2013	RE: Please visit rrb - Passaic recommendations memo - final draft	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00006390	openchowski, charles	Yeh, Alice	2/4/2013	Re: Invitation: NRRB recommendation on PTW (Feb 5 01:00 PM EST in call 866-299-3188	Exenption 5: Attorney-Client Communications; ; predecisional and deliberative.
DASS00006394	Yeh, Alice	Legare, Amy	1/24/2013	Re: Please visit rrb - Passaic recommendations draft 3 - comments due 1/24	Exemption 5: Attorney-Client Communications; predecisional and deliberative.
DASS00006600	Fishburn, Meredith	Flanagan, Sarah ; Hick, Patricia	12/4/2013	RE: Passaic Briefing on Thursday	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00006601	Fishburn, Meredith	Flanagan, Sarah ; Hick, Patricia	12/4/2013	RE: Passaic Briefing on Thursday	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.

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DASS00006604	Fishburn, Meredith	Flanagan, Sarah ; Hick, Patricia	12/3/2013	RE: Passaic Briefing on Thursday	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00006606	Fishburn, Meredith	Flanagan, Sarah ; Thompson, BrianK	11/27/2013	RE: Diamond Alkali - Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00006607	Fishburn, Meredith	Flanagan, Sarah ; Thompson, BrianK	11/27/2013	RE: Diamond Alkali - Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00006617	Legare, Amy	Flanagan, Sarah	11/19/2013	[Email relating to preservation od documents]	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00006624	Yeh, Alice	Ammon, Doug ; Clark, Rebecca ; Ells, Steve	9/12/2013	Draft Proposed Plan for your review	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006633	Flanagan, Sarah	Thompson, BrianK	4/8/2014	RE: Latest on Passaic draft proposed plan.	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006635	Flanagan, Sarah	Thompson, BrianK	4/8/2014	RE: Latest on Passaic draft proposed plan.	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006637	Flanagan, Sarah	Thompson, BrianK	4/7/2014	FW: Latest on Passaic draft proposed plan.	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006640	Flanagan, Sarah	Thompson, BrianK	4/7/2014	RE: Proposed OSRTI response to Mathy	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006641	Flanagan, Sarah	Thompson, BrianK	4/7/2014	RE: Proposed OSRTI response to Mathy	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00006642	Flanagan, Sarah	Thompson, BrianK	4/7/2014	FW: Proposed OSRTI response to Mathy	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00006645	Flanagan, Sarah	Thompson, BrianK	4/7/2014	RE: Update on Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00006646	Flanagan, Sarah	Thompson, BrianK	4/7/2014	RE: Update on Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00006647	Flanagan, Sarah	Thompson, BrianK	4/7/2014	FW: Update on Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00006650	Flanagan, Sarah	Thompson, BrianK ; Hick, Patricia	2/14/2014	RE: Passaic Timeline	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00006651	Flanagan, Sarah	Hick, Patricia ; Thompson, BrianK	2/14/2014	RE: Passaic Timeline	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00006653	Flanagan, Sarah	Thompson, BrianK	2/13/2014	RE: Passaic Timeline	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00006654	Flanagan, Sarah	Thompson, BrianK	2/13/2014	RE: Passaic Timeline	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00006655	Flanagan, Sarah	Thompson, BrianK Hick, Patricia ; Karlen, Delmar	2/12/2014	RE: PRIVILEGED - Summary of Passaic discussion this afternoon	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative

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DASS00006656	Flanagan, Sarah	Thompson, BrianK	2/12/2014	FW: Newark Bay Habitat Analysis	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006658	Flanagan, Sarah	Thompson, BrianK Hick, Patricia	2/12/2014	[email discussing legal research relating to proposed plan]	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006659	Flanagan, Sarah	Thompson, BrianK ; Hick, Patricia	2/12/2014	[email discussing legal research relating to the proposed plan]	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006660	Flanagan, Sarah	Thompson, BrianK ; Hick, Patricia	2/11/2014	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006661	Flanagan, Sarah	Thompson, BrianK ; Hick, Patricia	2/11/2014	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00006662	Flanagan, Sarah	Thompson, BrianK ; Hick, Patricia	2/11/2014	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00006663	Flanagan, Sarah	Thompson, BrianK	2/5/2014	FW: passaic river remedy	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006667			1/29/2014	AX Passaic_Briefing_Final(6).pptx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006668	Flanagan, Sarah	Thompson, BrianK ; Hick, Patricia	1/27/2014	RE: Passaic River – CAD cell questions	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00006669	Flanagan, Sarah	Thompson, BrianK ; Hick, Patricia	1/27/2014	RE: Passaic River -- CAD cell questions	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006672	Flanagan, Sarah	Thompson, BrianK	1/24/2014	FW: Passaic River Briefing Materials	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006674	Flanagan, Sarah	Thompson, BrianK	1/22/2014	FW: Letter to Seebode on nav channel	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00006676	Flanagan, Sarah	Thompson, BrianK	1/22/2014	RE: Passaic	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00006678	Flanagan, Sarah	Thompson, BrianK	1/17/2014	LPRSA - NRRB Comments	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00006680	Flanagan, Sarah	Thompson, BrianK	1/17/2014	FW: Response to one of Mary Kay Lynch's Questions	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006681	Flanagan, Sarah	Thompson, BrianK	1/16/2014	Diamond LPRSA - Issues from OECA	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006683	Flanagan, Sarah	Hick, Patricia ; Thompson, BrianK ; Ammon, Doug ; Ells, Steve	1/14/2014	RE: Discussion on Passaic CAD vs Offsite	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006690	Flanagan, Sarah	Thompson, BrianK	1/7/2014	RE: Draft Proposed Plan	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00006691	Flanagan, Sarah	Thompson, BrianK	1/7/2014	FW: Draft Proposed Plan (Figs-one more!)	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006693	Flanagan, Sarah	Thompson, BrianK	1/7/2014	FW: Draft Proposed Plan (Figs-Tables 2 of 2)	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006695	Flanagan, Sarah	Thompson, BrianK	1/7/2014	FW: Draft Proposed Plan (Figs-Tables 1 of 2)	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006697	Flanagan, Sarah	Thompson, BrianK	1/7/2014	FW: Draft Proposed Plan	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006806			3/19/2014	Draft Note from Stanislaus and Enck to Administrator-3-29 4PM-Reline	Exemption 5: Attorney-Client Communications; Attorney Work Product reflecting metnal impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00006813	Hick, Patricia	Thompson, BrianK	3/18/2014	FW: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006823	Schaaf, Eric	Starfield, Lawrence	3/14/2014	FW: Joint Memo to Administrator McCarthy - Re: Lower Passaic River Proposed Plan	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006827	Thompson, BrianK	Hick, Patricia	3/14/2014	RE: Joint Memo to Administrator McCarthy - Re: Lower Passaic River Proposed Plan	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006828	Hick, Patricia	Thompson, BrianK	3/14/2014	FW: Joint Memo to Administrator McCarthy - Re: Lower Passaic River Proposed Plan	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00006829	Schaaf, Eric	Lynch, Mary-Kay ; Michaud, John ; Salo, Earl	3/14/2014	FW: Joint Memo to Administrator McCarthy - Re: Lower Passaic River Proposed Plan	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006830	Hick, Patricia	Michaud, John	3/14/2014	FW: Joint Memo to Administrator McCarthy - Re: Lower Passaic River Proposed Plan	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006831	Thompson, BrianK	Hick, Patricia	3/13/2014	RE: latest draft of Passaic Memo	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006832	Hick, Patricia	Thompson, BrianK	3/13/2014	FW: latest draft of Passaic Memo	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006833			3/13/2014	Draft Note from Stanislaus and Enck to Administrator-ARD revision and others-13March2014pm.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006835	Schaaf, Eric	Gardner, Monica ; Patterson, Kenneth ; Karlen, Delmar ; Flanagan, Sarah; Hick, Patricia ; DeLeon, Rafael	3/12/2014	Fw: Commissioner Martin letter to Gina McCarthy re: Passaic	Exemption 5: Attorney-client communications; attorney work-Product reflecting mental impressions, concclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007120	Legare, Amy	openchowski, charles ; Basso, Ray ; Yeh, Alice ; Hick, Patricia ; Flanagan, Sarah ; Jasinski, Michael	2/5/2013	PTW recommendation	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007300	Stalcup, Dana	Stanislaus, Mathy ; Breen, Barry ; Natarajan, Nitin	3/13/2014	Re: Passaic River joint memo	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007301	Thompson, BrianK	Basso, Ray ; Stalcup, Dana ; Ammon, Doug	3/13/2014	RE: latest draft of Passaic Memo	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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OASS00007302			3/13/2014	Draft Note from Stanislaus and Enck to Administrator-final version 2pm 13 march 2014 OSRE comments.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
OASS00007303	Stalcup, Oana	Stanislaus, Mathy ; Breen, Barry ; Natarajan, Nitin	3/13/2014	Passaic River joint memo	Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007304	Stalcup, Dana	Thompson, BrianK ; Basso, Ray ; Ammon, Doug	3/13/2014	RE: latest draft of Passaic Memo	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007305			3/13/2014	Draft Note from Stanislaus and Enck to Administrator-final version 2pm 13 march 2014.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007306	Thompson, BrianK	Stalcup, Oana ; Basso, Ray ; Ammon, Ooug	3/13/2014	RE: latest draft of Passaic Memo	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
OASS00007307	Ammon, Ooug	Basso, Ray ; Yeh, Alice	3/12/2014	Proposed Plan Comments	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
OASS00007308			3/12/2014	Combined OSRTI comments3-12-14.docx	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
OASS00007313	Mugdan, Walter	DeLeon, Rafael	3/11/2014	FW: Draft Passaic Memo to Adm.	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
OASS00007316	Woolford, James	Hick, Patricia ; Mugdan, Walter	3/11/2014	RE: Passaic River	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
OASS00007317	Hick, Patricia	Mugdan, Walter ; Woolford, James	3/11/2014	RE: Passaic River	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00007318	Mugdan, Walter	Woolford, James	3/11/2014	FW: Meeting with Ana Bautista and Debbie Mans, Passaic CAG	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00007321	Mugdan, Walter	Woolford, James	3/10/2014	Fw: NOAA and DOI/USFWS Comments on In-Water Disposal Alternative Evaluation for Lower Passaic River	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00007323	Mugdan, Walter	Woolford, James	3/10/2014	Re: Passaic River	Exemption 5: Attorney-client communications; predecisional and deliberative.
DASS00007327	Mugdan, Walter	Woolford, James	3/2/2014	Re: Privledged: Alternative path on Passaic	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007329	Woolford, James	Pavlou, George ; Mugdan, Walter ; Basso, Ray	3/2/2014	FW: Privledged: Alternative path on Passaic	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007330	Woolford, James	Stalcup, Dana ; Cooper, DavidE ; Ammon, Doug ; Scozzafava, MichaelE ; Ells, Steve ; Greenberg, Marc ; Wilbur, Jennifer ; Williams, Thea ; Williams, Faith ; Wells, Suzanne ; Basso, Ray	3/2/2014	FW: Meeting with Ana Bautista and Debbie Mans, Passaic CAG	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00007331	Woolford, James	Mugdan, Walter ; Basso, Ray ; Pavlou, George	2/28/2014	Fw: Port Authority	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00007332	Stalcup, Dana	Mugdan, Walter ; Basso, Ray	2/21/2014	RE: Privileged: FW: Summary of Today's Passaic Call, and Talking Points for Tomorrow	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007333	Mugdan, Walter	Stalcup, Dana ; Basso, Ray	2/21/2014	RE: Privileged: FW: Summary of Today's Passaic Call, and Talking Points for Tomorrow	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007334	Stalcup, Dana	Mugdan, Walter ; Basso, Ray	2/21/2014	FW: Privileged: FW: Summary of Today's Passaic Call, and Talking Points for Tomorrow	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00007335	Spyropoulos, Stella	Mugdan, Walter ; Basso, Ray ; DeLeon, Rafael Thompson, BrianK ; Ergener, Deniz ; Patterson, Kenneth ; Lynch, Mary-Kay ; Michaud, John ; Openchowski, Charles ; Woolford, James ; Ammon, Doug ; Legare, Amy ; Scozzafava, MichaelE ; Ells, Steve ; Gustavson, Karl ; Greenberg, Marc ; Cooper, DavidE ; Richardson, RobinH	2/20/2014	Cross-office Check-in on Passaic River	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007337	Woolford, James	Mugdan, Walter ; Basso, Ray	2/14/2014	FW: Privileged--Passaic River content [Brief-out on CPG bioaccumulation modeling code]	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00007339	Mugdan, Walter	Woolford, James	2/13/2014	FW: Passaic briefing of the Administrator	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007341	Flanagan, Sarah	Thompson, BrianK	2/13/2014	RE: Passaic Timeline	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007342	Pavlou, George	Stalcup, Dana ; Woolford, James ; Thompson, BrianK	2/13/2014	RE: PRIVILEGED - Summary of Passaic discussion this afternoon	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007346	Thompson, BrianK	Stalcup, Dana ; Woolford, James ; Pavlou, George	2/12/2014	RE: PRIVILEGED - Summary of Passaic discussion this afternoon	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007347			2/12/2014	OSRE analysis of CPG Ltr 2-6-14 v2.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00007348	Stalcup, Dana	Woolford, James ; Pavlou, George ; Thompson, BrianK	2/12/2014	PRIVILEGED - Summary of Passaic discussion this afternoon	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007349	Stalcup, Dana	Woolford, James ; Pavlou, George	2/12/2014	RE: Given Walter is on A/L as is Ray - shld we coordinate w/you on next steps in the short term?	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007350	Woolford, James	Stalcup, Dana ; Pavlou, George	2/12/2014	Re: Given Walter is on A/L as is Ray - shld we coordinate w/you on next steps in the short term?	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007351	Pavlou, George	Stalcup, Dana ; Woolford, James	2/12/2014	RE: Given Walter is on A/L as is Ray - shld we coordinate w/you on next steps in the short term?	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; deliberative process/predecisional and deliberative.
DASS00007352	Stalcup, Dana	Pavlou, George ; Woolford, James	2/12/2014	Re: Given Walter is on A/L as is Ray - shld we coordinate w/you on next steps in the short term?	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007353	Pavlou, George	Woolford, James	2/12/2014	RE: Given Walter is on A/L as is Ray - shld we coordinate w/you on next steps in the short term?	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007356	Woolford, James	Pavlou, George	2/12/2014	Given Walter is on A/L as is Ray - shld we coordinate w/you on next steps in the short term?	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007360	Stalcup, Dana	Basso, Ray	2/12/2014	FW: proposed agenda for today's discussion on Passaic	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007370	Stalcup, Dana	Feldt, Lisa ; Mugdan, Walter; LaPadula, John ; Basso, Ray ; Stanislaus, Mathy ; Breen, Barry	2/7/2014	Confidential - Revised Passaic Qs	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007371			2/7/2014	Passaic questions Feb 7 v-2.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007373	Woolford, James	Basso, Ray ; Mugdan, Walter	2/3/2014	Re: Potential Qs	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00007374	Mugdan, Walter	Woolford, James ; Basso, Ray	2/2/2014	Re: Potential Qs	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007375	Woolford, James	Mugdan, Walter Basso, Ray	2/2/2014	Fw: Potential Qs	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007376	Woolford, James	Stanislaus, Mathy; Breen, Barry; Feldt, Lisa; Corman, Bicky; Lynch, Mary-Kay; DeLeon, Rafae ; Stalcup, Dana; Patterson, Kenneth; Thompson, BrianK	1/31/2014	Fw: Privileged--Passaic River content [Brief-out on CPG bioaccumulation modeling code]	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007377			1/31/2014	CPG-Bio-Model-Burkhard-Comments_Final.docx	Exemption 5: Deliberative process/predecisional and deliberative
DASS00007379	Woolford, James	Basso, Ray	1/31/2014	Re: Meeting Request	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00007381	Legare, Amy	Basso, Ray ; Yeh, Alice	1/30/2014	FW: Passaic River memo	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007382			1/30/2014	rrb Passaic Lower 1.17.14.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007383	Legare, Amy	Yeh, Alice ; Basso, Ray	1/30/2014	FW: Passaic River memo	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00007385	Woolford, James B382	Basso, Ray ; Mugdan, Walter	1/28/2014	Re: Passaic - Not urgent and it may be a short response.	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00007386	Woolford, James	Mugdan, Walter	1/28/2014	RE: Passaic - Not urgent and it may be a short response.	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00007387	Mugdan, Walter	Woolford, James ; Ammon, Doug	1/27/2014	RE: Mathys wants	Exemption 5: Deliberative process/predecisional and deliberative.

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DASS00007393	Karlen, Delmar	Salo, Earl ; Openchowski, Charles ; Michaud, John	1/27/2014	Passaic - a couple of points raised during our telephone conversation.	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007394	Mugdan, Walter	Feldt, Lisa	1/27/2014	FW: Privileged--Passaic River content [Brief-out on CPG bioaccumulation modeling code]	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00007397	Woolford, James	Mugdan, Walter ; Basso, Ray ; Yeh, Alice ; Schaaf, Eric	1/24/2014	Fw: Privileged--Passaic River content [Brief-out on CPG bioaccumulation modeling code]	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00007398	Mugdan, Walter	Woolford, James	1/24/2014	RE: Passaic River Briefing Materials	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007603	Flanagan, Sarah	Thompson, BrianK ; Hick, Patricia	12/11/2013	RE: Regional Briefing on Passaic River	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007604	Flanagan, Sarah	Thompson, BrianK	12/6/2013	RE: Diamond Alkali Passaic River Briefing	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007605	Flanagan, Sarah	Thompson, BrianK	12/5/2013	RE: Diamond Alkali Passaic River Briefing	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007606	Flanagan, Sarah	Thompson, BrianK	12/5/2013	Diamond Alkali Passaic River Briefing	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007607	Flanagan, Sarah	Fishburn, Meredith ; Hick, Patricia	12/5/2013	RE: Passaic Briefing on Thursday	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007608	Flanagan, Sarah	Fishburn, Meredith ; Hick, Patricia	12/4/2013	RE: Passaic Briefing on Thursday	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.

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DASS00007609	Flanagan, Sarah	Fishburn, Meredith ; Hick, Patricia	12/4/2013	RE: Passaic Briefing on Thursday	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00007610	Flanagan, Sarah	Fishburn, Meredith ; Hick, Patricia	12/3/2013	RE: Passaic Briefing on Thursday	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00007611	Flanagan, Sarah	Fishburn, Meredith ; Hick, Patricia	12/3/2013	RE: Passaic Briefing on Thursday	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00007612	Flanagan, Sarah	Fishburn, Meredith ; Thompson, BrianK	11/27/2013	RE: Diamond Alkali - Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00007613	Flanagan, Sarah	Fishburn, Meredith ; Thompson, BrianK	11/26/2013	Diamond Alkali - Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00007956	Woolford, James	Mugdan, Walter ; Basso, Ray	1/17/2014	Fw: Comments on the Passaic Lower 8 Miles (Diamond Alkali Site)	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00007957	Ells, Steve	Mugdan, Walter	1/16/2014	FW: Passaic - Walter's comments	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00007958	Karlen, Delmar	Salo, Earl	1/16/2014	Response to one of Mary Kay Lynch's Questions	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007959	Mugdan, Walter	Woolford, James	1/15/2014	Today's Passaic meeting	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00007960	Ells, Steve	Legare, Amy ; Yeh, Alice	1/15/2014	RE: Draft NRRB response memo	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00007965	Woolford, James	Mugdan, Walter	1/14/2014	Re: More on Passaic	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007971	Walter Mugdan	Woolford, James	1/3/2014	Passaic	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00007975	Mugdan, Walter	Fine, Ellyn ; Woolford, James	12/30/2013	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007976	Fine, Ellyn	Woolford, James ; Mugdan, Walter	12/30/2013	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007977	Woolford, James	Mugdan, Walter	12/27/2013	Re: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007978	Mugdan, Walter	Woolford, James	12/27/2013	Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007982			12/16/2013	Woolford briefing 120513.pptx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007983			12/16/2013	Sediment Texture Maps Rev 2013-07-15.pdf	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007984			12/16/2013	FF5 Chapter 4 Model Trajectory Plots 12_04_2013 1995-2059.pdf	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007987	Legare, Amy	Basso, Ray ; Yeh, Alice	11/26/2013	FW: Passaic meeting - any agenda items?	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00007988	Legare, Amy	Yeh, Alice ; Basso, Ray	11/26/2013	RE: Got your VM - FW: Passaic - status of agenda	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007989	Yeh, Alice	Basso, Ray ; Legare, Amy	11/26/2013	RE: Got your VM - FW: Passaic - status of agenda	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00008084			3/24/2014	PRAP-DRAFT%20March%2024%20%-%20Basso%20and%20WM_%20sf%20rev.docx	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00025007	Salo, Earl	Karlen, Delmar	3/25/2014	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025008	Openchowski, Charles	Salo, Earl ; Karlen, Delmar	3/25/2014	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025029	Schaaf, Eric	Starfield, Lawrence	3/12/2014	RE: Passaic River	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025037	Gardner, Monica	Woolford, James	3/12/2014	FW: Passaic River	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025038	Starfield, Lawrence	Schaaf, Eric	3/12/2014	RE: Passaic River	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025039	Schaaf, Eric	Starfield, Lawrence	3/12/2014	RE: Passaic River	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025042	Lynch, Mary-Kay	Karlen, Delmar	2/21/2014	Re: Passaic = State Letter	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00025044	Lynch, Mary-Kay	Karlen, Delmar	2/18/2014	RE: passaic river remedy	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025045	Lynch, Mary-Kay	Karlen, Delmar	2/18/2014	passaic river remedy	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.

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DASS00025046			2/18/2014	[case attached to email]	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00025047			2/18/2014	[case attached to email]	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00025072	Salo, Earl	Karlen, Delmar	2/12/2014	FW: Letter to R2 RA from Co-Chairs of the Passaic River CAG	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025076	Patterson, Kenneth	Lynch, Mary-Kay	2/11/2014	Passaic: Response to CPG letter	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025078	Patterson, Kenneth	Karlen, Delmar ; Schaaf, Eric	2/10/2014	Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00025085	Salo, Earl	Schaaf, Eric ; Karlen, Delmar	2/7/2014	FW: Lower Passaic follow up letter	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00025087			2/7/2014	Lower Passaic River FFS.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025089	Salo, Earl	Mugdan, Walter	2/6/2014	RE: passaic river remedy	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025090	Lynch, Mary-Kay	Schaaf, Eric ; Karlen, Delmar	1/31/2014	FW: Meeting Request	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00025091	Michaud, John	Karlen, Delmar ; Salo, Earl ; Openchowski, Charles	1/29/2014	RE: Passaic Briefing Paper for the Administrator	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025094	Salo, Earl	Karlen, Delmar	1/27/2014	FW: Passaic River Briefing Materials	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025100	Mugdan, Walter	Woolford, James	1/23/2014	Passaic	Exemption 5: Attorney-client communications; predecisional and deliberative.
DASS00025102	Lynch, Mary-Kay	Karlen, Delmar	1/21/2014	Re: Response to Mary Kay's Other Question re the navigation channel	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025104	Karlen, Delmar	Salo, Earl	1/21/2014	RE: Passaic River – follow-up on your navigation channel question	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025109	Salo, Earl	Karlen, Delmar	1/17/2014	FW: Passaic River – follow-up on your navigation channel question	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025111	Thompson, BrianK	Karlen, Delmar	1/16/2014	RE: Response to one of Mary Kay Lynch's Questions	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025112	Thompson, Brian	Thompson, BrianK	1/13/2014	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025114	Thompson, BrianK	Karlen, Delmar	1/13/2014	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025131	Patterson, Kenneth	Khoury, Lynn ; Raicaldo, Doreen ; Bailey, Ethel	12/11/2013	RE: Regional Briefing on Passaic River	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.

Documents Withheld
FOIA No. EPA-R2-2014-005768

Doc ID Beg	Email From	Email To	Sent Date	Subject/File name	Exemption Explanation
DASS00025132	Patterson, Kenneth	DeLeon, Rafael ; Bailey, Ethel >; Gardner, Monica	12/10/2013	Re: Regional Briefing on Passaic River	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00025133	Patterson, Kenneth	DeLeon, Rafael ; Bailey, Ethel ; Gardner, Monica	12/9/2013	Regional Briefing on Passaic River	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00025134	Karlen, Delmar	Salo, Earl ; Openchowski, Charles ; Michaud, John; Lynch, Mary-Kay	3/26/2014	CORRECTION re Passaic materials	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
OASS00025138	Karlen, Delmar	Breen, Barry	2/21/2014	FW: Passaic FFS and Proposed Plan - Ownership of the Bottom of Newark Bay	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025145	Karlen, Delmar	Lynch, Mary-Kay	2/18/2014	RE: passaic river remedy	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00025147	Karlen, Delmar	Salo, Earl	2/7/2014	RE: Lower Passaic follow up letter	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
OASS00025150	Karlen, Delmar	Michaud, John	1/29/2014	FW: Final Passaic River Briefing Package for Administrator	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025154	Karlen, Delmar	Salo, Earl	1/21/2014	FW: Response to Mary Kay's Other Question re the navigation channel	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025156	Karlen, Delmar	Thompson, BrianK	1/16/2014	FW: Response to Mary Kay's Other Question re the navigation channel	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

Documents Withheld
FOIA No. EPA-R2-2014-005768

Doc ID Beg	Email From	Email To	Sent Date	Subject/File name	Exemption Explanation
DASS00025157	Karlen, Delmar	Thompson, BrianK	1/16/2014	FW: Response to one of Mary Kay Lynch's Questions	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025160	Karlen, Delmar	Thompson, BrianK ; Lammie, Benjamin	1/14/2014	FW: Conversation with OGC re: Passaic Proposed Plan	Exemption 5: Attorney-client communications.
DASS00025161	Karlen, Delmar	Enck, Judith ; Schaaf, Eric	1/14/2014	RE: Conversation with OGC re: Passaic Proposed Plan	Exemption 5: Attorney-client communications.
DASS00025162	Karlen, Delmar	Thompson, BrianK	1/14/2014	FW: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025163	Karlen, Delmar	Thompson, BrianK	1/13/2014	FW: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025165	Karlen, Delmar	DeLeon, Rafael ; Bailey, Ethel; Gardner, Monica	12/9/2013	RE: Regional Briefing on Passaic River Correction regarding dates	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASSQ800000007	Yeh, Alice	Legare, Amy	4/10/2014	FW: Edit to NRRB ecological risk recommendation	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASSQ800000010	Yeh, Alice	Legare, Amy	4/10/2014	FW: Edit to NRRB ecological risk recommendation	attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASSQ800000019	Legare, Amy	Yeh, Alice ; Basso, Ray	4/7/2014	Edit to NRRB ecological risk recommendation	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASSQ800000020	Legare, Amy	Yeh, Alice	4/2/2014	RE: Draft NRRB response	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

Documents Withheld
FOIA No. EPA-R2-2014-005768

Doc ID Beg	Email From	Email To	Sent Date	Subject/File name	Exemption Explanation
DASSQ800000052	Ells, Steve	Legare, Amy ; Yeh, Alice	1/15/2014	RE: Draft NRRB response memo	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASSQ800000068			12/20/2013	Proposed Plan text-120213 draft7-R2-response to HQs comments.docx	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASSQ800000073			12/20/2013	FFS Tables and Figures - LPR Proposed Plan.pdf	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASSQ800000075			12/20/2013	RI Tables and Figures - LPR Proposed Plan.pdf	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASSQ800000077			12/20/2013	Proposed Plan text-121813 draft8-to Partners.docx	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASSQ800000078			12/20/2013	FFS Appendix A DER6 Figures-LPR Proposed Plan.pdf	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASSQ800000092			10/24/2013	Proposed Plan text-091213 draft6-to HQs al.docx	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASSQ800000096			10/21/2013	Proposed Plan text-091213 draft6-to HQs.docx	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASSQ800000114	Yeh, Alice	Ells, Steve	3/6/2013	FW: Modeling Peer Review Mid-Point Teleconference - Response to Issues	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative

Documents Withheld
FOIA No. EPA-R2-2014-005768

Doc ID Beg	Email From	Email To	Sent Date	Subject/File name	Exemption Explanation
DASSQ800000117	Yeh, Alice	Ells, Steve	3/6/2013	FW: Modeling Peer Review Mid-Point Teleconference - Response to Issues	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASSQ800000118			3/6/2013	max_daily_avg_and_peak_flows.pdf	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
OASSQ800000122	Yeh, Alice	Ells, Steve	3/5/2013	FW: Modeling Peer Review Mid-Point Teleconference - Response to Issues	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
OASSQ800000124			3/5/2013	Mid Point Teleconference Response Matrix.docx	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASSQ800000125			3/5/2013	Tseng-Oconnor22Mar10TechMemo.pdf	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
OASSQ800000179	Legare, Amy	Yeh, Alice	3/12/2013	RE: NRRB recommendations for Passaic?	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
OASSQ800000180			3/12/2013	Passaic Lower 8 draft 6.docx	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
FOIA_05768_00009 001			6/4/01	crabpaper.kkp.doc	Exemption 5: deliberative process/predecisional and deliberative.
FOIA_05768_00009 003			1/6/11	Final draft Crab MS 1-6-11.doc	Exemption 5: deliberative process/predecisional and deliberative.
FOIA_05768_00009 012				NJBlueCrabReport_063003.pdf.pdf	Exemption 5: deliberative process/predecisional and deliberative.
FOIA_05768_00009 013	Olsen, Marian	Vaughn, Stephanie	2/3/12	Re: FW: Revisions to Attachment A	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

Documents Withheld
FOIA No. EPA-R2-2014-005768

Doc ID Beg	Email From	Email To	Sent Date	Subject/File name	Exemption Explanation
FOIA_05768_00009 014	Vaughn, Stephanie	Yeh, Alice	8/10/10	Summary of 8/10/10 agency-only risk meeting	Exemption 5: Deliberative process/predecisional and deliberative.
FOIA_05768_00009 015				2012-01-25 Fish-Crab Ingestion Tech Memo.docx	Exemption 5: Deliberative process/predecisional and deliberative.
FOIA_05768_00009 016	Yeh, Alice	Olsen, Marian	2/11/13	Fw: Passaic River-DEP issues and request for meeting	Exemption 5: deliberative process/predecisional and deliberative.
FOIA_05768_00009 017	Carpenter, Kristin	Vaughn, Stephanie	1/17/12	Re: Burger raw data & calculations - for discussion	Exemption 5: Deliberative process/predecisional and deliberative.
FOIA_05768_00009 018	Vaughn, Stephanie	Carpenter, Kristin	1/26/12	Re: Draft - revised fish & crab ingestion tech memo	Exemption 5: Attorney-client communications; deliberative process/predecisional and deliberative.
FOIA_05768_00009 019	Vaughn, Stephanie	MacGregor, Janine	1/26/12	Re: Update on Passaic Dispute Resolution	Exemption 5: Deliberative process/predecisional and deliberative.
FOIA_05768_00009 020	Vaughn, Stephanie	MacGregor, Janine	1/26/12	Update on Passaic Dispute Resolution	Exemption 5: Deliberative process/predecisional and deliberative.
FOIA_05768_00009 021	Cullen, Linda	Olsen, Marian	1/30/09	Re: Passaic River Risk Assessment	Exemption 5: Deliberative process/predecisional and deliberative.
FOIA_05768_00009 022	Cullen, Linda	Olsen, Marian	1/30/09	Re: Passaic River Risk Assessment	Exemption 5: Deliberative process/predecisional and deliberative.
FOIA_05768_00009 023			3/11/04	Passaic River Human Helath Risk Assessment: Questions Related to the Sampling, Analysis, and Ingestion of Crab and Fish	Exemption 5: Deliberative process/predecisional and deliberative.
FOIA_05768_00009 024			1/29/09	Passaic River Human Health Risk Assessment: Questions Related to the Sampling, Analysis, and Ingestion of Crab and Fish	Exemption 5: Deliberative process/predecisional and deliberative.

EXHIBIT D

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
GENERAL COUNSEL

November 12, 2014

RECEIVED
NOV 18 2014

William Hyatt
K & L Gates LLP
1085 Raymond Blvd.
Newark, NJ 07102-5252

Re: Freedom of Information Act Request R2-2014-005768 (APP-2015-001368)

Dear Mr. Hyatt:

This letter is being sent to acknowledge receipt of your FOIA appeal received in the Office of General Counsel on November 10, 2014.

Sincerely,

Barbara Bruce

Barbara Bruce
FOIA Specialist
General Law Office

EXHIBIT E

K&L GATES

K&L GATES LLP
ONE NEWARK CENTER
TENTH FLOOR
NEWARK, NJ 07102
T +1 973 848 4000 F +1 973 848 4001 klgates.com

William H. Hyatt, Jr.
973.848.4045
F: 973.848.4001
william.hyatt@klgates.com

February 4, 2015

Via Electronic (hq.foia@epa.gov) and Regular Mail

National Freedom of Information Officer
U.S. Environmental Protection Agency
FOIA and Privacy Branch
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460

Re: Lower Passaic River Study Area
Freedom of Information Act Appeal: EPA-R2-2014-06018

Dear Sir/Madam:

Our firm represents the Cooperating Parties Group ("CPG") with respect to the Lower Passaic River Study Area ("LPRSA"). I am writing to appeal Freedom of Information Act Request ("FOIA Request") EPA-R2-2014-06018 submitted to the United States Environmental Protection Agency ("EPA") Region 2 on April 28, 2014, in relation to EPA's Proposed Plan for the lower eight miles of the LPRSA ("Proposed Plan"). A copy of the FOIA Request is enclosed.

The FOIA Request requested the following:

> [A]ny and all emails, correspondence, and other documents relating to: (1) EPA's 2008 Conceptual Site Model ("CSM") and Empirical Mass Balance Model ("EMBM") developed as part of the LPRSA lower 8 mile Focused Feasibility Study ("FFS") and any comments, revisions or changes to the CSM that were considered by EPA in the development and issuance of the Proposed Plan for the lower 8 miles of the LPRSA; and (2) EPA's June 2008 peer review of the CSM and EMBM.

EPA provided interim releases of information related to this FOIA Request on or around May 27, 2014 and November 25, 2014. EPA sent a letter to the CPG dated January 5, 2015, which provides that all responsive information to this request has been released. Although EPA provided the June 2008 peer review of the CSM and EMBM responsive to part (2) of the FOIA Request, the CPG does not believe that EPA has adequately and fully responded to part (1) of the request, and, therefore, submits this appeal with regard to this part.

Specifically, EPA has failed to provide the 2008 CSM and EMBM developed as part of the FFS and Proposed Plan, or to provide comments, revisions or changes to the CSM that were considered by EPA in the development and issuance of the Proposed Plan. Such information is critical for the CPG and the public to understand the basis for the Proposed Plan and the development of EPA's CSM from the time of EPA's initial release of the draft FFS in 2007 through its release of the revised FFS and Proposed Plan in April 2014. It is also critical for the CPG to review and understand EPA's position with respect to these

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matters as the CPG works to complete the remedial investigation/feasibility study ("RI/FS") of the full 17-mile LPRSA pursuant to the May 2007 Administrative Agreement and Order on Consent for Remedial Investigation/Feasibility Study – CERCLA Docket No. 02-2007-2009. Instead, EPA provided limited and largely non-substantive correspondence, including materials that were submitted by the CPG to EPA.

Further, EPA withheld responsive information to this FOIA Request as outlined in a 15-page withholding log. The withholding log includes the following categories: quantity/type of document; email from/generated by; email to/recipient of; sent month-year; subject of documents; and exemption status. Each of the documents was withheld on the basis of Exemption 5 of FOIA. However, the CPG believes that the type of information requested would not be generally protected in civil discovery. *See Burka v. U.S. Dep't of Health and Human Services*, 87 F.3d 508 (D.C. Cir. 1996). Based on the limited information provided in the withholding log, it appears that many of the documents withheld are directly responsive to the FOIA Request. For example, there are 63 emails and documents created in 2010 related to, among other things, the "FFS CSM" and "Integration of CPG data into CSM." There are also 19 emails and documents created in 2011 related to, among other things, the "Draft CSM" and "EMB and Numerical Model." Further, it is difficult to ascertain the quantity and type of documents withheld as they are grouped into broad categories with limited descriptions. For example, there are 86 emails and documents transmitted in 2008 related to, among other things, the EMBM comments; CSTAG memo edits, Passaic modeling, resuspension evaluation, and CSM peer review members. Other categories are grouped in as high as over 200 emails and documents. In addition, there was correspondence labeled as exempt under attorney-client communications, but that was not sent among attorneys. Thus, the CPG does not believe that EPA has met its burden to justify its decision to withhold the documents.

As the CPG has advised Region 2, most, if not all, of the outstanding requested documents should have been considered by EPA as part of its supporting analysis in preparation of the Proposed Plan and FFS. Therefore, this information should have been part of the administrative record. However, because it was not part of the administrative record, the CPG and other members of the public were not able to adequately comment on all aspects of the Proposed Plan and FFS by the August 20, 2014 deadline. Further, since such information has still not been provided, the CPG and the public remain unable to fully understand the basis for the Proposed Plan.

Very truly yours,

William H. Hyatt, Jr.

Enclosures

cc: Sarah P. Flanagan, Esq., EPA Region 2, Assistant Regional Counsel (via electronic mail)

Request Details

Tracking Number : *EPA-R2-2014-006018*

	Submitted	Evaluation	Assignment	Processing
Request Information				
Full Name : Robert Paul La Gravenis			Date Submitted : 04/28/2014	Closed
Organization : K&L Gates LLP			Closed Date : 01/07/2015	
			Final Disposition : Partial grant/partial denial	

Description :

United States Environmental Protection Agency
Region 2
Freedom of Information Officer
U.S. EPA Region 2
290 Broadway, 26th Floor
New York, NY 10007-1866
Re: Lower Passaic River Study Area Superfund Site

To Whom It May Concern:

I am submitting this document request pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 et seq. This request concerns the United States Environmental Protection Agency's ("EPA") files relating to the Diamond Alkali Superfund Site (the "Site") which includes the former pesticides manufacturing plant and surrounding properties at 80 and 120 Lister Avenue in Newark, New Jersey, the Lower Passaic River Study Area ("LPRSA") and the Newark Bay Study Area. The EPA Site ID number is NJD980528996.

Specifically, I request copies of any and all emails, correspondence, and other documents relating to: (1) EPA's 2008 Conceptual Site Model ("CSM") and Empirical Mass Balance Model ("EMBM") developed as part of the LPRSA lower 8 mile Focused Feasibility Study ("FFS") and any comments, revisions or changes to the CSM that were considered by EPA in the development and issuance of the Proposed Plan for the lower 8 miles of the LPRSA;

and (2) EPA's June 2008 peer review of the CSM and EMBM.

I would ask that you contact me at your earliest convenience to discuss arrangements for providing the requested documents. This firm will assume financial responsibility for any necessary copying and/or shipping charges. Your prompt attention to this matter is greatly appreciated. Thank you for your anticipated cooperation.

Sincerely,

Robert Paul La Gravenis

Senior Paralegal
K&L Gates LLP
One Newark Center, 11th Floor
Newark, NJ 07102
robertpaul.lagravenis@klgates.com

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Download	Title	Type	Size (MB)	Release Date	Released With

694 records found, displaying 1 to 50. 1 2 3 4 5

La Gravenis, Robert Paul

From: calderon.wanda@epa.gov
Sent: Monday, April 28, 2014 3:55 PM
To: La Gravenis, Robert Paul
Subject: FOIA Request EPA-R2-2014-006018 Submitted

This message is to confirm your request submission to the FOIAonline application: View Request. Request information is as follows:

- Tracking Number: EPA-R2-2014-006018
- Requester Name: Robert Paul La Gravenis
- Date Submitted: Mon Apr 28 15:54:25 EDT 2014
- Request Status: Submitted
- Description: United States Environmental Protection Agency
  Region 2
  Freedom of Information Officer
  U.S. EPA Region 2
  290 Broadway, 26th Floor
  New York, NY 10007-1866
  Re: Lower Passaic River Study Area Superfund Site

  To Whom It May Concern:

  I am submitting this document request pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 et seq. This request concerns the United States Environmental Protection Agency's ("EPA") files relating to the Diamond Alkali Superfund Site (the "Site") which includes the former pesticides manufacturing plant and surrounding properties at 80 and 120 Lister Avenue in Newark, New Jersey, the Lower Passaic River Study Area ("LPRSA") and the Newark Bay Study Area. The EPA Site ID number is NJD980528996.

  Specifically, I request copies of any and all emails, correspondence, and other documents relating to: (1) EPA's 2008 Conceptual Site Model ("CSM") and Empirical Mass Balance Model ("EMBM") developed as part of the LPRSA lower 8 mile Focused Feasibility Study ("FFS") and any comments, revisions or changes to the CSM that were considered by EPA in the development and issuance of the Proposed Plan for the lower 8 miles of the LPRSA; and (2) EPA's June 2008 peer review of the CSM and EMBM.

  I would ask that you contact me at your earliest convenience to discuss arrangements for providing the requested documents. This firm will assume financial responsibility for any necessary copying and/or shipping charges. Your prompt attention to this matter is greatly appreciated. Thank you for your anticipated cooperation.

  Sincerely,

  Robert Paul La Gravenis

  Senior Paralegal
  K&L Gates LLP
  One Newark Center, 11th Floor

Newark, NJ 07102
robertpaul.lagravenis@klgates.com

EXHIBIT F

K&L GATES

K&L GATES LLP
ONE NEWARK CENTER
TENTH FLOOR
NEWARK, NJ 07102
T +1 973 848 4000 F +1 973 848 4001 klgates.com

William H. Hyatt, Jr.
D 973.848.4045
F 973.848.4001
william.hyatt@klgates.com

November 4, 2014

Via Regular Mail

Sarah P. Flanagan, Esq.
Assistant Regional Counsel
Office of Regional Counsel
U.S. EPA Region 2
290 Broadway
New York, NY 10007

Re: Lower Passaic River Study Area

Dear Sarah:

I am writing in follow-up to my September 19, 2014 letter regarding four Freedom of Information Act ("FOIA") requests submitted by the Cooperating Parties Group ("CPG") with respect to EPA's April 2014 Proposed Plan and supporting Focused Feasibility Study ("FFS"): EPA-R2-2014-005768 - 4/21/14 ("First Request"); EPA-R2-2014-006018 - 4/28/14 ("Second Request"); EPA-R2-2014-006476 - 5/14/14 (amended 5/15/14) ("Third Request"); and EPA-R2-2014-007546 - 6/17/14 ("Fourth Request").

The purpose of this letter is to review the status of each of the FOIA requests and information that remains outstanding as of today's date. The following items are only meant to be examples and do not include an exhaustive list of the inadequacies in EPA's responses:

- First Request - By email dated October 3, 2014, EPA notified the CPG that additional documents were available in response to this request. By email dated October 29, 2014, EPA provided a letter dated October 10, 2013, which states that EPA has now fully responded to this request, except for certain documents that EPA claims are exempt from FOIA. The CPG is in the process of reviewing these additional materials, which contain over 400 documents, but currently does not believe that EPA has adequately and fully responded to this request. Therefore, the CPG will be filing an appeal in accordance with the October 10, 2014 letter.

- Second Request - By email dated October 20, 2014, EPA notified the CPG of an interim release of documents, which included a Mass Balance Modeling Analysis dated 2014 and other correspondence. This request related to: (1) EPA's 2008 CSM and EMBM; and (2) the June 2008 peer review of the CSM and EMBM. While EPA has provided the 2008 CSM Peer Review, the CPG has not yet received the 2008 CSM. EPA has also indicated that the completion date for this request has been extended to the end of November. Please confirm that this document will be provided by the extended due date.

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- Third Request - In addition to the issues outlined in my September 19 letter, the CPG has not received any substantive email communications between Judith Enck and members of the community (on either personal or official email accounts), with the exception of scheduling related issues for a CAG meetings. Please confirm that no such emails exist. Also, please confirm the estimated completion date for this request.

- Fourth Request - By email dated July 14, 2014, EPA notified the CPG that EPA had fully responded to the request. However, the documents provided do not provide the requested information on the basis of NJDEP's trigger levels for dioxin or mercury. This aspect of the FOIA request has not been addressed. Please confirm whether or not such information is available.

CPG reiterates its belief that most, if not all, of these documents should have been considered by EPA as part of its supporting analysis in preparation of the Proposed Plan and FFS. Therefore, this information should have been part of the administrative record. Therefore, the CPG reserves all rights and defenses with respect to payment of any FOIA-related costs. Additionally, because the information should have been part of the administrative record -- but was not -- the CPG, and other members of the public, were not able to adequately comment on all aspects of the Proposed Plan and FFS.

Very truly yours,

William H. Hyatt, Jr.

EXHIBIT G

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II
290 BROADWAY
NEW YORK, NEW YORK 10007-1866

RECEIVED
NOV 19 2014

November 13, 2014

BY ELECTRONIC MAIL & U.S. MAIL

William H. Hyatt, Jr., Esq.
K&L Gates LLP
One Newark Center, Tenth Floor
Newark, NJ 07102-5285

Re: Diamond Alkali – Lower Passaic River Study Area/CPG FOIA Requests

Dear Bill:

This will respond to your letter dated November 4, 2014 referring to four Freedom of Information Act ("FOIA") requests that the Cooperating Parties Group ("CPG") submitted to EPA in the April-June 2014 time frame. Your letter expresses the CPG's dissatisfaction with EPA's responses to those requests.

EPA has been working diligently to respond to the CPG's FOIA requests, along with other FOIA requests we have received related to the Lower Passaic River Study Area ("LPRSA"). A number of these, including some submitted by the CPG, have required us to review many thousands of documents. This has led to extended review periods for some requests. Moreover, EPA is responding through FOIAonline, the web-based application that EPA is now obliged to use. While FOIAonline can be a convenient mechanism for making information available, technical difficulties associated with use of this application have sometimes delayed releases of information.

Your letter notes the discrepancy between the date of the final letter issued with respect to CPG FOIA request EPA-R2-2014-005768, which constituted a partial denial, and the date that you received the letter. The discrepancy was the result of difficulties associated with the use of FOIAonline, which delayed the final release of information and the denial letter. We did not "backdate" the letter, as you state in your appeal (received November 12, 2014 in Region 2), but it is the case that the letter was not re-dated to account for the delay associated with the final release. The approach outlined in the CPG's FOIA appeal – i.e, submitting the appeal on November 7, 2014 with the intention of supplementing it by November 28, 2014, should the CPG determine that it does wish to pursue this course of action – is reasonable.

Regarding CPG FOIA request EPA-R2-2014-006018, your letter asks if EPA will be able to complete our response by the end of November, 2014. That is our intention. For your information, this request, which asks for "any and all emails, correspondence and other

documents relating to (1) EPA's 2008 Conceptual Site Model ("CSM") and Empirical Mass Balance Model ("EMBM") developed as part of the LPRSA lower 8 mile Focused Feasibility Study ("FFS") and any comments, revision or changes to the CSM that were considered by EPA in the development and issuance of the Proposed Plan for the lower 8 miles of the LPRSA; and (2) EPA's June 2008 peer review of the CSM and EMBM," required Region 2 to review close to 10,000 potentially responsive documents.

Regarding CPG FOIA request EPA-R2-2014-006476, your letter indicates that the CPG is dissatisfied with the information that EPA has released to date comprising communications between "any member of the public and Judith Enck, including any alter egos or aliases of Administrator Enck" regarding the LPRSA. You ask that EPA confirm that no "substantive email communications between Judith Enck and members of the community" exist. Region 2 has provided information responsive to this FOIA request, and we continue to review and provide responsive information. Opining whether the communications we release are substantive or not seems to go beyond the scope of our FOIA review. The CPG also asks for the date by which Region 2 will complete its response to this request. We anticipate that we will be able to complete our response by December 31, 2014. We are planning to release additional documents in the interim. For your information, this FOIA request resulted in a collection of over 10,000 documents, and at least 7,000 remain to be reviewed.

Finally, regarding CPG request EPA-R2-2014-007546, your letter states that EPA did not provide certain specific information that the CPG requested "on the basis for NJDEP's trigger levels for dioxin or mercury." Region 2 completed its response to this FOIA request, as set forth in its letter dated July 1, 2014, which the CPG reportedly received July 14, 2014. All responsive information identified in our search was released.

I hope this information is helpful.

Sincerely,

Sarah P. Flanagan

Sarah P. Flanagan
Assistant Regional Counsel

cc: R. Basso, ERRD
A Yeh, ERRD
P. Hick, ORC

EXHIBIT H

K&L GATES

K&L GATES LLP
ONE NEWARK CENTER
TENTH FLOOR
NEWARK, NJ 07102
T +1 973 848 4000 F +1 973 848 4001 klgates.com

William H. Hyatt, Jr.
973.848.4045
F: 973.848.4001
william.hyatt@klgates.com

April 17, 2015

Via Electronic (hq.foia@epa.gov) and Hand Delivery

National Freedom of Information Officer
U.S. Environmental Protection Agency
FOIA and Privacy Branch
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460

Re: Lower Passaic River Study Area
Freedom of Information Act Appeal: EPA-R2-2014-006476

Dear Sir/Madam:

Our firm represents the Cooperating Parties Group ("CPG") with respect to the Lower Passaic River Study Area ("LPRSA"). I am writing to appeal Freedom of Information Act Request ("FOIA Request") EPA-R2-2014-006476 submitted to the United States Environmental Protection Agency ("EPA") Region 2 on May 14, 2014, in relation to EPA's Proposed Plan for the lower eight miles of the LPRSA ("Proposed Plan"). A copy of the FOIA Request is enclosed.

The FOIA Request requested the following:

1. An accounting of funds spent and/or committed to be spent in developing the April 11, 2014 Proposed Plan (PP) for the Lower 8 Miles of the Lower Passaic River Study Area (LPRSA) and the reports and appendices thereto, including but not limited to the Remedial Investigation (RI) and Focused Feasibility Study (FFS).

2. Any authorization for expenditure of funds for the PP and the reports and appendices thereto.

3. All comments to the National Remedy Review Board (NRRB) from the partner agencies (NOAA, FWS, State of NJ) sent to EPA for transmittal to the NRRB and any EPA responses to such comments.

4. Any and all communications regarding the LPRSA between: (1) Any U.S. EPA personnel and any member of the Community Advisory Group or any other person purporting to be a representative of the community; and (2) Any member of the

public and Judith Enck, including any alter egos or aliases of Administrator Enck. This information would include but not be limited to all letters, email (both official accounts and personal accounts used for official business), and any notes, records, reports, summaries or memoranda taken during or prepared after communications with members of the public relating to the LPRSA.

5. The following items related to the public hearing on the PP, held by EPA in Newark, NJ on May 7, 2014 (Hearing): (1) video and/or other recordings taken during the Hearing; (2) a transcript of the Hearing; (3) Sign-in sheets for participants at the Hearing; (4) Communications between Region 2 and members of the public regarding preparations for the Hearing (to the extent not covered by request (4)); and (5) Any petitions available for signature during the Hearing.

6. Any documents relating to the designation of any portion of the Diamond Alkali Superfund Site as an operable unit.

7. The sample identification numbers and chemistry for the four core samples, four grab samples and two dam catchment samples that EPA uses to define upriver (above the Dundee Dam) surface sediment background conditions.

EPA provided interim releases of information related to this FOIA Request on or around June 17, 2014. EPA sent a letter to the CPG dated March 20, 2015, which provides that all responsive information to this request has been released. Although the CPG understands that EPA has provided documents that respond to parts (3), (5), and (7) of the Request, the CPG does not believe that EPA has adequately and fully responded to parts (1), (2), (4), and (6) of the Request, and, therefore, submits this appeal with regard to these parts.

Specifically, EPA has failed to provide an accounting of funds spent or committed to be spent in developing the Proposed Plan and the reports and appendices thereto, including but not limited to the Remedial Investigation and Focused Feasibility Study. EPA has also failed to provide documents authorizing the expenditure of funds for the Proposed Plan. No documents were provided that explain EPA's decision to designate of any portion of the Diamond Alkali Superfund Site as an operable unit. The CPG first learned of EPA's designation of the lower eight miles of the LPRSA as an operable unit from EPA's Proposed Plan and has not received any meaningful explanation as to the basis for this designation.

Although EPA did produce Judith Enck's general emails to the Passaic River Community Advisory Group, EPA did not produce Administrator Enck's personal communications with members of the public. An enclosed Minority Staff Report of the Senate Environment Committee states that watchdog groups have uncovered Administrator

K&L GATES

Enck using her personal email to communicate with environmentalists in violation of EPA policy and that the EPA's Office of the Investigator General (OIG) has confirmed that Administrator Enck is the subject of an OIG inquiry.[1] In light of this information, the CPG requests that EPA either produce Administrator Enck's personal communications with members of the public, whether sent from an official account or a personal account used for official business, or confirm that no such correspondence exists.

The information requested in parts (1), (2), (4), and (6) of the Request is critical for the CPG and the public to understand the basis for the Proposed Plan and the development of EPA's Conceptual Site Model from the time of EPA's initial release of the draft FFS in 2007 through its release of the revised FFS and Proposed Plan in April 2014. It is also critical for the CPG to review and understand EPA's position with respect to these matters as the CPG works to complete the remedial investigation/feasibility study ("RI/FS") of the full 17-mile LPRSA pursuant to the May 2007 Administrative Agreement and Order on Consent for Remedial Investigation/Feasibility Study – CERCLA Docket No. 02-2007-2009.

Very truly yours,

William H. Hyatt, Jr.

Enclosures
cc: Sarah P. Flanagan, Esq., EPA Region 2, Assistant Regional Counsel (via electronic mail)

[1] Two media accounts related to these issues are also enclosed.

EXHIBIT I

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II
290 BROADWAY
NEW YORK, NEW YORK 10007-1866

June 19, 2014

BY ELECTRONIC MAIL & U.S. MAIL

William H. Hyatt, Jr., Esq.
K&L Gates LLP
One Newark Center, Tenth Floor
Newark, NJ 07102-5285

Re: Diamond Alkali – Lower Passaic River Study Area/CPG FOIA Requests

Dear Bill:

This will respond to your letter dated June 17, 2014 referring to the four Freedom of Information Act ("FOIA") requests that the Cooperating Parties Group ("CPG") has submitted to EPA in the last two months (the most recent submitted on June 17, 2014, the date of your letter) and asking that EPA expedite its response to some portions of the requests.

Your letter expresses concern with the time required for EPA to prepare a complete response to all four FOIA requests. Putting aside the request that was submitted just two days ago, it can be observed that the first three requests, taken together, include over 20 items, some seeking specific information in very specific formats, and some seeking very broad categories of information that will require searching years' worth of electronic and paper files. Moreover, submitting three broad information requests in close succession has increased the administrative and logistical burden in responding to the requests.

Nonetheless, EPA has processed the CPG's FOIA requests in a timely manner. EPA has already provided responsive information and has informed you of our currently-anticipated schedule for providing additional information. EPA released information on May 27, 2014 in response to your first request (EPA-r2-2014-005758) and your second request (EPA-r2-2014-006018), and on June 17, 2014 in response to your third request (EPA-r2-2014-006476). In doing so, we have addressed three of the four items you identify as the CPG's priorities:

- EPA provided information responsive to the second priority identified in your June 17, 2014 letter, which is #7 in your third FOIA request. Alice Yeh's letter to Rob LaGravenis, released as part of the interim response on June 17, 2014, informed the CPG that information responsive to #7 publicly available in Table 3-3 of Data Evaluation Report Number 2 in Appendix A of the Remedial Investigation and Focused Feasibility Study ("RI/FFS").

- EPA provided information responsive to the third priority identified in your June 17, 2014 letter, which is #3 in your first FOIA request. Ms. Yeh's letter to Mr. LaGravenis, released as part of the interim response on May 27, 2014, informed the CPG that data files requested in #3 are posted in the Digital Library on OurPassaic.org, under "Passaic River/Newark Bay Datasets." EPA explained that the sample identification numbers and associated information needed to create the ProUCL input files are in Attachment 1 to Appendix D to the RI/FFS.

- EPA provided information responsive to the fourth priority identified in your letter, which is #4 in your first FOIA request. Ms. Yeh's letter to Mr. LaGravenis, released as part of the interim response on May 27, 2014, informed the CPG that the technical basis requested in #4 is provided in Table 5-2 and associated text in Appendix D to the RI/FFS. EPA provided the model files and results to the CPG in March 2014.

Your letter states that the information that EPA has provided is "of limited value." This statement is puzzling, since EPA is merely responding to the CPG requests; as noted, we have addressed three of your top four priorities, and we expect to address the fourth one shortly. EPA will continue gathering, reviewing and releasing information responsive to the CPG's FOIA requests as we have been doing.

As to whether the CPG "requires EPA's full and complete response" to all its FOIA requests in order to prepare comments on the Proposed Plan for the Lower Eight Miles, you made similar assertion in your letters to Judith Enck and Walter Mugdan, dated May 15, 2014 and May 27, 2014, respectively. However, as stated by Mr. Mugdan, the CPG's submission of multiple FOIA requests is not a basis for extending the comment period. The Proposed Plan and the documents in the administrative record file (where a number of the documents requested by the CPG are found) should inform the CPG and the public about the alternatives that EPA has evaluated, including EPA's preferred alternative.

Sincerely,

Sarah P. Flanagan

Sarah P. Flanagan
Assistant Regional Counsel

cc: R. Basso, ERRD
A Yeh, ERRD
P. Hick, ORC

EXHIBIT J

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

February 13, 2014

Mr. Christopher C. Horner
Competitive Enterprise Institute
1899 L Street, NW
Suite 1200
Washington, DC 20036

RE: Freedom of Information Act (FOIA) EPA-R2-2014-1585
Ms. Judith Enck Non-official email account(s)

Dear Mr. Horner:

This is in response to your FOIA request dated October 15, 2013 received by EPA Region 2 on December 4, 2013 involving the above subject matter. Enclosed you will find responsive materials.

Pages of documents that include redacted responsive material have been annotated by indication of the applicable FOIA exemptions. This includes content exempt from disclosure pursuant to exemption 5, 5 U.S.C. §552(b)(5). This material is privileged deliberative and predecisional substance that encompasses opinions, recommendations and discussion of policy matters, e.g., the content of proposed press releases and thoughts on the status of state agency programs. Other redacted material is personal and private information of no public interest and such has been redacted pursuant to exemption 6, 5 U.S.C. §552(b)(6). This content includes information such as the identities of private individuals who have sought EPA employment and their residence and/or email addresses, and other personal and private email addresses. Wherever possible, nonexempt responsive material has been segregated from exempt content.

You may appeal this partial denial to the National Freedom of Information Officer, U.S. EPA, FOIA and Privacy Branch, 1200 Pennsylvania Avenue, N.W. (2822T), Washington, DC 20460 (U.S. Postal Service Only), FAX: (202) 566-2147, E-mail: FOIA_HQ@epa.gov. Only items mailed through the United States Postal Service may be delivered to 1200 Pennsylvania Avenue, NW. If you are submitting your appeal via hand delivery, courier service or overnight delivery, you must address your correspondence to 1301 Constitution Avenue, N.W., Room 6416J, Washington, DC 20001.

Your appeal must be made in writing, and it must be submitted no later than 30 calendar days from the date of this letter. The Agency will not consider appeals received after the 30 calendar day limit. The appeal letter should include the case number listed above. For quickest possible handling, the appeal letter and its envelope should be marked "Freedom of Information Act Appeal."

Sincerely,

Bonnie Bellow

Bonnie Bellow, Director
Public Affairs Division

Exemption 6

From: [redacted]
To: Enck, Judith
Subject: Fwd: link for EPA Region 2 Director
Date: Tuesday, January 07, 2014 10:45:58 AM

Exemption 6

-----Original Message-----
From: [redacted] <[redacted]
To: Mugdan.Walter <Mugdan.Walter@epamail.epa.gov>
Sent: Wed, Jun 16, 2010 8:45 pm
Subject: Re: link for EPA Region 2 Director

can we talk in detail about sediment washing? some of the nj groups have raised this with me regarding the passaic and the desire to clean up the seident and use it as a bud locally. je

Exemption 6

-----Original Message-----
From: Mugdan.Walter@epamail.epa.gov
To: [redacted]
Sent: Wed, Jun 16, 2010 12:48 pm
Subject: Re: Fwd: link for EPA Region 2 Director

Thanks. We are familiar, of course, with the work that has been done by Eric and his colleagues. Two technologies for treating contaminated sediment were piloted in NJ in recent years -- one was a sediment washing process, the other was essentially an incineration process.

Exemption 6

From: [redacted]
To: Walter Mugdan/R2/USEPA/US@EPA
Date: 06/15/2010 09:03 PM
Subject: Fwd: link for EPA Region 2 Director

walter: a town board member from camillus yesterday mentioned a presentation by eric stern of epa region 2. see attached.
thanks
Judith

Exemption 6

From: gsbowitch@bowitchlaw.com
To: [redacted]
Sent: 6/15/2010 9:58:46 A.M. Eastern Daylight Time
Subj: Fwd: link for EPA Region 2 Director

Judith

On behalf of the Town of Camillus I wish to thank you for your time and your focused attention to the Town's concerns and to our desire to see if innovative technologies can be applied to the Lake cleanup. In that regard, below please find an email from Councilman Philippone which contains links to information regarding sustainable use of contaminated sediments and other related information.

We will wait to hear back from EPA and DEC regarding our request for a short extension of the cleanup schedule to adequately examine other technologies and to obtain resolution of the serious technical concerns which we shared with you at our meeting.

Again, thanks.

Best,

Gary S. Bowitch, Es
Law Office of Gary S. Bowitch
119 Washington Avenue, Albany, NY 12210
Phone: 518.434.0327 I Fax: 518.434.0328 I Cell: 518.527.2232
Please Note Our New Email Address: gsbowitch@bowitchlaw.com

Web: www.bowitchlaw.com

Federal Tax Disclosure and Confidentiality Notice:
In accordance with IRS requirements, we inform you that any Federal tax advice contained in this communication is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein. This electronic mail transmission is intended only for the use of the individual or entity to which it is addressed and may contain confidential information belonging to the sender which is protected by the attorney-client privilege. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or the taking of any action in reliance on the contents of this information is strictly prohibited. If you have received this transmission in error, please notify the sender immediately by e-mail or by phone at 518.434.0327 and delete the original message.

Begin forwarded message:

From: David Philippone <dphilippone@ootandassociates.com>
Date: June 15, 2010 7:12:11 AM EDT
To: Gary Bowitch <gsbowitch@bowitchlaw.com>, town supervisor <macoogan@townofcamillus.com>, Bill Davern <wdavern@twcny.rr.com>, "Callahan, Dave" <dcallahan@davis-callahanco.com>, "Salanger, James" <james.f.salanger@wellsfargoadvisors.com>, Mark Kolinski <mkolinski@immediatemailing.com>, [redacted]
[redacted]
Subject: link for EPA Region 2 Director

Exemption 6

Gary,

Please forward to Judith for me. Eric Stern is the person I asked about yesterday.

http://www.epa.gov/epahome/sciencenb/action_teams/sediments/index.html

and within the page noted above the link to pilots:

http://www.bnl.gov/wrdadcon/publications/reports/report.htm

--
DAVID J. PHILIPPONE, ESQ.
OOT & ASSOCIATES, PLLC
503 EAST WASHINGTON STREET
SYRACUSE, NEW YORK, 13202
1-800-435-9457
WWW.OOTANDASSOCIATES.COM
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=

From: [redacted] Exemption 6
To: Enck, Judith
Subject: Fwd: Hudson River PCBs
Date: Thursday, December 19, 2013 3:05:08 PM

-----Original Message-----
From: [redacted]n>
To: [redacted] Exemption 6
Sent: Sun, Jun 12, 2011 2:49 pm
Subject: Re: Hudson River PCBs

140 miles of the Hudson river was declared a federal superfund site - and it's an estury. same thing with the passaic river. it is slow slow slow, but a much more effective strategy than tmdl's you should talk to whoever heads up the region 9 superfund program. Keith, jared's deputy, is also a good guy and has superfund experience.
I will or in fact your son will order 3 copies of the bagit movie to circulate around epa. I am determined to get dc folks to watch it.
cheers, Judith

In a message dated 6/12/2011 2:42:42 P.M. Eastern Daylight Time, miriamfgordon@comcast.net writes:

> Thanks for that idea. We currently have a project about reforming the TMDL process and we're producing an Action Plan and Strategy for reforming the process in California. I'd like to develop a section on using non-TMDL tools to accomplish waterway cleanup. Who should I talk to about stronger methods for waterway cleanup than TMDLs?
>
> Pretty much the entire SF Bay and Delta are contaminated with PCBs as well as mercury- there are TMDLs for both, but they are weak and the process was very discharger-friendly- that's what sparked our project. I am wondering about how feasible it is to get such a huge estuary designated as a Superfund site- but I am intrigued by the idea. Who would be a good contact for us? I might start with Sam Ziegler in Region IX. I will do a little research on the Hudson River case before I talk to anyone.
>
> Bag-It has been airing around California a lot- I love the movie and have a copy. Haven't figured out an event for us to do around it- but I know we should.
>
> Miriam
>
> ----- Original Message -----
> From: [redacted] Exemption 6
> To: [redacted]
> Sent: Sunday, June 12, 2011 6:16:51 AM
> Subject: Re: Hudson River PCBs
>
> TMDL's are a very weak enforcement mechanism. we didn't rely on it at all. you

need to get that part of the water declared a federal superfund site. sites typically get on the list at the request of the state. so, the state could test the sediment and if it meets sf criteria, ask epa to put it on the fed sf list. it's a very very long process. and they will look for prp's of course. but, the sooner they start the better because the pcb's are probably on the move.
i caught the last half of an excellent movie on pbs called "Bag It" go to www.bagitmovie.com : I plan to show it far and wide
hope all is well. adam is doing great. he's a very poised and sweet young man.
cheers, Judith

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

LOWER PASSAIC RIVER STUDY AREA COOPERATING PARTIES GROUP, *Plaintiff,* vs. U.S. ENVIRONMENTAL PROTECTION AGENCY, *Defendant.*	HON. JOSE L. LINARES *Civil Action No.* 15-cv-7828 (JLL)(JAD) **AFFIDAVIT OF ROBERT PAUL LA GRAVENIS IN SUPPORT OF PLAINTIFF'S RESPONSE TO THE U.S. ENVIRONMENTAL PROTECTION AGENCY'S SUPPLEMENTAL STATEMENT OF MATERIAL FACTS NOT IN DISPUTE**

ROBERT PAUL LA GRAVENIS, having been duly sworn according to law, deposes and states:

1. I am a senior paralegal with the law firm of K&L Gates LLP, which serves as coordinating counsel for Plaintiff Lower Passaic River Study Area Cooperating Parties Group ("CPG") in the above-captioned matter. I respectfully submit this affidavit in support of the CPG's Supplemental Statement of Material Facts Not in Dispute.

2. On or around April 21, 2014, on behalf of the CPG, I submitted a FOIA Request to EPA Region 2 seeking records relating to the Diamond Alkali Superfund Site and the Proposed Plan. Attached as **Exhibit A** is a true and correct copy of the April 21, 2014 submission. Among other information, this request sought records related to bioaccumulation samples; data sets and technical documentation used in regression models, biota analysis, human health and ecological risk assessments, and other reports; and correspondence and documents related to the Contaminated Sediments Technical Advisory Group, Proposed Remedial Action Plan, and Focused Feasibility Study.

3. I received a response from EPA on or around April 21, 2014, confirming receipt of the April 21, 2014 FOIA request, which the EPA identified as EPA-R2-2014-005768. Attached as **Exhibit B** is a true and correct copy of the April 21, 2014 confirmation.

4. On or around October 10, 2014, I received a letter from Eric Schaaf, EPA Regional Counsel for Region 2, stating that information responsive to FOIA request EPA-R2-2014-005768 had been released and that certain documents were publicly available. Attached as **Exhibit C** is a true and correct copy of the October 10, 2014 letter and log of withheld documents. EPA purported that its response to the FOIA request was complete and that EPA was withholding certain responsive information it claimed was exempt from disclosure.

5. According to Mr. Schaaf's October 10, 2014 letter and Log of Withheld Documents, *see* Exhibit C, examples of withheld documents include:

a. `A 2012 e-mail between EPA employees regarding additional site data (DASS00000032, Dec. 5, 2012, re: additional site data for next Wed.).

b. A 2012 ingestion technical memorandum (FOIA_05768_00009015, 2012-01-25 Fish-Crab Ingestion Tech Memo.docx).

c. A 2014 e-mail between EPA employees regarding cost effectiveness (DASS00004239, Jan. 14, 2014, re: Cost effectiveness).

d. A 2014 e-mail between EPA employees regarding a meeting with members of the Community Advisory Group (DASS00003645, Mar. 2, 2014, re: Meeting with Ana Bautista and Debbie Mans, Passaic CAG).

6. On or around April 28, 2014, I submitted a FOIA request on behalf of the CPG with EPA Region 2 seeking records relating to the Diamond Alkali Superfund Site. Attached as **Exhibit D** is a true and correct copy of the April 28, 2014 submission. The request sought the

following:

> [A]ny and all emails, correspondence, and other documents relating to: (1) EPA's 2008 Conceptual Site Model ("CSM") and Empirical Mass Balance Model ("EMBM") developed as part of the LPRSA lower 8 mile Focused Feasibility Study ("FFS") and any comments, revisions or changes to the CSM that were considered by EPA in the development and issuance of the Proposed Plan for the lower 8 miles of the LPRSA; and (2) EPA's June 2008 peer review of the CSM and EMBM.

7. I received a response from EPA on or around April 28, 2014 confirming receipt of the April 28, 2014 FOIA request, which the EPA identified as EPA-R2-2014-006018. Attached as **Exhibit E** is a true and correct copy of the April 28, 2014 confirmation.

8. On or around January 5, 2015, I received a letter and Log of Withheld Documents from Mr. Schaaf of EPA Region 2, stating that EPA had completed its response to the April 28, 2014 FOIA request. Attached as **Exhibit F** is a true and correct copy of the January 5, 2015 letter and log of withheld documents. EPA withheld certain responsive records and claimed that the withheld documents were exempt under the deliberative process privilege, attorney-client privilege, and attorney work-product doctrine and that disclosure would interfere with enforcement proceedings.

9. Per Mr. Schaaf's letter dated January 5, 2015, *see* Exhibit F, examples of the withheld documents include:

a. 2007 memoranda regarding data sources and high resolution cores (11 & 12/2007, Technical Advisory Committee members; Data Sources and High Resolution Cores);

b. 2007 information regarding sampling and modeling data (emails and documents created in 2007, including "Data Sources and High Resolution Cores; Sediment Transport Modeling; Additional Sampling . . . .");

c. "86 emails and documents transmitted in 2008 between EPA-R2 and EPA-HQ, including CSTAG members" that included modeling information (1,2,3,4,5,7,8 & 9/2008); and

d. 2009 Passaic River sampling information ("31 emails and documents created in 2009 within EPA-R2," 1,3,4,6,7,10,11 & 12/2009, Sampling in Passaic Newark Bay . . .).

10. On or around February 6, 2015, I received a letter from Shelly Blair, General Law Office, EPA's Office of General Counsel, acknowledging receipt of the FOIA appeal related to FOIA Request EPA-R2-2014-006018 (HQ-APP-2015-003894). Attached as **Exhibit G** is a true and correct copy of the February 6, 2015 letter.

11. On or around May 14, 2014, I submitted a FOIA request on behalf of the CPG with EPA Region 2 seeking records relating to the Diamond Alkali Superfund Site NJD980528996. Attached as **Exhibit H** is a true and correct copy of the May 14, 2014 submission. Among other things, the request sought records related to funds spent in developing the April 11, 2014 Proposed Plan for the Lower Eight Miles of the Lower Passaic River Study Area; communications about the LPRSA between EPA personnel, including the Region 2 Administrator, Judith Enck, and members of the public or community advisory groups; documents from a public hearing held on May 7, 2014; and records related to the designation of any portion of the Site as an operable unit.

12. On or around May 14, 2014, the EPA confirmed receipt of the May 14, 2014 FOIA request, which the EPA identified as EPA-R2-2014-006476. Attached as **Exhibit I** is a true and correct copy of the May 14, 2014 confirmation.

13. On or around May 15, 2014, I submitted an Amended Appendix A to the May 14, 2014 FOIA Request on behalf of the CPG. Attached as **Exhibit J** is a true and correct copy of the May 15, 2014 submission. The amendment appendix included an added request for information about samples EPA used to define upriver (above the Dundee Dam) surface sediment background conditions.

14. On or around March 20, 2015, I received a letter from Mr. Schaaf on behalf of EPA Region 2, stating that EPA had released more documents and purporting that its response to FOIA Request EPA-R2-2014-006476 was complete. Attached as **Exhibit K** is a true and correct copy of the March 20, 2015 letter.

15. Per Mr. Schaaf's letter to me dated March 20, 2015, EPA withheld a responsive document under the deliberative process privilege, which contains a submission to the National Remedy Review Board by other federal agencies. *See* Exhibit K.

16. On or around June 17, 2014, I submitted a FOIA request with EPA Region 2 on behalf of the CPG seeking records relating to the Diamond Alkali Superfund Site NJD980528996. Attached as **Exhibit L** is a true and correct copy of the June 17, 2014 submission. Among other things, the request sought records relating to the technical basis for New Jersey Department of Environmental Protection's Fish Advisory Levels, on which EPA's Proposed Plan relies.

17. On or around June 17, 2014, the EPA confirmed receipt of the June 17, 2014 FOIA request, which the EPA identified as EPA-R2-2014-007546. Attached as **Exhibit M** is a true and correct copy of the June 17, 2014 confirmation.

I hereby certify that the foregoing statements made by me are true. I am aware that should any of the foregoing statements made by me are willfully false, I am subject to punishment.

STATE OF NEW JERSEY)
) ss.:
COUNTY OF ESSEX)

Robert Paul La Gravenis

Dated: June 9, 2016

EXHIBIT A

Request Details

Tracking Number : *EPA-R2-2014-005768*

Submitted Evaluation Assignment Processing Closed

Request Information

Full Name : Robert Paul La Gravenis

Date Submitted : 04/21/2014

Estimated Date of Completion : May 19, 2014

Organization : K&L Gates LLP

Final Disposition : Undetermined

Description :

United States Environmental Protection Agency
Region 2
Freedom of Information Officer
U.S. EPA Region 2
290 Broadway, 26th Floor
New York, NY 10007-1866

Re: Diamond Alkali Superfund Site

To Whom It May Concern:

I am submitting this document request pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 et seq. This request concerns the United States Environmental Protection Agency's ("EPA") files relating to the Diamond Alkali Superfund Site (the "Site") which includes the former pesticides manufacturing plant and surrounding properties at 80 and 120 Lister Avenue in Newark, New Jersey, the Lower Passaic River Study Area and the Newark Bay Study Area. The EPA Site ID number is NJD980528996.

Specifically, I request copies the documents listed in Attachment A annexed hereto, which relate to EPA's recently Proposed Plan for the Site.

I would ask that you contact me at your earliest convenience to discuss arrangements for providing the requested documents. This firm will of course take responsibility for any necessary copying and/or shipping charges. Your prompt attention to this matter is greatly

appreciated. Thank you for your anticipated cooperation.

Sincerely,

Robert Paul La Gravenis

Senior Paralegal
K&L Gates LLP
One Newark Center, 11th Floor
Newark, NJ 07102
robertpaul.lagravenis@klgates.com

Attached Supporting Files

Attached File	Type	Size (MB)
04_21_14_FOIA_Request_to_USEPA_Region_2.docx	Microsoft Word	0.02

Released Records

No records have been released.

United States Environmental Protection Agency
Region 2
Freedom of Information Officer
U.S. EPA Region 2

290 Broadway, 26th Floor
New York, NY 10007-1866

Re: Diamond Alkali Superfund Site

To Whom It May Concern:

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Sincerely,

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Senior Paralegal
K&L Gates LLP
One Newark Center, 11th Floor
Newark, NJ 07102
robertpaul.lagravenis@klgates.com

ATTACHMENT A

Documents Requested from EPA Region 2 on 4/21/14

1. An Access or Excel file containing each normalized tissue and sediment concentration data pair (with units, basis and data qualifiers) used to generate a regression model, Biota-Sediment Accumulation Factor (BSAF) curve or Biota Accumulation Factor (BAF) curve presented in Final FFS Appendix A, Data Evaluation Report 6 (Biota Analysis).

- The Access or Excel file should identify, for each biota tissue sample location, all tissue and sediment sample IDs used to generate the normalized tissue and sediment concentration data pair for that location.

2. A flat file dataset in Access or CSV including at least the following fields for each sample that was used to generate the normalized tissue and sediment concentration data pairs that were used to generate a regression model, BSAF curve or BAF curve presented in Final FFS Appendix A, Data Evaluation Report 6 (Biota Analysis):

- Source
- Study
- Location
- Coordinates
- River mile (if appropriate)
- Species and tissue type (for each tissue sample)
- Sample depth (for each sediment sample)
- Sample ID
- Sample type (e.g., field duplicate)
- Analyte name, including all contaminants, lipid, TOC and iron
- Numeric concentration for each analyte, including numeric concentrations for each sum component (e.g., for Polycyclic Aromatic Hydrocarbon (PAH) mixtures) and calculated totals
- Data qualifiers
- Units
- Basis (e.g., dry weight)

3. Data files, including database query output (e.g., sample ID, analytical results, qualifiers) and ProUCL input file, for tissue samples included in current baseline Human Health Risk Assessment (HHRA) fish and crab tissue Exposure Point Calculations (EPC)

4. Technical bases (analyses, calculations, model files and results, and any other relevant materials) for EPA's sliding scale of annual averages based on receptor exposure duration (used to estimate future concentrations)

5. Technical back-up/documentation for EPA's analysis of 2000 US Census data for Essex and Hudson counties (used to estimate residence time)

6. Technical back-up/documentation for EPA's re-analysis of Joanna Burger's 1999 survey of Newark Bay anglers (used to estimate fish and crab consumption rates)

7. Any correspondence between Region 2 and NJDEP on NJDEP angler surveys that included sites on the LPR, and any data and analysis from those surveys

8. Any correspondence between the Region and the National Remedy Review Board (NRRB) since the group's comments were submitted in Nov. 2012 and issuance of the NRRB/Contaminated Sediments Technical Advisory Group (CSTAG)final comments on April 11, 2014

9. Any correspondence between the Region 2 and HQ on draft versions of the Proposed Remedial Action Plan(PRAP) and Focused Feasibility Study (FFS) documents

10. Technical bases (analyses, calculations, modeling files and results, mapping, and any other relevant materials) used to develop the capping area footprints for Alternative 4

11. Technical backup/documentation for all unit or rollup cost items > $5,000 that cite to "Internal Database" in FFS Appendix H

12. The Louis Berger Group, Inc., 2007. "Staging and Processing Areas, Treatment Technologies, and Transportation Logistics Review." Lower Passaic River Contract. Prepared for the NJDEP. April 2007.

13. Data and technical basis for 1) modeled background tissue concentrations, and 2) modeled future tissue concentrations, including the technical basis of EPA's sediment-tissue regression models for HHRA species evaluated in the FFS.

14. The data set used to develop EPCs used in the Ecological Risk assessment and shown in Table 7-6 of the FFS RI. This would include EPCs for sediment, the tissue concentrations for the 'generic fish', biota tissue for mummichog, and crab EPCs.

EXHIBIT B

La Gravenis, Robert Paul

From: calderon.wanda@epa.gov
Sent: Monday, April 21, 2014 3:43 PM
To: La Gravenis, Robert Paul
Subject: FOIA Request EPA-R2-2014-005768 Submitted

This message is to confirm your request submission to the FOIAonline application: View Request. Request information is as follows:

- Tracking Number: EPA-R2-2014-005768
- Requester Name: Robert Paul La Gravenis
- Date Submitted: Mon Apr 21 15:42:57 EDT 2014
- Request Status: Submitted
- Description: United States Environmental Protection Agency
  Region 2
  Freedom of Information Officer
  U.S. EPA Region 2
  290 Broadway, 26th Floor
  New York, NY 10007-1866

  Re: Diamond Alkali Superfund Site

  To Whom It May Concern:

  I am submitting this document request pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 et seq. This request concerns the United States Environmental Protection Agency's ("EPA") files relating to the Diamond Alkali Superfund Site (the "Site") which includes the former pesticides manufacturing plant and surrounding properties at 80 and 120 Lister Avenue in Newark, New Jersey, the Lower Passaic River Study Area and the Newark Bay Study Area. The EPA Site ID number is NJD980528996.

  Specifically, I request copies the documents listed in Attachment A annexed hereto, which relate to EPA's recently Proposed Plan for the Site.

  I would ask that you contact me at your earliest convenience to discuss arrangements for providing the requested documents. This firm will of course take responsibility for any necessary copying and/or shipping charges. Your prompt attention to this matter is greatly appreciated. Thank you for your anticipated cooperation.

  Sincerely,

  Robert Paul La Gravenis

  Senior Paralegal
  K&L Gates LLP
  One Newark Center, 11th Floor
  Newark, NJ 07102

robertpaul.lagravenis@klgates.com

EXHIBIT C

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 2, 290 Broadway, 17th Floor
New York, NY 10007

OCT 10 2014

BY FOIA ONLINE

Robert Paul La Gravenis
K&L Gates, LLP
1085 Raymond Boulevard
One Newark Center, 11th Floor
Newark, New Jersey 07102-5252

Re: Freedom of Information Act (FOIA) Request EPA-R2-2014-005768

Dear Mr. La Gravenis:

This will respond to your Freedom of Information Act ("FOIA") request EPA-R2-2014-005768 seeking documents as set forth in Attachment A to your FOIA requested, modified by the subsequent withdrawal of #13 as duplicative. This completes our response.

Previously, on May 27, 2014, EPA released information responsive to #5, #6, #7 and #12 of Attachment A to your FOIA request, and directed you to information either already provided to the Cooperating Parties Group (CPG), or that was already publicly available, responsive to #3, #4, #10 and #14 of your request.

The second and final release, uploaded to FOIAonline on October 3, 2014, included information responsive to #1, #2, #6, #7, #8, #9 and #11 of Attachment A. The document entitled BSAF Tissue Sediment Data, responsive to #1 and #2, was also made available to the public on ourpassaic.org in July 2014.

EPA is withholding certain responsive information that is exempt from disclosure as set forth on the enclosed withholding log.

You may appeal this denial response to the National Freedom of Information Officer, U.S. EPA, FOIA and Privacy Branch, 1200 Pennsylvania Avenue, N.W. (2822T), Washington, D.C. 20460 (U.S. Postal Service Only), E-mail: hq.foia@epa.gov. Only items mailed through the United States Postal Service may be delivered to 1200 Pennsylvania Avenue, N.W. If you are submitting your appeal via hand delivery, courier service or overnight delivery, you must

address your correspondence to 1301 Constitution Avenue, N.W., Room 6416J, Washington, D.C. 20004.

Your appeal must be made in writing, and it must be submitted no later than 30 calendar days from the date of this letter. The Agency will not consider appeals received after the 30 calendar day limit. The appeal letter should clearly identify the determination being appealed, including the assigned FOIA request number shown above. For quickest possible handling, the appeal letter and its envelope should be marked "Freedom of Information Act Appeal." See 40 C.F.R. §2.104(j) for further information regarding appeals of adverse determinations under FOIA.

Pursuant to 40 C.F.R. § 2.107, EPA will transmit a bill for the costs incurred by EPA in searching our files, reproducing documents, and preparing our response to your FOIA request, which total $3,360. You should receive the bill through FOIAonline, along with instructions for payment.

Please contact Sarah Flanagan of my staff at 212-637-3136 if you have any questions concerning this matter.

Sincerely yours,

Eric Schaaf
Regional Counsel

Enclosure

cc: Wanda Calderon
Jacqueline Ferreras-De Jesus

Documents Withheld
FOIA No. EPA-R2-2014-005768

Doc ID Beg	Email From	Email To	Sent Date	Subject/File name	Exemption Explanation
DASS_JF00000001	Amy Legare	Sarah Flanagan	11/21/2012	Re: NRRB Question	Exemption 5: attorney-client communications; predecisional and deliberative
DASS00000032	Ray Basso	Steve Ells	12/5/2012	Re: Additional site data for next Wed.	Exemption 5: predecisional and deliberative
DASS00000051	Amy Legare	Doug Tomchuk	1/15/2013	Re: Please visit rrb - Passaic recommendations memo draft 2 - comments due 1/11/13	Exemption 5: predecisional and deliberative
DASS00000052	Amy Legare	Doug Tomchuk	1/16/2013	Re: Please visit rrb - Passaic recommendations memo draft 2 - comments due 1/11/13	Exemption 5: predecisional and deliberative
DASS00000071			1/11/2013	NRRB-CSTAG Memo -JJH comments.doc	Exemption 5: predecisional and deliberative
DASS00000072	Doug Tomchuk	Amy Legare	1/15/2013	Re: Please visit rrb - Passaic recommendations memo draft 2 - comments due 1/11/13	Exemption 5: predecisional and deliberative
DASS00000125	Steve Ells	Ray Basso; Alice Yeh	12/5/2012	Additional site data for next Wed.	Exemption 5: predecisional and deliberative
DASS00000133			1/11/2013	Passaic Lower 8 draft 2 - Overview of Proposed Action.docx	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00000137			1/24/2013	Passaic Lower 8 draft 3 - R2 edits.docx	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00000140	Amy Legare	Charles Openchowski;Ray Basso; Alice Yeh; Patricia Hick;Sarah Flanagan;Mike Jasinski	2/5/2013	PTW recommendation	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00000145	Ray Basso	Steve Ells	12/5/2012	Re: Additional site data for next Wed.	Exemption 5: deliberative process/ predecisional and deliberative
DASS00000317			1/4/2013	Passaic Lower 8 draft 2.docx	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS0D000320			1/11/2013	Passaic Lower 8 draft 2- Region 2 comments-final.docx	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative

Documents Withheld
FOIA No. EPA-R2-2014-005768

Doc ID Beg	Email From	Email To	Sent Date	Subject/File name	Exemption Explanation
DASS00000366	Sarah Flanagan	Amy Legare	11/21/2012	NRRB Question	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00000367	Sarah Flanagan	Amy Legare	11/21/2012	NRRB Question	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASSQ800000511	Amy Legare	John Frisco	11/21/2012	Re: Request for other stakeholder comments	Exemption 5: attorney-client communications; predecisional and deliberative
DASSQ800000512	Sarah Flanagan	Amy Legare	11/21/2012	NRRB Question	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASSQ800000514	Sarah Flanagan	Amy Legare	11/21/2012	NRRB Question	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASSQ800000557	Alice Yeh	Amy Legare; Charles Openchowski	2/1/2013	Request for call on NRRB recommendation	Exemption 5: predecisional and deliberative
DASSQ800000558	Charles Openchowski	Alice Yeh	2/4/2013	Re: Fw: Request for call on NRRB recommendation	Exemption 5: predecisional and deliberative
DASSQ800000572			11/29/2012	2012-09-19 FFS Appendix D Risk Assessment.pdf	Exemption 5: predecisional and deliberative
DASSQ800000574			11/30/2012	Passaic_Attachments5-6.pdf	Exemption 5: predecisional and deliberative
DASSQ800000590			2/6/2013	Passaic Lower 8 draft 4-R2 edits.docx	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00001701			1/30/2014	rrb%20Passaic%20Lower%201-1.17.14.docx	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00001748	Yeh, Alice	Legare, Amy; Basso, Ray	4/10/2014	RE: Edit to NRRB ecological risk recommendation	Exemption 5: deliberative process/predecisional and deliberative
DASS00001749	Legare, Amy	Yeh, Alice; Basso, Ray	4/10/2014	RE: Edit to NRRB ecological risk recommendation	Exemption 5: deliberative process/predecisional and deliberative
DASS00001750	Yeh, Alice	Legare, Amy; Basso, Ray	4/10/2014	RE: NRRB memo - please respond	Exemption 5: deliberative process/predecisional and deliberative

Documents Withheld
FOIA No. EPA-R2-2014-005768

Doc ID Beg	Email From	Email To	Sent Date	Subject/File name	Exemption Explanation
DASS00001751	Legare, Amy	Yeh, Alice; Basso, Ray	4/10/2014	NRRB memo - please respond	Exemption 5: deliberative process/predecisional and deliberative
DASS00001752	Yeh, Alice	Legare, Amy; Basso, Ray	4/10/2014	RE: Edit to NRRB ecological risk recommendation	Exemption 5: deliberative process/predecisional and deliberative
DASS00001754			4/8/2014	2014-04-08 Lower 8 Proposed Plan draft-last 2 issues.docx	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00001760	Legare, Amy	Yeh, Alice; Basso, Ray	4/7/2014	Edit to NRRB ecological risk recommendation	Exemption 5: deliberative process/predecisional and deliberative
DASS00001884	Yeh, Alice	openchowski, charles	2/4/2013	Re: Invitation: NRRB recommendation on PTW (Feb 5 01:00 PM EST in call 866-299-3188	Exemption 5: attorney-client; deliberative process/predecisional and deliberative
DASS00001918			4/1/2014	nrrb%20Passaic%20Lower%201-1-17-14-final.docx	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00001933			3/26/2014	NRRB-CSTAG response 031214draft11.docx	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00001934	Karlen, Delmar	Salo, Earl	3/26/2014	RE: Draft of Proposed Plan with Conforming Language to Mathy/Judith Memo.	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00001979	Karlen, Delmar	Salo, Earl; Schaaf, Eric	2/7/2014	RE: Lower Passaic follow up letter	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00003023	Stalcup, Dana	Yeh, Alice; Prince, John	4/3/2014	Fw: Passaic River additional suggetsions	Exemption 5: Predecisional and deliberative.
DASS00003163	Mugdan, Walter	Woolford, James	1/13/2014	FW: Passaic	Exemption 5: Attorney-client communications; predecisional and deliberative.
DASS00003202	Basso, Ray	Stalcup, Dana	4/7/2014	Email relating information on future navigation and CAD cells	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

Documents Withheld
FOIA No. EPA-R2-2014-005768

Doc ID Beg	Email From	Email To	Sent Date	Subject/File name	Exemption Explanation
DASS00003203	Basso, Ray	Stalcup, Dana	4/4/2014	RE: Another draft of Passaic Proposed Plan	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003204	Basso, Ray	Stalcup, Dana; Yeh, Alice; Mugdan, Walter; Woolford, James; Ammon, Doug	4/4/2014	RE: Another draft of Passaic Proposed Plan	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003205	Basso, Ray	Stalcup, Dana	4/2/2014	RE: Passaic Proposed Plan	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003206	Basso, Ray	Stalcup, Dana	4/2/2014	RE: Passaic Proposed Plan	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003207	Basso, Ray	Woolford, James	3/28/2014	RE: Discussion of Passaic Proposed Plan language related to Mathy's email	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003208	Basso, Ray	Woolford, James	3/28/2014	RE: Discussion of Passaic Proposed Plan language related to Mathy's email	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003209	Basso, Ray	Woolford, James	3/28/2014	RE: Discussion of Passaic Proposed Plan language related to Mathy's email	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003210	Basso, Ray	Woolford, James	3/28/2014	FW: Discussion of Passaic Proposed Plan language related to Mathy's email	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003212	Basso, Ray	Stalcup, Dana	3/24/2014	RE: How can we help Ray?	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00003219	Basso, Ray	Stalcup, Dana	3/14/2014	RE: Passaic River joint memo	Exemption 5: attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

Documents Withheld
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Doc ID Beg	Email From	Email To	Sent Date	Subject/File name	Exemption Explanation
DASS00003220	Basso, Ray	Stalcup, Dana	3/14/2014	FW: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003221			3/14/2014	Passaic draft memo 3 13 14.pdf	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003222	Basso, Ray	Stalcup, Dana; Thompson, BrianK; Ammon, Doug	3/13/2014	RE: latest draft of Passaic Memo	Exemption 5: Attorney-client communications; predecisional and deliberative.
DASS00003223	Basso, Ray	Stalcup, Dana	3/13/2014	FW: Passaic email	Exemption 5: Attorney-client communications; predecisional and deliberative.
DASS00003230	Basso, Ray	Stalcup, Dana	3/10/2014	Draft Passaic Memo to Adm.	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003231			3/10/2014	Draft Note from Stanislaus and Enck to Administrator-WM-2-Clean.doc.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003233	Basso, Ray	Stalcup, Dana	2/26/2014	FW: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003240	Basso, Ray	Stalcup, Dana	2/12/2014	RE: proposed agenda for today's discussion on Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003241	Basso, Ray	Naranjo, Eugenia; Ells, Steve	2/10/2014	RE: Dioxin levels in Newark Bay fish	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00003246	Basso, Ray	Mugdan, Walter; Woolford, James	2/3/2014	RE: Potential Qs	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003247	Basso, Ray	Woolford, James	1/31/2014	RE: Meeting Request	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

Documents Withheld
FOIA No. EPA-R2-2014-005768

Doc ID Beg	Email From	Email To	Sent Date	Subject/File name	Exemption Explanation
DASS00003249	Basso, Ray	Legare, Amy	1/30/2014	RE: Passaic River memo	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003250	Basso, Ray	Legare, Amy	1/30/2014	RE: Passaic River memo	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003252	Basso, Ray	Mugdan, Walter; Woolford, James	1/28/2014	RE: Passaic - Not urgent and it may be a short response.	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00003257	Basso, Ray	Ellis, Steve ; Yeh, Alice ; Legare, Amy	12/30/2013	RE: Another draft of Proposed Plan (Figs/Tables 1 of 3)	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003261	Basso, Ray	Legare, Amy ; Yeh, Alice	11/26/2013	RE: Passaic meeting - any agenda items?	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00003262	Basso, Ray	Legare, Amy ; Yeh, Alice	11/26/2013	RE: Got your VM - FW: Passaic - status of agenda	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00003273	Stanislaus, Mathy	Woolford, James; Mugdan, Walter; Stalcup, Dana ; Cooper, DavidE ; Breen, Barry; Natarajan, Nitin; Bergman, Shawna Fine, Ellyn ; Brooks, Becky	4/9/2014	Re: Latest on Passaic draft proposed plan.	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003275	Woolford, James	Stanislaus, Mathy; Mugdan, Walter; Stalcup, Dana; Cooper, DavidE; Breen, Barry; Natarajan, Nitin; Bergman, Shawna; Fine, Ellyn; Brooks, Becky	4/9/2014	Re: Latest on Passaic draft proposed plan.	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

Documents Withheld
FOIA No. EPA-R2-2014-005768

Doc ID Beg	Email From	Email To	Sent Date	Subject/File name	Exemption Explanation
DASS00003277	Stanislaus, Mathy	Mugdan, Walter; Stalcup, Dana; Cooper, DavidE ; Breen, Barry; Natarajan, Nitin; Bergman, Shawna; Fine, Ellyn; Brooks, Becky	4/9/2014	Re: Latest on Passaic draft proposed plan.	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003279	Woolford, James	Mugdan, Walter ; Stanislaus, Mathy; Stalcup, Dana; Cooper, DavidE ; Breen, Barry; Natarajan, Nitin; Bergman, Shawna; Fine, Ellyn ; Brooks, Becky	4/8/2014	Re: Latest on Passaic draft proposed plan.	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003281	Mugdan, Walter	Stanislaus, Mathy; Stalcup, Dana; Cooper, DavidE; Breen, Barry ; Natarajan, Nitin; Bergman, Shawna ; Fine, Ellyn; Brooks, Becky	4/8/2014	RE: Latest on Passaic draft proposed plan.	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003283	Stalcup, Dana	Basso, Ray	4/8/2014	Fw: Latest on Passaic draft proposed plan.	Exemption 5: Attorney-work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003285	Stanislaus, Mathy	Stalcup, Dana; Cooper, DavidE ; Breen, Barry ; Natarajan, Nitin; Bergman, Shawna; Fine, Ellyn ; Brooks, Becky	4/8/2014	RE: Latest on Passaic draft proposed plan.	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003287	Stalcup, Dana	Stanislaus, Mathy ; Cooper, DavidE ; Breen, Barry ; Natarajan, Nitin; Bergman, Shawna ; Fine, Ellyn ; Brooks, Becky	4/8/2014	RE: Latest on Passaic draft proposed plan.	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

Documents Withheld
FOIA No. EPA-R2-2014-005768

Doc ID Beg	Email From	Email To	Sent Date	Subject/File name	Exemption Explanation
DASS00003289			4/8/2014	2014-04-08 Lower 8 Proposed Plan draft-last 2 issues-rev.docx	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003290	Mugdan, Walter	Stalcup, Dana; Cooper, DavidE	4/8/2014	Re: Latest on Passaic draft proposed plan.	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003292	Stalcup, Dana	Cooper, DavidE	4/7/2014	RE: Latest on Passaic draft proposed plan.	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003294	Stanislaus, Mathy	Cooper, DavidE ; Breen, Barry ; Natarajan, Nitin; Bergman, Shawna ; Fine, Ellyn ; Brooks, Becky	4/7/2014	RE: Latest on Passaic draft proposed plan.	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003296	Cooper, DavidE	Stanislaus, Mathy ; Breen, Barry; Natarajan, Nitin; Bergman, Shawna ; Fine, Ellyn ; Brooks, Becky	4/7/2014	Latest on Passaic draft proposed plan.	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003297			4/7/2014	2014-04-07 Lower 8 Proposed Plan draft-end of day.docx	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003299	Yeh, Alice	Stalcup, Dana; Woolford, James ; Richardson, RobinH; Ammon, Doug ; Fonseca, Silvina; Legare, Amy ; Scozzafava, MichaelE ; Ells, Steve ; Mugdan, Walter ; Basso, Ray	4/7/2014	RE: Proposed OSRTI response to Mathy	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003300	DeLeon, Rafael	Schaaf, Eric ; Mugdan, Walter	4/7/2014	Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00003312	DeLeon, Rafael	Mugdan, Walter	3/19/2014	RE: Passaic -- Final Version of Note to Administrator	Exemption 5: Attorney-client communications; predecisional and deliberative.
DASS00003330	Starfield, Lawrence	Schaaf, Eric	3/14/2014	RE: Joint Memo to Administrator McCarthy - Re: Lower Passaic River Proposed Plan	Exemption 5: Attorney-client communications; predecisional and deliberative.
DASS00003337	Starfield, Lawrence	Schaaf, Eric	3/13/2014	FW: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003347	DeLeon, Rafael	Starfield, Lawrence ; Schaaf, Eric	3/11/2014	RE: Passaic River	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003348	DeLeon, Rafael	Patterson, Kenneth ; Leff, Karin	3/11/2014	FW: Passaic River	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003350	Starfield, Lawrence	Schaaf, Eric ; DeLeon, Rafael	2/27/2014	Re: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003351	DeLeon, Rafael	Patterson, Kenneth ; Thompson, BrianK	2/26/2014	Fw: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003352	DeLeon, Rafael	Starfield, Lawrence ; Schaaf, Eric	2/26/2014	Re: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS000033S3	Lynch, Mary-Kay	Schaaf, Eric	2/14/2014	Re: Passaic briefing of the Administrator	Exemptioni 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003357	Lynch, Mary-Kay	Schaaf, Eric	2/13/2014	Re: Passaic briefing of the Administrator	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00003363	Woolford, James	Schaaf, Eric ; Mugdan, Walter ; Basso, Ray	2/12/2014	Fw: Passaic: Response to CPG letter	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003365	Starfield, Lawrence	Schaaf, Eric	2/11/2014	RE: passaic river remedy	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003369	Salo, Earl	Karlen, Delmar ; Schaaf, Eric	2/7/2014	FW: Lower Passaic follow up letter	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00003372	Starfield, Lawrence	Schaaf, Eric	2/1/2014	RE: Briefing	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00003376	Starfield, Lawrence	DeLeon, Rafael ;Schaaf, Eric	1/27/2014	RE: Passaic meeting on Friday	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00003384	DeLeon, Rafael	Starfield, Lawrence ; Patterson, Kenneth	1/25/2014	Re: Passaic River – CAD cell questions	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003387	DeLeon, Rafael	Lynch, Mary-Kay; Mugdan, Walter ; Woolford, James ; Schaaf, Eric	1/23/2014	RE: Passaic (Pre-Briefing before Administrator's meeting)	Exemption 5: Attorney-client communications; predecisional and deliberative.
DASS00003396	Starfield, Lawrence	DeLeon, Rafael ; Schaaf, Eric	1/13/2014	FW: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003398	Stalcup, Dana	DeLeon, Rafael ; Mugdan, Walter ; Schaaf, Eric	1/9/2014	RE: Passaic	Exemption 5: Attorney-client communications.
DASS00003399	DeLeon, Rafael	Mugdan, Walter ; Schaaf, Eric	1/9/2014	RE: Passaic	Exemption 5: Attorney-client communications.
DASS00003402	Basso, Ray	Stalcup, Dana	4/9/2014	We are done with the Prposed Plan . . .	Exemption 5: Predecisional and deliberative

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DASS00003436	Woolford, James	Mugdan, Walter	3/28/2014	Fw: Discussion of Passaic Proposed Plan language related to Mathy's email	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003437			3/28/2014	PRAP Doug and Silvina's comments few minor edits.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003453	Woolford, James	Mugdan, Walter	3/20/2014	Fw: FYI. Follow UP - My take on meeting w/Tierra et al. 3/18 at OSRTI's Crystal City offices. Privileged/Confidential.	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003454	Woolford, James	Stanislaus, Mathy ; Enck, Judith ; Feldt, Lisa ; Breen, Barry ; Pavlou, George ; Giles, Cynthia ; Corman, Bicky ; Starfield, Lawrence ; Natarajan, Nitin ; Fine, Ellyn; Bergman, Shawna; Brooks, Becky	3/20/2014	Re: FYI. Follow UP - My take on meeting w/Tierra et al. 3/18 at OSRTI's Crystal City offices. Privileged/Confidential.	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003459			3/19/2014	Draft Note from Stanislaus and Enck to Administrator-3-19- 4 PM-Reline.docx	Exemption 5: Attorney-client communications; Attorney Work Product
DASS00003468	Woolford, James	Breen, Barry ; Mugdan, Walter	3/18/2014	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003472	Breen, Barry	Mugdan, Walter	3/18/2014	RE: three more edits from Mathy and me	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003473	Breen, Barry	Mugdan, Walter	3/18/2014	three more edits from Mathy and me	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00003479	Woolford, James	Breen, Barry ; Mugdan, Walter	3/18/2014	Re: Passaic river email	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003494	Woolford, James	Stanislaus, Mathy ; Breen, Barry ; Mugdan, Walter ; Pavlou, George ; Enck, Judith	3/5/2014	Fw: Fish trading info	Exemption 5: predecisional and deliberative.
DASS00003499	Stalcup, Dana	Mugdan, Walter ; Basso, Ray	2/21/2014	FW: Privileged: FW: Summary of Today's Passaic Call, and Talking Points for Tomorrow	Exemption 5: Attorney-Client Communications; Attorney Work-Product
DASS00003612	Enck, Judith	Stanislaus, Mathy ; Mugdan, Walter ; Pavlou, George	3/21/2014	Re: Next Steps on Passaic	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; deliberative process/predecisional and deliberative
DASS00003614	Enck, Judith	McCarthy, Gina	3/20/2014	Re: Passaic next steps	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; deliberative process/predecisional and deliberative
DASS00003615	Enck, Judith	Stanislaus, Mathy	3/19/2014	Re: Passaic next steps	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; deliberative process/predecisional and deliberative
DASS00003616	Enck, Judith	Mugdan, Walter ; Stanislaus, Mathy	3/19/2014	Re: Passaic -- Final Version of Note to Administrator	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; deliberative process/predecisional and deliberative
DASS00003618	Enck, Judith	Stanislaus, Mathy	3/18/2014	Re: Passaic river email	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; deliberative process/predecisional and deliberative

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DASS00003619	Enck, Judith	Mugdan, Walter ; Breen, Barry ; Woolford, James	3/18/2014	Re: Passaic river email	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; deliberative process/predecisional and deliberative
DASS00003622	Enck, Judith	Stanislaus, Mathy	3/14/2014	RE: Joint Memo to Administrator McCarthy - Re: Lower Passaic River Proposed Plan	Exemption 5: Attorney-client communications; deliberative process/predecisional and deliberative
DASS00003623	Enck, Judith	Basso, Ray ; Stanislaus, Mathy	3/14/2014	RE: Joint Memo to Administrator McCarthy - Re: Lower Passaic River Proposed Plan	Exemption 5: Attorney-client communications; deliberative process/predecisional and deliberative
DASS00003624	Enck, Judith	Stanislaus, Mathy	3/13/2014	Passaic river email	Exemption 5: attorney-client; deliberative process/predecisional and deliberative
DASS00003645	Enck, Judith	Woolford, James; Basso, Ray; Mugdan, Walter	3/2/2014	Re: Meeting with Ana Bautista and Debbie Mans, Passaic CAG	Exemption 5: deliberative process/predecisional and deliberative
DASS00003646	Enck, Judith	McCarthy, Gina ; Perciasepe, Bob; KeyesFleming, Gwendolyn; Fritz, Matthew ; Ganesan, Arvin ; Feldt, Lisa ; Reynolds, Thomas ; Vaught, Laura ; Rupp, Mark ; Fried, Hannah	2/28/2014	Region 2 weekly report	Exemption 5: deliberative process/predecisional and deliberative
DASS00003649	Enck, Judith	Feldt, Lisa	2/25/2014	FW: CAD table, including Passaic	Exemption 5: Attorney-client communications; deliberative process/predecisional and deliberative
DASS00003650			2/25/2014	Confidential-SF sites CAD-CDFused 20140129-with Passaic added for RA.xlsx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; deliberative process/predecisional and deliberative
DASS00003656	Enck, Judith	Stanislaus, Mathy	2/17/2014	Re: Followup mtg with Gina re: Passaic	Exemption 5: Deliberative process/predecisional and deliberative
DASS00003657	Enck, Judith	Stanislaus, Mathy	2/17/2014	Re: Followup mtg with Gina re: Passaic	Exemption 5: Deliberative process/predecisional and deliberative

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DASS00003658	Enck, Judith	Fritz, Matthew	2/14/2014	Passaic River briefing materials	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; deliberative process/predecisional and deliberative
DASS00003660	Enck, Judith	Schaaf, Eric ; Garbow, Avi ; Giles Cynthia	2/13/2014	Re: Passaic briefing of the Administrator	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; deliberative process/predecisional and deliberative
DASS00003662	Enck, Judith	McCarthy, Gina ; Perciasepe, Bob; Keyes-Fleming, Gwendolyn; Ganesan, Arvin; Reynolds, Thomas; Rupp, Mark; Fritz, Matthew; Vaught, Laura; Fried, Hannah; Feldt, Lisa	2/8/2014	R2 weekly update	Exemption 5: Deliberative process/predecisional and deliberative
DASS00003664	Enck, Judith	McCarthy, Gina; Feldt, Lisa; Stanislaus, Mathy; Giles, Cynthia; Garbow, Avi; Corman, Bicky	2/5/2014	passaic river remedy	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; deliberative process/predecisional and deliberative
DASS00003665			2/5/2014	bullets for HQ-4.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; deliberative process/predecisional and deliberative
DASS00003667	Enck, Judith	Feldt, Lisa	2/5/2014	RE: passaic discussion	Exemption 5: Deliberative process/predecisional and deliberative
DASS00003668	Enck, Judith	Feldt, Lisa	2/5/2014	RE: passaic discussion	Exemption 5: deliberative process/predecisional and deliberative
DASS00003670	Enck, Judith	Feldt, Lisa	2/5/2014	passaic discussion	Exemption 5: Deliberative process/predecisional and deliberative
DASS00003672	Enck, Judith	McCarthy, Gina	2/3/2014	passaic river	Exemption 5: Deliberative process/predecisional and deliberative
DASS00003673	Enck, Judith	McCarthy, Gina	1/31/2014	Re: Do u have time to talk on monday?	Exemption 5: Deliberative process/predecisional and deliberative

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DASS00003685	Enck, Judith	Stanislaus, Mathy; Woolford, James; Giles, Cynthia; Ganesan, Arvin; Feldt, Lisa; Mugdan, Walter	1/16/2014	FW: Meeting request with Mathy Stanislaus	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00003688	Enck, Judith	Giles, Cynthia	1/13/2014	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003696	Rupp, Mark	McCarthy, Gina	4/4/2014	Re: R2 weekly update	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00003697	McCarthy, Gina	Enck, Judith	4/4/2014	Re: R2 weekly update	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00003699	Mugdan, Walter	Stanislaus, Mathy ; Enck, Judith ; Breen, Barry	3/28/2014	Passaic Proposed Plan	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003723	Corman, Bicky	Plevin, Lisa	2/8/2014	Re: passaic river remedy	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003744	Plevin, Lisa	Corman, Bicky	2/7/2014	passaic river remedy	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003800	Ridenour, Steve	Stalcup, Dana ; Ammon, Doug	3/24/2014	RE: Senior Staff Notes and Week of March 24th Items	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003801	Stalcup, Dana	Ridenour, Steve ; Ammon, Doug	3/24/2014	RE: Senior Staff Notes and Week of March 24th Items	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003802	Ridenour, Steve	Ammon, Doug ; Stalcup, Dana	3/24/2014	FW: Senior Staff Notes and Week of March 24th Items	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00003814	Mugdan, Walter	Woolford, James	12/27/2013	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00003818	Woolford, James	Mugdan, Walter	12/10/2013	Re: Cancellation of General Motors Central Foundry (Massena, NY) Superfund Site - Conference Call Originally Scheduled for Dec. 10 at 4 PM	Exemption 5: Attorney-client communications.
DASS00003823	Wells, Suzanne	Basso, Ray	11/25/2013	fish exchange	Exemption 5: First page: predecisional and deliberative. Rest is not responsive
DASS00003824			11/25/2013	Fishing Compensation & Offset Programs (1.14.2013). Pptx	Exemption 5: predecisional and deliberative.
DASS00003835	LaPadula, John	Ammon, Doug	3/14/2014	when you have a chance.....	Exemption 5: predecisional and deliberative.
DASS00003929	Feldt, Lisa	Pavlou, George	3/4/2014	RE: You got a minute to talk about a different approach on the proposed plan for the Passaic? Thanks.	Exemption 5: Predecisional and deliberative.
DASS00004112	Yeh, Alice	Ells, Steve ; Basso, Ray	2/25/2014	RE: Any changes to table 2-2? Need Figure 4-3.	Exemption 5: deliberative process/predecisional and deliberative
DASS00004113			2/25/2014	2014-02-18 FFS Figure 4-3 for Ells.pdf	Exemption 5: deliberative process/predecisional and deliberative
DASS00004114	Ells, Steve	Yeh, Alice ; Basso, Ray	2/25/2014	RE: Any changes to table 2-2? Need Figure 4-3.	Exemption 5: deliberative process/predecisional and deliberative
DASS00004115	Yeh, Alice	Ells, Steve ; Basso, Ray	2/25/2014	RE: Any changes to table 2-2?	Exemption 5: deliberative process/predecisional and deliberative
DASS00004140			2/10/2014	Passaic questions and answers Feb 10 draft 3 dls final.docx	Exemption 5: deliberative process/predecisional and deliberative
DASS00004174	Ells, Steve	Basso, Ray	1/16/2014	Proposed Plan	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00004180			1/15/2014	Proposed Plan text-121813 draft8-to Partners (2) SJE al.docx	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00004182			1/15/2014	NRRB-CSTAG response 010714draft8-sent to HQs al.docx	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative

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DASS00004191			1/7/2014	NRRB-CSTAG response 010714draft8-sent to HQs.docx	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00004192			1/7/2014	Chlorobenzene & Total DDx Alt3 Maps v2.pdf	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00004193			1/7/2014	FFS Appendix G Fig 2-1 2-2.pdf	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00004194			1/7/2014	FFS Tables 2-2 2-3 2-5.pdf	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00004200	Woolford, James	Stanislaus, Mathy ; Breen, Barry ; DeLeon, Rafael ; Lynch, Mary-Kay ; Thompson, BrianK ; Patterson, Kenneth ; Salo, Earl ; Michaud, John ; Gardner, Monica	2/14/2014	FW: Privileged--Passaic River content [Brief-out on CPG bioaccumulation modeling code]	Exemption 5: Attorney-client communications; predecisional and deliberative.
DASS00004203	Woolford, James	DeLeon, Rafael; Thompson, BrianK; Gardner, Monica; Patterson, Kenneth; Stalcup, Dana; Cooper, DavidE; Ammon, Doug; Ells, Steve; Greenberg, Mary	2/13/2014	[email discussing legal research relating to the proposed plan]	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00004218	Feldt, Lisa	Mugdan, Walter	1/27/2014	Re: Privileged--Passaic River content [Brief-out on CPG bioaccumulation modeling code]	Exemption 5: Predecisional and deliberative.
DASS00004221	Woolford, James	Mugdan, Walter ; Basso, Ray	1/27/2014	FW: Passaic River Superfund Cleanup [For Monday - no response today required]	Exemption 5: predecisional and deliberative.
DASS00004231	Woolford, James	Mugdan, Walter	1/16/2014	FW: Meeting Request	Exemption 5: Deliberative material redacted.

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DASS00004236	Woolford, James	Mugdan, Walter	1/16/2014	Re: FYI re: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00004237	Mugdan, Walter	Woolford, James	1/16/2014	FYI re: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00004239	Basso, Ray	Ells, Steve	1/14/2014	RE: Cost effectiveness	Exemption 5: Predecisional and deliberative.
DASS00004245	Feldt, Lisa	Mugdan, Walter	1/10/2014	RE: Passaic River	Exemption 5: Predecisional and deliberative.
DASS00004504	Yeh, Alice	Ammon, Doug ; Clark, Becki	11/1/2013	RE: Draft Proposed Plan for your review	Exemption 5: Predecisional and deliberative.
DASS00004510	Yeh, Alice	Ammon, Doug ; Clark, Becki	10/21/2013	FW: Draft Proposed Plan for your review	Exemption 5: Predecisional and deliberative.
DASS00004513	Ells, Steve	Yeh, Alice	9/18/2013	RE: Draft Proposed Plan for your review	Exemption 5: Predecisional and deliberative.
DASS00004514			9/18/2013	Proposed Plan HQ draft SJE 9 18.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00004515	Ells, Steve	Yeh, Alice ; Ammon, Doug ; Clark, Rebecca	9/12/2013	RE: Draft Proposed Plan for your review	Exemption 5: Predecisional and deliberative.
DASS00004516	Ammon, Doug	Clark, Becki	9/12/2013	Fw: Draft Proposed Plan for your review	Exemption 5: Predecisional and deliberative.
DASS00004713	Thompson, BrianK	Flanagan, Sarah	4/8/2014	RE: Latest on Passaic draft proposed plan.	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00004715	Thompson, BrianK	Flanagan, Sarah	4/8/2014	RE: Latest on Passaic draft proposed plan.	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00004717	Thompson, BrianK	Flanagan, Sarah	4/7/2014	RE: Latest on Passaic draft proposed plan.	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00004719	Thompson, BrianK	Flanagan, Sarah	4/7/2014	RE: Proposed OSRTI response to Mathy	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00004720	Thompson, BrianK	Flanagan, Sarah	4/7/2014	RE: Proposed OSRTI response to Mathy	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00004724	Thompson, BrianK	Flanagan, Sarah	4/7/2014	RE: Update on Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00004725	Thompson, BrianK	Flanagan, Sarah	4/7/2014	RE: Update on Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00004726	Thompson, BrianK	Flanagan, Sarah	4/7/2014	RE: Update on Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00004753	Karlen, Delmar	Hick, Patricia ; Flanagan, Sarah	3/25/2014	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00004777	Thompson, BrianK	Hick, Patricia	3/19/2014	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00004778	Hick, Patricia	Thompson, BrianK	3/18/2014	FW: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00004779			3/18/2014	Draft Note from Stanislaus and Enck to Administrator-3-18 7PM-Clean.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DA5500004780			3/18/2014	Draft Note from Stanislaus and Enck to Administrator-3-18 7PM-Redline.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005200			3/28/2014	Passaic PRAP-Draft March 28-with Revisions Pertinent to March 19 Email. docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DA5500005207	Stanislaus, Mathy	Enck, Judith ; Mugdan, Walter ; Pavlou, George	3/21/2014	Next Steps on Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005213	Mugdan, Walter	Pavlou, George; Plevin, Lisa; Bellow, Bonnie; Basso, Ray; Schaaf, Eric; Yeh, Alice; Karlen, Delmar; LaPadula, John; Hick, Patricia; Flanagan, Sarah; Kluesner, Dave; Woolford, Jame ; Stalcup, Dana; DeLeon, Rafael; Patterson, Kenneth; Thompson, BrianK; Lynch, Mary-Kay	3/20/2014	Administrator's Response to Passaic River Note	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005214	McCarthy, Gina	Stanislaus, Mathy ; Perciasepe, Bob; Feldt, Lisa	3/20/2014	RE: Passaic next steps	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005215	Stanislaus, Mathy	McCarthy, Gina ; Perciasepe, Bob; Feldt, Lisa	3/19/2014	Passaic next steps	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005216	Stanislaus, Mathy	Mugdan, Walter ; Enck, Judith	3/19/2014	RE: Passaic -- Final Version of Note to Administrator	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00005217	Mugdan, Walter	Stanislaus, Mathy ; Enck, Judith	3/19/2014	RE: Passaic – Final Version of Note to Administrator	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005218			3/19/2014	Draft Note from Stanislaus and Enck to Administrator-3-19 4 PM-Clean.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005219			3/19/2014	Draft Note from Stanislaus and Enck to Administrator-3-19 4 PM-Reline.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005220	Stanislaus, Mathy	Mugdan, Walter ; Enck, Judith	3/19/2014	RE: Passaic – Final Version of Note to Administrator	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005221			3/19/2014	Draft Note from Stanislaus and Enck to Administrator-3-19 1130 AM-Clean.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005222	Woolford, James	Mugdan, Walter ; Breen, Barry	3/19/2014	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005223	Mugdan, Walter	Woolford, James ; Breen, Barry	3/19/2014	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DAS500005224			3/19/2014	Draft Note from Stanislaus and Enck to Administrator 3-19 830 AM-Clean.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DAS500005225	Mugdan, Walter	Breen, Barry	3/18/2014	Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00005226			3/18/2014	Draft Note from Stanislaus and Enck to Administrator-3-18 7PM-Clean.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DAS500005227			3/18/2014	Draft Note from Stanislaus and Enck to Administrator-3-18 7PM-Redline.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DA5500005228	Stanislaus, Mathy	Enck, Judith	3/18/2014	Re: Passaic river email	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005229	Mugdan, Walter	Breen, Barry ; Woolford, James	3/18/2014	RE: Passaic river email	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005230			3/18/2014	Draft Note from Stanislaus and Enck to Administrator-Breen-WM Comments.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005231	Mugdan, Walter	Breen, Barry ; Woolford, James	3/18/2014	RE: Passaic river email	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00005232	Woolford, James	Breen, Barry ; Mugdan, Walter	3/18/2014	Re: Passaic river email	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00005233	Mugdan, Walter	Breen, Barry ; Woolford, James	3/18/2014	RE: Passaic river email	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00005234	Breen, Barry	Woolford, James ; Mugdan, Walter	3/18/2014	RE: Passaic river email	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00005235			3/18/2014	Passaic note.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005236	Woolford, James	Breen, Barry	3/18/2014	Re: Passaic river email	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00005237	Breen, Barry	Enck, Judith	3/18/2014	RE: Passaic river email	Exemption 5: Deliberative process/predecisional and deliberative.

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DASS00005238	Stanislaus, Mathy	Enck, Judith ; Basso, Ray	3/14/2014	RE: Joint Memo to Administrator McCarthy - Re: Lower Passaic River Proposed Plan	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005239	Basso, Ray	Stanislaus, Mathy ; Enck, Judith	3/14/2014	Joint Memo to Administrator McCarthy - Re: Lower Passaic River - Proposed Plan	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005242			3/14/2014	Draft%20Note%20from%20and%20Enck%20to%20Administrator-final%20version-12noon14march2014.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005243	Stanislaus, Mathy	Enck, Judith	3/13/2014	Re: Passaic river email	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00005246	Woolford, James	Enck, Judith ; Stanislaus, Mathy ; Breen, Barry ; Giles, Cynthia ; Starfield, Lawrence ; Feldt, Lisa ; Lynch, Mary-Kay ; Corman, Bicky	3/11/2014	Fw: Passaic River	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005251	Woolford, James	Enck, Judith	3/2/2014	Re: Meeting with Ana Bautista and Debbie Mans, Passaic CAG	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00005252	Woolford, James	Stanislaus, Mathy ; Enck, Judith ; Plevin, Lisa	3/2/2014	RE: Meeting with Ana Bautista and Debbie Mans, Passaic CAG	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00005253	PERCIASEPE, BOB	Enck, Judith ; McCarthy, Gina ; KeyesFleming, Gwendolyn ; Fritz, Matthew ; Ganesan, Arvin ; Feldt, Lisa ; Reynolds, Thomas ; Vaught, Laura ; Rupp, Mark ; Fried, Hannah	2/28/2014	RE: Region 2 weekly report	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00005255	McCarthy, Gina	Enck, Judith	2/28/2014	Re: Region 2 weekly report	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00005257	Stanislaus, Mathy	McCarthy, Gina	2/25/2014	Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00005269	Woolford, James	Basso, Ray ; Enck, Judith; Pavlou, George ; Mugdan, Walter	2/12/2014	Fw: proposed agenda for today's discussion on Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005270	Fine, Ellyn	Feldt, Lisa ; Woolford, James ; Stalcup, Dana ; Stanislaus, Mathy ; Mugdan, Walter ; Enck, Judith ; Torres, Nelida ; Basso, Ray ; Breen, Barry; Giles, Cynthia; Garbow, Avi	2/12/2014	RE: Passaic Discussion	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005271			2/12/2014	Possible Agenda_Passaic.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005274	McCarthy, Gina	Enck, Judith	2/3/2014	RE: passaic river	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00005278	Woolford, James	Stanislaus, Mathy ; Mugdan, Walter ; Enck, Judith ; Pavlou, George	1/31/2014	RE: Meeting Request	Exenption 5: Attorney-Client Communications; Attorney Work-Product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005290			1/24/2014	AX_Passaic_Briefing_Ver_1-23-14(4).pptx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005292	Stanislaus, Mathy	Enck, Judith ; Woolford, James ; Giles, Cynthia ; Ganesan, Arvin ; Feldt, Lisa ; Mugdan, Walter	1/17/2014	Re: Meeting request with Mathy Stanislaus	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00005293	Feldt, Lisa	Enck, Judith ; Stanislaus, Mathy ; Woolford, James ; Giles, Cynthia ; Ganesan, Arvin ; Mugdan, Walter	1/16/2014	Re: Meeting request with Mathy Stanislaus	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00005500	Mugdan, Walter	DeLeon, Rafael ; Schaaf, Eric	1/9/2014	RE: Passaic	Exemption 5: Attorney-client communications.

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DASS00005501	DeLeon, Rafael	Schaaf, Eric ; Mugdan, Walter	1/9/2014	RE: Passaic	Exemption 5: Attorney-client communications
DASS00005502	DeLeon, Rafael	Mugdan, Walter ; Schaaf, Eric	1/9/2014	RE: Passaic	Exemption 5: Attorney-client communications.
DASS00005503	Mugdan, Walter	DeLeon, Rafael ; Schaaf, Eric	1/9/2014	RE: Passaic	Exemption 5: Attorney-client communications.
DASS00005504	Woolford, James	DeLeon, Rafael ; Mugdan, Walter ; Schaaf, Eric	1/9/2014	Re: Passaic	Exemption 5: Attorney-client communications.
DASS00005505	DeLeon, Rafael	Mugdan, Walter ; Schaaf, Eric	1/9/2014	Passaic	Exemption 5: Attorney-client communications.
DASS00005512	Stanislaus, Mathy	Mugdan, Walter ; Giles, Cynthia; Feldt, Lisa ; Kelly, Anne ; Wieder, Marla ; Capon, Virginia	12/10/2013	Re: Cancellation of General Motors Central Foundry (Massena, NY) Superfund Site - Conference Call Originally Scheduled for Dec. 10 at 4 PM	Exemption 5: Attorney-client communications; predecisional and deliberative.
DASS00005513	Mugdan, Walter	Stanislaus, Mathy ; Giles, Cynthia ; Feldt, Lisa ; Kelly, Anne Wieder, Marla ; Capon, Virginia	12/10/2013	Cancellation of General Motors Central Foundry (Massena, NY) Superfund Site - Conference Call Originally Scheduled for Dec. 10 at 4 PM	Exemption 5: Attorney-client communications; predecisional and deliberative.
DASS00005514	Mugdan, Walter	DeLeon, Rafael ; Schaaf, Eric	4/7/2014	Re: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005528	Starfield, Lawrence	Mugdan, Walter ; DeLeon, Rafael ; Patterson, Kenneth	2/6/2014	Re: passaic river remedy	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005530	Starfield, Lawrence	Patterson, Kenneth	1/25/2014	Passaic River -- CAD cell questions	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005539	Schaaf, Eric	Starfield, Lawrence	3/11/2014	RE: Passaic River	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00005540	Starfield, Lawrence	Schaaf, Eric	3/11/2014	FW: Passaic River	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005542	Schaaf, Eric	Starfield, Lawrence ; DeLeon, Rafael	2/26/2014	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005551	Schaaf, Eric	Starfield, Lawrence	3/14/2014	FW: Joint Memo to Administrator McCarthy - Re: Lower Passaic River Proposed Plan	Exemption 5: Attorney-client communications; predecisional and deliberative.
DASS00005565	Schaaf, Eric	Lynch, Mary-Kay	2/26/2014	FW: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005567	Schaaf, Eric	Lynch, Mary-Kay	2/14/2014	Re: Passaic briefing of the Administrator	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005572	Schaaf, Eric	Starfield, Lawrence	2/12/2014	RE: passaic river remedy	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005573	Schaaf, Eric	Starfield, Lawrence	2/11/2014	RE: passaic river remedy	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005574	Schaaf, Eric	Starfield, Lawrence	1/31/2014	Re: Briefing	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005577	Schaaf, Eric	Starfield, Lawrence ; DeLeon, Rafael	1/13/2014	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00005578	Schaaf, Eric	DeLeon, Rafael ; Mugdan, Walter	1/9/2014	RE: Passaic	Exemption 5: Attorney-client communications.
DASS00005613			12/2/2013	Draft Agenda for 12.docx	Exemption 5: deliberative process/predecisional and deliberative

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DAS500005686	Legare, Amy	Yeh, Alice	5/6/2013	RE: Please visit rrb - Passaic recommendations memo - final draft	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00005801	Thompson, BrianK	Hick, Patricia ; Flanagan, Sarah ; Basso, Ray	4/7/2014	FW: Update on Passaic Proposed Plan - Concerns on new language	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005802	Stalcup, Dana	Woolford, James Richardson, RobinH Ammon, Doug ; Fonseca, Silvina ; Legare, Amy Scozzafava, MichaelE ; Ells, Steve ; Mugdan, Walter ; Basso, Ray ; Yeh, Alice	4/7/2014	RE: Proposed O5RTI response to Mathy	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005803			4/7/2014	2014-04-07 Lower 8 Proposed Plan draft-to address Stanislaus comments R20OSRTI.docx	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005804	Stalcup, Dana	Woolford, James ; Richardson, RobinH ; Ammon, Doug ; Fonseca, Silvina ; Legare, Amy ; Scozzafava, MichaelE ; Ells, Steve ; Mugdan, Walter Mugdan, Walter>; Basso, Ray ; Yeh, Alice	4/7/2014	Proposed O5RTI response to Mathy	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005805	Woolford, James	Mugdan, Walter	4/7/2014	RE: Update on Passaic	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005806	Mugdan, Walter	Woolford, James	4/7/2014	RE: Update on Passaic	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005807	Stalcup, Dana	Basso, Ray	4/4/2014	RE: Another draft of Passaic Proposed Plan	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DAS500005808	Stalcup, Dana	Yeh, Alice ; Basso, Ray ; Mugdan, Walter ; Woolford, James ; Ammon, Doug ; Richardson, RobinH	4/4/2014	RE: Another draft of Passaic Proposed Plan	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DAS500005809	Yeh, Alice	Basso, Ray ; Stalcup, Dana ; Mugdan, Walter Woolford, James ; Ammon, Doug	4/4/2014	RE: Another draft of Passaic Proposed Plan	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DAS500005810			4/4/2014	2014-04-03 Lower 8 Proposed Plan draft-end of day.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DAS500005811	Stalcup, Dana	Yeh, Alice ; Mugdan, Walter ; Woolford, James Ammon, Doug	4/4/2014	RE: Another draft of Passaic Proposed Plan	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DAS500005812	Woolford, James	Yeh, Alice ; Mugdan, Walter ; Stalcup, Dana ; Ammon, Doug	4/4/2014	Re: Another draft of Passaic Proposed Plan	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DAS500005813	Woolford, James	Yeh, Alice Mugdan, Walter ; Stalcup, Dana ; Ammon, Doug	4/4/2014	Re: Another draft of Passaic Proposed Plan	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DAS500005816	Yeh, Alice	Mugdan, Walter ; Stalcup, Dana ; Woolford, James Ammon, Doug	4/3/2014	Another draft of Passaic Proposed Plan	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DAS500005817			4/3/2014	2014-04-03 Lower 8 Proposed Plan draft-rev.docx	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DAS500005818	Mugdan, Walter	Stalcup, Dana ; Woolford, James ; Ammon, Doug	4/3/2014	RE: Passaic River additional suggetsions	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DAS500005819	Stalcup, Dana	Mugdan, Walter ; Basso, Ray	4/3/2014	Passaic River additional suggetsions	Exemption 5: Deliberative process/predecisional and deliberative.
DAS500005820			4/3/2014	Ecological PRGs-ORSTI edits Thursday.docx	Exemption 5: Deliberative process/predecisional and deliberative.

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DASS00005821			4/3/2014	PTW Proposed Language-RB + WM-CLEAN.docx - OSRTI edits Thursday.docx	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00005822	Stalcup, Dana	Basso, Ray	4/2/2014	RE: Passaic Proposed Plan	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005823	Stalcup, Dana	Basso, Ray ; Yeh, Alice	4/2/2014	FW: Passaic Proposed Plan	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005825	Yeh, Alice	Ammon, Doug	3/31/2014	RE: Another draft of Passaic Proposed Plan	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005826	Yeh, Alice	Ammon, Doug	3/31/2014	Another draft of Passaic Proposed Plan	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005827			3/31/2014	2014-03-28 Lower 8 Proposed Plan-all DSRTI comments-rev.docx	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005828			3/31/2014	R2 Response to Silvina comments on 0314draft of Proposed Plan-rev.docx	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005829			3/31/2014	Combined OSRTI comments3-12-14-R2 responses-rev.docx	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005833	Mugdan, Walter	Woolford, James	3/28/2014	RE: Discussion of Passaic Proposed Plan language related to Mathy's email	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005834	Woolford, James	Mugdan, Walter ; Basso, Ray	3/28/2014	RE: Discussion of Passaic Proposed Plan language related to Mathy's email	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005835	Mugdan, Walter	Woolford, James ; Basso, Ray	3/28/2014	RE: Discussion of Passaic Proposed Plan language related to Mathy's email	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00005836	Woolford, James	Basso, Ray	3/28/2014	RE: Discussion of Passaic Proposed Plan language related to Mathy's email	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005837			3/28/2014	PRAP Doug and Silvina's comments.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005838	Woolford, James	Basso, Ray	3/28/2014	RE: Discussion of Passaic Proposed Plan language related to Mathy's email	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005839	Woolford, James	Basso, Ray	3/28/2014	Re: Discussion of Passaic Proposed Plan language related to Mathy's email	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005840	Mugdan, Walter	Basso, Ray; Woolford, James; Stalcup, Dana; Ammon, Doug; Flanagan, Sarah; Hick, Patricia; Thompson, BrianK; Lynch, Mary-Kay; Karlen, Delmar; Simon, Paul; Salo, Earl; Michaud, John; Openchowski, Charles	3/27/2014	RE: Discussion of Passaic Proposed Plan language related to Mathy's email	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005841			3/27/2014	PRAP-Draft 27March2024 Bassoand2msfrev OECA ORC.docx	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005849	Woolford, James	Ells, Steve	3/21/2014	Re: Lower Passaic River - March 18th FFS Meeting	Exemption 5: Deliberative process/predecisional and deliberative.

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DASS00005860	Mugdan, Walter	Woolford, James; Stalcup, Dana; Ammon, Doug; DeLeon, Rafael; Patterson, Kenneth; Lammie, Benjamin; Thompson, BrianK; Lynch, Mary-Kay; Michaud, John; Salo, Earl	3/20/2014	FW: Passaic next steps	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005863	Mugdan, Walter	Pavlou, George ; Plevin, Lisa ; Schaaf, Eric ; Basso, Ray Yeh, Alice Karlen, Delmar ; Hick, Patricia la, John ; Woolford, James ; Stalcup, Dana ; DeLeon, Rafael ; Patterson, Ken ; Thompson, BrianK ; Lynch, Mary-Kay	3/19/2014	Fw: Passaic next steps	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005868	Lynch, Mary-Kay	Mugdan, Walter ; Patterson, Kenneth ; Thompson, BrianK; Stalcup, Dana ; Woolford, James; Breen, Barry; Basso, Ray ; Schaaf, Eric ; Karlen,, Delmar ; Flanagan, Sarah ; Hick, Patricia	3/19/2014	RE: Passaic -- Revised Final Section of Note to Administrator	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005869	Patterson, Kenneth	Mugdan, Walter ; Thompson, BrianK ; Lynch, Mary-Kay ; Stalcup, Dana ; Woolford, James Breen, Barry ; Basso, Ray ; Schaaf, Eric Karlen, Delmar ; Flanagan, Sarah ; Hick, Patricia	3/19/2014	Re: Passaic -- Revised Final Section of Note to Administrator	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00005870	Mugdan, Walter	Patterson, Kenneth ; Thompson, BrianK ; Lynch, Mary-Kay Stalcup, Dana ; Woolford, James ; Breen, Barry ; Basso, Ray ; Schaaf, Eric ;Karlen, Delmar ; Flanagan, Sarah ; Hick, Patricia	3/19/2014	Passaic -- Revised Final Section of Note to Administrator	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005871	Enck, Judith	Mugdan, Walter ; Woolford, James ; Breen, Barry	3/19/2014	Re: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005873	Mugdan, Walter	Woolford, James	3/19/2014	RE: Passaic - FROM OSRE	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005874	Woolford, James	Mugdan, Walter; Basso, Ray; Schaaf, Eric; Flanagan, Sarah; Stalcup, Dana; Ammon, Doug	3/19/2014	FW: Passaic - FROM OSRE	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005884	Woolford, James	Mugdan, Walter	3/18/2014	Re: Passaic river email	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005885	Mugdan, Walter	Woolford, James	3/18/2014	FW: Passaic river email	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005892	Stalcup, Dana	Stanislaus, Mathy ; Breen, Barry ; Natarajan, Nitin	3/14/2014	RE: Passaic River joint memo	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005893	Stalcup, Dana	Basso, Ray	3/14/2014	FW: Passaic River joint memo	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00005896	Stanislaus, Mathy	Stalcup, Dana ; Breen, Barry ; Natarajan, Nitin	3/14/2014	RE: Passaic River joint memo	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005897	Stalcup, Dana	Stanislaus, Mathy ; Breen, Barry ; Natarajan, Nitin	3/14/2014	RE: Passaic River joint memo	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005898	Schaaf, Eric	Starfield, Lawrence	3/13/2014	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00005899	Stanislaus, Mathy	Stalcup, Dana ; Breen, Barry ; Natarajan, Nitin	3/13/2014	RE: Passaic River joint memo	Exemption 5: Attorney work product reflecting mental conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006100	Thompson, BrianK	Flanagan, Sarah	2/27/2014	WRDA	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006109	Thompson, BrianK	Hick, Patricia ; Flanagan, Sarah ; Karlen, Delmar	2/15/2014	FW: Privileged--Passaic River content [Brief-out on CPG bioaccumulation modeling code]	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006110	Thompson, BrianK	Flanagan, Sarah ; Hick, Patricia	2/14/2014	RE: Passaic Timeline	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006111			2/14/2014	[legal research relating to the proposed plan]	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006112			2/14/2014	[legal research relating to the proposed plan]	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006114	Thompson, BrianK	Flanagan, Sarah ; Hick, Patricia	2/14/2014	RE: Passaic Timeline	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00006115	Hick, Patricia	Thompson, BrianK ; Flanagan, Sarah	2/14/2014	RE: Passaic Timeline	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006116	Thompson, BrianK	Hick, Patricia Flanagan, Sarah	2/14/2014	RE: Passaic Timeline	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006117	Hick, Patricia	Thompson, BrianK ; Flanagan, Sarah	2/14/2014	RE: Passaic Timeline	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006118	Thompson, BrianK	Flanagan, Sarah	2/14/2014	RE: Passaic Timeline	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006119	Thompson, BrianK	Flanagan, Sarah	2/13/2014	RE: Passaic Timeline	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006120	Thompson, BrianK	Flanagan, Sarah	2/13/2014	RE: Passaic Timeline	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006121	Thompson, BrianK	Flanagan, Sarah ; Hick, Patricia ; Karlen, Delmar	2/12/2014	FW: PRIVILEGED - Summary of Passaic discussion this afternoon	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006123	Thompson, BrianK	Karlen, Delmar ; Hick, Patricia ; Flanagan, Sarah	2/12/2014	FW: Letter to R2 RA from Co-Chairs of the Passaic River CAG	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006125	Thompson, BrianK	Flanagan, Sarah ; Hick, Patricia	2/12/2014	[email discussing legal research relating to the proposed plan]	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00006126	Thompson, BrianK	Flanagan, Sarah Hick, Patricia	2/12/2014	[email discussing legal research relating to the proposed plan]	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006127	Thompson, BrianK	Flanagan, Sarah ; Hick, Patricia	2/11/2014	[email discussing legal research relating to the proposed plan]	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006128	Thompson, BrianK	Flanagan, Sarah ; Hick, Patricia	2/11/2014	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00006129	Karlen, Delmar	Patterson, Kenneth	2/11/2014	RE: Passaic River CPG Letter	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006130	Thompson, BrianK	Flanagan, Sarah ; Hick, Patricia	2/11/2014	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006131	Thompson, BrianK	Flanagan, Sarah ; Hick, Patricia	2/11/2014	FW: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006137	Thompson, BrianK	Flanagan, Sarah	1/30/2014	RE: Final Passaic River Briefing Package for Administrator	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006140	Thompson, BrianK	Flanagan, Sarah ; Hick, Patricia	1/27/2014	RE: Passaic River – CAD cell questions	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006141	Thompson, BrianK	Hick, Patricia ; Flanagan, Sarah	1/27/2014	FW: Passaic River – CAD cell questions	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00006142	Thompson, BrianK	Hick, Patricia ; Flanagan, Sarah	1/27/2014	RE: Passaic River -- CAD cell questions	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006143	Hick, Patricia	Thompson, BrianK ; Flanagan, Sarah	1/26/2014	RE: Passaic River -- CAD cell questions	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006144	Thompson, BrianK	Flanagan, Sarah ; Hick, Patricia	1/26/2014	FW: Passaic River -- CAD cell questions	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006147	Thompson, BrianK	Flanagan, Sarah	1/24/2014	RE: Passaic River Briefing Materials	Exemption 5: Attorney-client communications.
DASS00006150	Thompson, BrianK	Flanagan, Sarah	1/22/2014	RE: Letter to Seebode on nav channel	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00006154	Salo, Earl	Karlen, Delmar	1/16/2014	RE: Response to Mary Kay's Other Question re the navigation channel	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006155	Thompson, BrianK	Flanagan, Sarah	1/16/2014	RE: Diamond LPRSA - Issues from OECA	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006156	Karlen, Delmar	Salo, Earl	1/16/2014	Response to Mary Kay's Dther Question re the navigation channel	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006161	Ells, Steve	Thompson, BrianK ; Hick, Patricia ; Flanagan, Sarah ; Ammon, Doug	1/14/2014	RE: Discussion on Passaic CAD vs Offsite	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006162	Hick, Patricia	Thompson, BrianK ; Flanagan, Sarah ; Ammon, Doug ; Ells, Steve	1/14/2014	RE: Discussion on Passaic CAD vs Offsite	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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Doc ID Beg	Email From	Email To	Sent Date	Subject/File name	Exemption Explanation
DASS00006163	Thompson, BrianK	Hick, Patricia ; Flanagan, Sarah ; Ammon, Doug Ells, Steve	1/14/2014	Discussion on Passaic CAD vs Offsite	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006164	DeLeon, Rafael	Karlen, Delmar ; Schaaf, Eric ; Hick, Patricia ; Flanagan, Sarah	1/13/2014	Re: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006165	Karlen, Delmar	DeLeon, Rafael ; Schaaf, Eric ; Hick, Patricia; Flanagan, Sarah	1/13/2014	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006166	Schaaf, Eric	DeLeon, Rafael Karlen, Delmar ; Hick, Patricia ; Flanagan, Sarah	1/13/2014	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006167	DeLeon, Rafael	Schaaf, Eric ; Karlen, Delmar ; Hick, Patricia ; Flanagan, Sarah	1/13/2014	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006168	Mugdan, Walter	Woolford, James	1/13/2014	FW: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006171	Schaaf, Eric	Karlen, Delmar ; Hick, Patricia ; Flanagan, Sarah	1/13/2014	FW: Passaic	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006174	Schaaf, Eric	DeLeon, Rafael	1/8/2014	FW: 2-page fact sheet for administrator briefing	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006175			1/8/2014	AX briefing-FFS 12032013.docx	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006187	Thompson, BrianK	Flanagan, Sarah	1/7/2014	RE: Draft Proposed Plan	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00006192	Thompson, BrianK	Hick, Patricia ; Flanagan, Sarah	12/11/2013	FW: Regional Briefing on Passaic River	Exemption 5: Confidential attorney-client communications relating to legal matter for which client has sought advice.
DASS00006193	Thompson, BrianK	Flanagan, Sarah ;; Hick, Patricia	12/11/2013	RE: Regional Briefing on Passaic River	Exemption 5: Confidential attorney-client communications relating to legal matter for which client has sought advice.
DASS00006194	Thompson, BrianK	Flanagan, Sarah ; Hick, Patricia	12/11/2013	FW: Regional Briefing on Passaic River	Exemption 5: Confidential attorney-client communications relating to legal matter for which client has sought advice.
DASS00006196	Thompson, BrianK	Flanagan, Sarah	12/5/2013	RE: Diamond Alkali Passaic River Briefing	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006198	Thompson, BrianK	Flanagan, Sarah	12/5/2013	RE: Passaic Briefing on Thursday	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00006199	Fishburn, Meredith	Flanagan, Sarah ; Hick, Patricia	12/5/2013	RE: Passaic Briefing on Thursday	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00006365	Yeh, Alice	Legare, Amy	5/3/2013	RE: Please visit rrb - Passaic recommendations memo - final draft	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006390	openchowski, charles	Yeh, Alice	2/4/2013	Re: Invitation: NRRB recommendation on PTW (Feb 5 01:00 PM EST in call 866-299-3188	Exenption 5: Attorney-Client Communications; ; predecisional and deliberative.
DASS00006394	Yeh, Alice	Legare, Amy	1/24/2013	Re: Please visit rrb - Passaic recommendations draft 3 - comments due 1/24	Exemption 5: Attorney-Client Communications; predecisional and deliberative.
DASS00006600	Fishburn, Meredith	Flanagan, Sarah ; Hick, Patricia	12/4/2013	RE: Passaic Briefing on Thursday	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00006601	Fishburn, Meredith	Flanagan, Sarah ; Hick, Patricia	12/4/2013	RE: Passaic Briefing on Thursday	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.

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DASS00006604	Fishburn, Meredith	Flanagan, Sarah ; Hick, Patricia	12/3/2013	RE: Passaic Briefing on Thursday	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00006606	Fishburn, Meredith	Flanagan, Sarah ; Thompson, BrianK	11/27/2013	RE: Diamond Alkali - Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00006607	Fishburn, Meredith	Flanagan, Sarah ; Thompson, BrianK	11/27/2013	RE: Diamond Alkali - Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00006617	Legare, Amy	Flanagan, Sarah	11/19/2013	[Email relating to preservation od documents]	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00006624	Yeh, Alice	Ammon, Doug ; Clark, Rebecca ; Ells, Steve	9/12/2013	Draft Proposed Plan for your review	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006633	Flanagan, Sarah	Thompson, BrianK	4/8/2014	RE: Latest on Passaic draft proposed plan.	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006635	Flanagan, Sarah	Thompson, BrianK	4/8/2014	RE: Latest on Passaic draft proposed plan.	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006637	Flanagan, Sarah	Thompson, BrianK	4/7/2014	FW: Latest on Passaic draft proposed plan.	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006640	Flanagan, Sarah	Thompson, BrianK	4/7/2014	RE: Proposed OSRTI response to Mathy	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006641	Flanagan, Sarah	Thompson, BrianK	4/7/2014	RE: Proposed OSRTI response to Mathy	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00006642	Flanagan, Sarah	Thompson, BrianK	4/7/2014	FW: Proposed OSRTI response to Mathy	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006645	Flanagan, Sarah	Thompson, BrianK	4/7/2014	RE: Update on Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006646	Flanagan, Sarah	Thompson, BrianK	4/7/2014	RE: Update on Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006647	Flanagan, Sarah	Thompson, BrianK	4/7/2014	FW: Update on Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006650	Flanagan, Sarah	Thompson, BrianK ; Hick, Patricia	2/14/2014	RE: Passaic Timeline	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006651	Flanagan, Sarah	Hick, Patricia ; Thompson, BrianK	2/14/2014	RE: Passaic Timeline	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006653	Flanagan, Sarah	Thompson, BrianK	2/13/2014	RE: Passaic Timeline	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006654	Flanagan, Sarah	Thompson, BrianK	2/13/2014	RE: Passaic Timeline	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006655	Flanagan, Sarah	Thompson, BrianK Hick, Patricia ; Karlen, Delmar	2/12/2014	RE: PRIVILEGED - Summary of Passaic discussion this afternoon	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00006656	Flanagan, Sarah	Thompson, BrianK	2/12/2014	FW: Newark Bay Habitat Analysis	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006658	Flanagan, Sarah	Thompson, BrianK Hick, Patricia	2/12/2014	[email discussing legal research relating to proposed plan]	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006659	Flanagan, Sarah	Thompson, BrianK ; Hick, Patricia	2/12/2014	[email discussing legal research relating to the proposed plan]	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006660	Flanagan, Sarah	Thompson, BrianK ; Hick, Patricia	2/11/2014	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006661	Flanagan, Sarah	Thompson, BrianK ; Hick, Patricia	2/11/2014	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00006662	Flanagan, Sarah	Thompson, BrianK ; Hick, Patricia	2/11/2014	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00006663	Flanagan, Sarah	Thompson, BrianK	2/5/2014	FW: passaic river remedy	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006667			1/29/2014	AX Passaic_Briefing_Final(6).pptx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006668	Flanagan, Sarah	Thompson, BrianK ; Hick, Patricia	1/27/2014	RE: Passaic River -- CAD cell questions	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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Doc ID Beg	Email From	Email To	Sent Date	Subject/File name	Exemption Explanation
DASS00006669	Flanagan, Sarah	Thompson, BrianK ; Hick, Patricia	1/27/2014	RE: Passaic River – CAD cell questions	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006672	Flanagan, Sarah	Thompson, BrianK	1/24/2014	FW: Passaic River Briefing Materials	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006674	Flanagan, Sarah	Thompson, BrianK	1/22/2014	FW: Letter to Seebode on nav channel	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00006676	Flanagan, Sarah	Thompson, BrianK	1/22/2014	RE: Passaic	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006678	Flanagan, Sarah	Thompson, BrianK	1/17/2014	LPRSA - NRRB Comments	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00006680	Flanagan, Sarah	Thompson, BrianK	1/17/2014	FW: Response to one of Mary Kay Lynch's Questions	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006681	Flanagan, Sarah	Thompson, BrianK	1/16/2014	Diamond LPRSA - Issues from OECA	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006683	Flanagan, Sarah	Hick, Patricia ; Thompson, BrianK ; Ammon, Doug ; Ells, Steve	1/14/2014	RE: Discussion on Passaic CAD vs Offsite	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006690	Flanagan, Sarah	Thompson, BrianK	1/7/2014	RE: Draft Proposed Plan	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00006691	Flanagan, Sarah	Thompson, BrianK	1/7/2014	FW: Draft Proposed Plan (Figs-one more!)	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006693	Flanagan, Sarah	Thompson, BrianK	1/7/2014	FW: Draft Proposed Plan (Figs-Tables 2 of 2)	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006695	Flanagan, Sarah	Thompson, BrianK	1/7/2014	FW: Draft Proposed Plan (Figs-Tables 1 of 2)	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006697	Flanagan, Sarah	Thompson, BrianK	1/7/2014	FW: Draft Proposed Plan	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006806			3/19/2014	Draft Note from Stanislaus and Enck to Administrator-3-29 4PM-Reline	Exemption 5: Attorney-Client Communications; Attorney Work Product reflecting metnal impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00006813	Hick, Patricia	Thompson, BrianK	3/18/2014	FW: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006823	Schaaf, Eric	Starfield, Lawrence	3/14/2014	FW: Joint Memo to Administrator McCarthy - Re: Lower Passaic River Proposed Plan	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006827	Thompson, BrianK	Hick, Patricia	3/14/2014	RE: Joint Memo to Administrator McCarthy - Re: Lower Passaic River Proposed Plan	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006828	Hick, Patricia	Thompson, BrianK	3/14/2014	FW: Joint Memo to Administrator McCarthy - Re: Lower Passaic River Proposed Plan	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00006829	Schaaf, Eric	Lynch, Mary-Kay ; Michaud, John ; Salo, Earl	3/14/2014	FW: Joint Memo to Administrator McCarthy - Re: Lower Passaic River Proposed Plan	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006830	Hick, Patricia	Michaud, John	3/14/2014	FW: Joint Memo to Administrator McCarthy - Re: Lower Passaic River Proposed Plan	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006831	Thompson, BrianK	Hick, Patricia	3/13/2014	RE: latest draft of Passaic Memo	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006832	Hick, Patricia	Thompson, BrianK	3/13/2014	FW: latest draft of Passaic Memo	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006833			3/13/2014	Draft Note from Stanislaus and Enck to Administrator-ARD revision and others-13March2014pm.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00006835	Schaaf, Eric	Gardner, Monica ; Patterson, Kenneth ; Karlen, Delmar ; Flanagan, Sarah; Hick, Patricia ; DeLeon, Rafael	3/12/2014	Fw: Commissioner Martin letter to Gina McCarthy re: Passaic	Exemption 5: Attorney-client communications; attorney work-Product reflecting mental impressions, concclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007120	Legare, Amy	openchowski, charles ; Basso, Ray ; Yeh, Alice ; Hick, Patricia ; Flanagan, Sarah ; Jasinski, Michael	2/5/2013	PTW recommendation	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007300	Stalcup, Dana	Stanislaus, Mathy ; Breen, Barry ; Natarajan, Nitin	3/13/2014	Re: Passaic River joint memo	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007301	Thompson, BrianK	Basso, Ray ; Stalcup, Dana ; Ammon, Doug	3/13/2014	RE: latest draft of Passaic Memo	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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OASS00007302			3/13/2014	Draft Note from Stanislaus and Enck to Administrator-final version 2pm 13 march 2014 OSRE comments.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
OASS00007303	Staicup, Oana	Stanislaus, Mathy ; Breen, Barry ; Natarajan, Nitin	3/13/2014	Passaic River joint memo	Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
OASS00007304	Staicup, Dana	Thompson, BrianK ; Basso, Ray ; Ammon, Doug	3/13/2014	RE: latest draft of Passaic Memo	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
OASS00007305			3/13/2014	Draft Note from Stanislaus and Enck to Administrator-final version 2pm 13 march 2014.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
OASS00007306	Thompson, BrianK	Staicup, Oana ; Basso, Ray ; Ammon, Doug	3/13/2014	RE: latest draft of Passaic Memo	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
OASS00007307	Ammon, Doug	Basso, Ray ; Yeh, Alice	3/12/2014	Proposed Plan Comments	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
OASS00007308			3/12/2014	Combined OSRTI comments3-12-14.docx	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
OASS00007313	Mugdan, Walter	DeLeon, Rafael	3/11/2014	FW: Draft Passaic Memo to Adm.	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
OASS00007316	Woolford, James	Hick, Patricia ; Mugdan, Walter	3/11/2014	RE: Passaic River	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
OASS00007317	Hick, Patricia	Mugdan, Walter ; Woolford, James	3/11/2014	RE: Passaic River	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00007318	Mugdan, Walter	Woolford, James	3/11/2014	FW: Meeting with Ana Bautista and Debbie Mans, Passaic CAG	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00007321	Mugdan, Walter	Woolford, James	3/10/2014	Fw: NOAA and DOI/USFWS Comments on In-Water Disposal Alternative Evaluation for Lower Passaic River	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00007323	Mugdan, Walter	Woolford, James	3/10/2014	Re: Passaic River	Exemption 5: Attorney-client communications; predecisional and deliberative.
DASS00007327	Mugdan, Walter	Woolford, James	3/2/2014	Re: Privledged: Alternative path on Passaic	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007329	Woolford, James	Pavlou, George ; Mugdan, Walter ; Basso, Ray	3/2/2014	FW: Privledged: Alternative path on Passaic	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007330	Woolford, James	Stalcup, Dana ; Cooper, DavidE ; Ammon, Doug ; Scozzafava, MichaelE ; Ells, Steve ; Greenberg, Marc ; Wilbur, Jennifer ; Williams, Thea ; Williams, Faith ; Wells, Suzanne ; Basso, Ray	3/2/2014	FW: Meeting with Ana Bautista and Debbie Mans, Passaic CAG	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00007331	Woolford, James	Mugdan, Walter ; Basso, Ray ; Pavlou, George	2/28/2014	Fw: Port Authority	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00007332	Stalcup, Dana	Mugdan, Walter ; Basso, Ray	2/21/2014	RE: Privileged: FW: Summary of Today's Passaic Call, and Talking Points for Tomorrow	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007333	Mugdan, Walter	Stalcup, Dana ; Basso, Ray	2/21/2014	RE: Privileged: FW: Summary of Today's Passaic Call, and Talking Points for Tomorrow	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007334	Stalcup, Dana	Mugdan, Walter ; Basso, Ray	2/21/2014	FW: Privileged: FW: Summary of Today's Passaic Call, and Talking Points for Tomorrow	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00007335	Spyropoulos, Stella	Mugdan, Walter ; Basso, Ray ; DeLeon, Rafael Thompson, BrianK ; Ergener, Deniz ; Patterson, Kenneth ; Lynch, Mary-Kay ; Michaud, John ; Openchowski, Charles ; Woolford, James ; Ammon, Doug ; Legare, Amy ; Scozzafava, MichaelE ; Ells, Steve ; Gustavson, Karl ; Greenberg, Marc ; Cooper, DavidE ; Richardson, RobinH	2/20/2014	Cross-office Check-in on Passaic River	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007337	Woolford, James	Mugdan, Walter ; Basso, Ray	2/14/2014	FW: Privileged--Passaic River content [Brief-out on CPG bioaccumulation modeling code]	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00007339	Mugdan, Walter	Woolford, James	2/13/2014	FW: Passaic briefing of the Administrator	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007341	Flanagan, Sarah	Thompson, BrianK	2/13/2014	RE: Passaic Timeline	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007342	Pavlou, George	Stalcup, Dana ; Woolford, James ; Thompson, BrianK	2/13/2014	RE: PRIVILEGED - Summary of Passaic discussion this afternoon	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007346	Thompson, BrianK	Stalcup, Dana ; Woolford, James ; Pavlou, George	2/12/2014	RE: PRIVILEGED - Summary of Passaic discussion this afternoon	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007347			2/12/2014	OSRE analysis of CPG Ltr 2-6-14 v2.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00007348	Stalcup, Dana	Woolford, James ; Pavlou, George ; Thompson, BrianK	2/12/2014	PRIVILEGED - Summary of Passaic discussion this afternoon	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007349	Stalcup, Dana	Woolford, James ; Pavlou, George	2/12/2014	RE: Given Walter is on A/L as is Ray - shld we coordinate w/you on next steps in the short term?	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007350	Woolford, James	Stalcup, Dana ; Pavlou, George	2/12/2014	Re: Given Walter is on A/L as is Ray - shld we coordinate w/you on next steps in the short term?	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DAS500007351	Pavlou, George	Stalcup, Dana ; Woolford, James	2/12/2014	RE: Given Walter is on A/L as is Ray - shld we coordinate w/you on next steps in the short term?	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; deliberative process/predecisional and deliberative.
DASS00007352	Stalcup, Dana	Pavlou, George ; Woolford, James	2/12/2014	Re: Given Walter is on A/L as is Ray - shld we coordinate w/you on next steps in the short term?	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007353	Pavlou, George	Woolford, James	2/12/2014	RE: Given Walter is on A/L as is Ray - shld we coordinate w/you on next steps in the short term?	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007356	Woolford, James	Pavlou, George	2/12/2014	Given Walter is on A/L as is Ray - shld we coordinate w/you on next steps in the short term?	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007360	Stalcup, Dana	Basso, Ray	2/12/2014	FW: proposed agenda for today's discussion on Passaic	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007370	Stalcup, Dana	Feldt, Lisa ; Mugdan, Walter; LaPadula, John ; Basso, Ray ; Stanislaus, Mathy ; Breen, Barry	2/7/2014	Confidential - Revised Passaic Qs	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DAS500007371			2/7/2014	Passaic questions Feb 7 v-2.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007373	Woolford, James	Basso, Ray ; Mugdan, Walter	2/3/2014	Re: Potential Qs	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00007374	Mugdan, Walter	Woolford, James ; Basso, Ray	2/2/2014	Re: Potential Qs	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007375	Woolford, James	Mugdan, Walter Basso, Ray	2/2/2014	Fw: Potential Qs	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007376	Woolford, James	Stanislaus, Mathy; Breen, Barry; Feldt, Lisa; Corman, Bicky; Lynch, Mary-Kay; DeLeon, Rafae ; Stalcup, Dana; Patterson, Kenneth; Thompson, BrianK	1/31/2014	Fw: Privileged--Passaic River content [Brief-out on CPG bioaccumulation modeling code]	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007377			1/31/2014	CPG-Bio-Model-Burkhard-Comments_Final.docx	Exemption 5: Deliberative process/predecisional and deliberative
DASS00007379	Woolford, James	Basso, Ray	1/31/2014	Re: Meeting Request	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00007381	Legare, Amy	Basso, Ray ; Yeh, Alice	1/30/2014	FW: Passaic River memo	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007382			1/30/2014	rrb Passaic Lower 1.17.14.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007383	Legare, Amy	Yeh, Alice ; Basso, Ray	1/30/2014	FW: Passaic River memo	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00007385	Woolford, James B382	Basso, Ray ; Mugdan, Walter	1/28/2014	Re: Passaic - Not urgent and it may be a short response.	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00007386	Woolford, James	Mugdan, Walter	1/28/2014	RE: Passaic - Not urgent and it may be a short response.	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00007387	Mugdan, Walter	Woolford, James ; Ammon, Doug	1/27/2014	RE: Mathys wants	Exemption 5: Deliberative process/predecisional and deliberative.

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DASS00007393	Karlen, Delmar	Salo, Earl ; Openchowski, Charles ; Michaud, John	1/27/2014	Passaic - a couple of points raised during our telephone conversation.	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007394	Mugdan, Walter	Feldt, Lisa	1/27/2014	FW: Privileged--Passaic River content [Brief-out on CPG bioaccumulation modeling code]	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00007397	Woolford, James	Mugdan, Walter ; Basso, Ray ; Yeh, Alice ; Schaaf, Eric	1/24/2014	Fw: Privileged--Passaic River content [Brief-out on CPG bioaccumulation modeling code]	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00007398	Mugdan, Walter	Woolford, James	1/24/2014	RE: Passaic River Briefing Materials	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007603	Flanagan, Sarah	Thompson, BrianK ; Hick, Patricia	12/11/2013	RE: Regional Briefing on Passaic River	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007604	Flanagan, Sarah	Thompson, BrianK	12/6/2013	RE: Diamond Alkali Passaic River Briefing	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007605	Flanagan, Sarah	Thompson, BrianK	12/5/2013	RE: Diamond Alkali Passaic River Briefing	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007606	Flanagan, Sarah	Thompson, BrianK	12/5/2013	Diamond Alkali Passaic River Briefing	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007607	Flanagan, Sarah	Fishburn, Meredith ; Hick, Patricia	12/5/2013	RE: Passaic Briefing on Thursday	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007608	Flanagan, Sarah	Fishburn, Meredith ; Hick, Patricia	12/4/2013	RE: Passaic Briefing on Thursday	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.

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DASS00007609	Flanagan, Sarah	Fishburn, Meredith ; Hick, Patricia	12/4/2013	RE: Passaic Briefing on Thursday	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00007610	Flanagan, Sarah	Fishburn, Meredith ; Hick, Patricia	12/3/2013	RE: Passaic Briefing on Thursday	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00007611	Flanagan, Sarah	Fishburn, Meredith ; Hick, Patricia	12/3/2013	RE: Passaic Briefing on Thursday	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00007612	Flanagan, Sarah	Fishburn, Meredith ; Thompson, BrianK	11/27/2013	RE: Diamond Alkali - Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00007613	Flanagan, Sarah	Fishburn, Meredith ; Thompson, BrianK	11/26/2013	Diamond Alkali - Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00007956	Woolford, James	Mugdan, Walter ; Basso, Ray	1/17/2014	Fw: Comments on the Passaic Lower 8 Miles (Diamond Alkali Site)	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00007957	Ells, Steve	Mugdan, Walter	1/16/2014	FW: Passaic - Walter's comments	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00007958	Karlen, Delmar	Salo, Earl	1/16/2014	Response to one of Mary Kay Lynch's Questions	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DAS500007959	Mugdan, Walter	Woolford, James	1/15/2014	Today's Passaic meeting	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00007960	Ells, Steve	Legare, Amy ; Yeh, Alice	1/15/2014	RE: Draft NRRB response memo	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00007965	Woolford, James	Mugdan, Walter	1/14/2014	Re: More on Passaic	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007971	Walter Mugdan	Woolford, James	1/3/2014	Passaic	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

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DASS00007975	Mugdan, Walter	Fine, Ellyn ; Woolford, James	12/30/2013	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007976	Fine, Ellyn	Woolford, James ; Mugdan, Walter	12/30/2013	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007977	Woolford, James	Mugdan, Walter	12/27/2013	Re: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007978	Mugdan, Walter	Woolford, James	12/27/2013	Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007982			12/16/2013	Woolford briefing 120513.pptx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007983			12/16/2013	Sediment Texture Maps Rev 2013-07-15.pdf	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007984			12/16/2013	FF5 Chapter 4 Model Trajectory Plots 12_04_2013 1995-2059.pdf	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007987	Legare, Amy	Basso, Ray ; Yeh, Alice	11/26/2013	FW: Passaic meeting - any agenda items?	Exemption 5: Deliberative process/predecisional and deliberative.
DASS00007988	Legare, Amy	Yeh, Alice ; Basso, Ray	11/26/2013	RE: Got your VM - FW: Passaic - status of agenda	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00007989	Yeh, Alice	Basso, Ray ; Legare, Amy	11/26/2013	RE: Got your VM - FW: Passaic - status of agenda	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

Documents Withheld
FOIA No. EPA-R2-2014-005768

Doc ID Beg	Email From	Email To	Sent Date	Subject/File name	Exemption Explanation
DASS00008084			3/24/2014	PRAP-DRAFT%20March%2024%20%-%20Basso%20and%20WM_%20sf%20rev.docx	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASS00025007	Salo, Earl	Karlen, Delmar	3/25/2014	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025008	Openchowski, Charles	Salo, Earl ; Karlen, Delmar	3/25/2014	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025029	Schaaf, Eric	Starfield, Lawrence	3/12/2014	RE: Passaic River	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025037	Gardner, Monica	Woolford, James	3/12/2014	FW: Passaic River	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025038	Starfield, Lawrence	Schaaf, Eric	3/12/2014	RE: Passaic River	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025039	Schaaf, Eric	Starfield, Lawrence	3/12/2014	RE: Passaic River	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025042	Lynch, Mary-Kay	Karlen, Delmar	2/21/2014	Re: Passaic = State Letter	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00025044	Lynch, Mary-Kay	Karlen, Delmar	2/18/2014	RE: passaic river remedy	Exemption 5: Attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025045	Lynch, Mary-Kay	Karlen, Delmar	2/18/2014	passaic river remedy	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.

Documents Withheld
FOIA No. EPA-R2-2014-005768

Doc ID Beg	Email From	Email To	Sent Date	Subject/File name	Exemption Explanation
DASS00025046			2/18/2014	[case attached to email]	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00025047			2/18/2014	[case attached to email]	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00025072	Salo, Earl	Karlen, Delmar	2/12/2014	FW: Letter to R2 RA from Co-Chairs of the Passaic River CAG	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025076	Patterson, Kenneth	Lynch, Mary-Kay	2/11/2014	Passaic: Response to CPG letter	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025078	Patterson, Kenneth	Karlen, Delmar ; Schaaf, Eric	2/10/2014	Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00025085	Salo, Earl	Schaaf, Eric ; Karlen, Delmar	2/7/2014	FW: Lower Passaic follow up letter	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00025087			2/7/2014	Lower Passaic River FFS.docx	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025089	Salo, Earl	Mugdan, Walter	2/6/2014	RE: passaic river remedy	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025090	Lynch, Mary-Kay	Schaaf, Eric ; Karlen, Delmar	1/31/2014	FW: Meeting Request	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

Documents Withheld
FOIA No. EPA-R2-2014-005768

Doc ID Beg	Email From	Email To	Sent Date	Subject/File name	Exemption Explanation
DASS00025091	Michaud, John	Karlen, Delmar ; Salo, Earl ; Openchowski, Charles	1/29/2014	RE: Passaic Briefing Paper for the Administrator	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025094	Salo, Earl	Karlen, Delmar	1/27/2014	FW: Passaic River Briefing Materials	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025100	Mugdan, Walter	Woolford, James	1/23/2014	Passaic	Exemption 5: Attorney-client communications; predecisional and deliberative.
DASS00025102	Lynch, Mary-Kay	Karlen, Delmar	1/21/2014	Re: Response to Mary Kay's Other Question re the navigation channel	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025104	Karlen, Delmar	Salo, Earl	1/21/2014	RE: Passaic River – follow-up on your navigation channel question	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025109	Salo, Earl	Karlen, Delmar	1/17/2014	FW: Passaic River – follow-up on your navigation channel question	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025111	Thompson, BrianK	Karlen, Delmar	1/16/2014	RE: Response to one of Mary Kay Lynch's Questions	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025112	Thompson, Brian	Thompson, BrianK	1/13/2014	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025114	Thompson, BrianK	Karlen, Delmar	1/13/2014	RE: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025131	Patterson, Kenneth	Khoury, Lynn ; Raicaldo, Doreen ; Bailey, Ethel	12/11/2013	RE: Regional Briefing on Passaic River	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.

Documents Withheld
FOIA No. EPA-R2-2014-005768

Doc ID Beg	Email From	Email To	Sent Date	Subject/File name	Exemption Explanation
DASS00025132	Patterson, Kenneth	DeLeon, Rafael ; Bailey, Ethel >; Gardner, Monica	12/10/2013	Re: Regional Briefing on Passaic River	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00025133	Patterson, Kenneth	DeLeon, Rafael ; Bailey, Ethel ; Gardner, Monica	12/9/2013	Regional Briefing on Passaic River	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00025134	Karlen, Delmar	Salo, Earl ; Openchowski, Charles ; Michaud, John; Lynch, Mary-Kay	3/26/2014	CORRECTION re Passaic materials	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
OASS00025138	Karlen, Delmar	Breen, Barry	2/21/2014	FW: Passaic FFS and Proposed Plan - Ownership of the Bottom of Newark Bay	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025145	Karlen, Delmar	Lynch, Mary-Kay	2/18/2014	RE: passaic river remedy	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASS00025147	Karlen, Delmar	Salo, Earl	2/7/2014	RE: Lower Passaic follow up letter	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
OASS00025150	Karlen, Delmar	Michaud, John	1/29/2014	FW: Final Passaic River Briefing Package for Administrator	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025154	Karlen, Delmar	Salo, Earl	1/21/2014	FW: Response to Mary Kay's Other Question re the navigation channel	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025156	Karlen, Delmar	Thompson, BrianK	1/16/2014	FW: Response to Mary Kay's Other Question re the navigation channel	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

Documents Withheld
FOIA No. EPA-R2-2014-005768

Doc ID Beg	Email From	Email To	Sent Date	Subject/File name	Exemption Explanation
DASS00025157	Karlen, Delmar	Thompson, BrianK	1/16/2014	FW: Response to one of Mary Kay Lynch's Questions	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025160	Karlen, Delmar	Thompson, BrianK ; Lammie, Benjamin	1/14/2014	FW: Conversation with OGC re: Passaic Proposed Plan	Exemption 5: Attorney-client communications.
DASS00025161	Karlen, Delmar	Enck, Judith ; Schaaf, Eric	1/14/2014	RE: Conversation with OGC re: Passaic Proposed Plan	Exemption 5: Attorney-client communications.
DASS00025162	Karlen, Delmar	Thompson, BrianK	1/14/2014	FW: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025163	Karlen, Delmar	Thompson, BrianK	1/13/2014	FW: Passaic	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASS00025165	Karlen, Delmar	DeLeon, Rafael ; Bailey, Ethel; Gardner, Monica	12/9/2013	RE: Regional Briefing on Passaic River Correction regarding dates	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
DASSQ800000007	Yeh, Alice	Legare, Amy	4/10/2014	FW: Edit to NRRB ecological risk recommendation	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASSQ800000010	Yeh, Alice	Legare, Amy	4/10/2014	FW: Edit to NRRB ecological risk recommendation	attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASSQ800000019	Legare, Amy	Yeh, Alice ; Basso, Ray	4/7/2014	Edit to NRRB ecological risk recommendation	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.
DASSQ800000020	Legare, Amy	Yeh, Alice	4/2/2014	RE: Draft NRRB response	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

Documents Withheld
FOIA No. EPA-R2-2014-005768

Doc ID Beg	Email From	Email To	Sent Date	Subject/File name	Exemption Explanation
DASSQ800000052	Ells, Steve	Legare, Amy ; Yeh, Alice	1/15/2014	RE: Draft NRRB response memo	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASSQ800000068			12/20/2013	Proposed Plan text-120213 draft7-R2-response to HQs comments.docx	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASSQ800000073			12/20/2013	FFS Tables and Figures - LPR Proposed Plan.pdf	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASSQ800000075			12/20/2013	RI Tables and Figures - LPR Proposed Plan.pdf	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASSQ800000077			12/20/2013	Proposed Plan text-121813 draft8-to Partners.docx	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASSQ800000078			12/20/2013	FFS Appendix A DER6 Figures-LPR Proposed Plan.pdf	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASSQ800000092			10/24/2013	Proposed Plan text-091213 draft6-to HQs al.docx	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASSQ800000096			10/21/2013	Proposed Plan text-091213 draft6-to HQs.docx	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASSQ800000114	Yeh, Alice	Ells, Steve	3/6/2013	FW: Modeling Peer Review Mid-Point Teleconference - Response to Issues	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative

Documents Withheld
FOIA No. EPA-R2-2014-005768

Doc ID Beg	Email From	Email To	Sent Date	Subject/File name	Exemption Explanation
DASSQ800000117	Yeh, Alice	Ells, Steve	3/6/2013	FW: Modeling Peer Review Mid-Point Teleconference - Response to Issues	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DASSQ800000118			3/6/2013	max_daily_avg_and_peak_flows.pdf	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
OASSQ800000122	Yeh, Alice	Ells, Steve	3/5/2013	FW: Modeling Peer Review Mid-Point Teleconference - Response to Issues	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
OASSQ800000124			3/5/2013	Mid Point Teleconference Response Matrix.docx	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
DAS5Q800000125			3/5/2013	Tseng-Oconnor22Mar10TechMemo.pdf	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
OAS5Q800000179	Legare, Amy	Yeh, Alice	3/12/2013	RE: NRRB recommendations for Passaic?	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
OASSQ800000180			3/12/2013	Passaic Lower 8 draft 6.docx	Exemption 5: attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative
FOIA_05768_00009001			6/4/01	crabpaper.kkp.doc	Exemption 5: deliberative process/predecisional and deliberative.
FOIA_05768_00009003			1/6/11	Final draft Crab MS 1-6-11.doc	Exemption 5: deliberative process/predecisional and deliberative.
FOIA_05768_00009012				NJBlueCrabReport_063003.pdf.pdf	Exemption 5: deliberative process/predecisional and deliberative.
FOIA_05768_00009013	Olsen, Marian	Vaughn, Stephanie	2/3/12	Re: FW: Revisions to Attachment A	Exemption 5: Attorney-client communications; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; predecisional and deliberative.

Documents Withheld
FOIA No. EPA-R2-2014-005768

Doc ID Beg	Email From	Email To	Sent Date	Subject/File name	Exemption Explanation
FOIA_05768_00009 014	Vaughn, Stephanie	Yeh, Alice	8/10/10	Summary of 8/10/10 agency-only risk meeting	Exemption 5: Deliberative process/predecisional and deliberative.
FOIA_05768_00009 015				2012-01-25 Fish-Crab Ingestion Tech Memo.docx	Exemption 5: Deliberative process/predecisional and deliberative.
FOIA_05768_00009 016	Yeh, Alice	Olsen, Marian	2/11/13	Fw: Passaic River-DEP issues and request for meeting	Exemption 5: deliberative process/predecisional and deliberative.
FOIA_05768_00009 017	Carpenter, Kristin	Vaughn, Stephanie	1/17/12	Re: Burger raw data & calculations - for discussion	Exemption 5: Deliberative process/predecisional and deliberative.
FOIA_05768_00009 018	Vaughn, Stephanie	Carpenter, Kristin	1/26/12	Re: Draft - revised fish & crab ingestion tech memo	Exemption 5: Attorney-client communications; deliberative process/predecisional and deliberative.
FOIA_05768_00009 019	Vaughn, Stephanie	MacGregor, Janine	1/26/12	Re: Update on Passaic Dispute Resolution	Exemption 5: Deliberative process/predecisional and deliberative.
FOIA_05768_00009 020	Vaughn, Stephanie	MacGregor, Janine	1/26/12	Update on Passaic Dispute Resolution	Exemption 5: Deliberative process/predecisional and deliberative.
FOIA_05768_00009 021	Cullen, Linda	Olsen, Marian	1/30/09	Re: Passaic River Risk Assessment	Exemption 5: Deliberative process/predecisional and deliberative.
FOIA_05768_00009 022	Cullen, Linda	Olsen, Marian	1/30/09	Re: Passaic River Risk Assessment	Exemption 5: Deliberative process/predecisional and deliberative.
FOIA_05768_00009 023			3/11/04	Passaic River Human Helath Risk Assessment: Questions Related to the Sampling, Analysis, and Ingestion of Crab and Fish	Exemption 5: Deliberative process/predecisional and deliberative.
FOIA_05768_00009 024			1/29/09	Passaic River Human Health Risk Assessment: Questions Related to the Sampling, Analysis, and Ingestion of Crab and Fish	Exemption 5: Deliberative process/predecisional and deliberative.

EXHIBIT D

Request Details

Tracking Number : *EPA-R2-2014-006018*

Submitted Evaluation Assignment Processing Closed

- The selected set of records is too large to download at once. Please uncheck one or more selections.

Request Information

Full Name : Robert Paul La Gravenis

Organization : K&L Gates LLP

Date Submitted : 04/28/2014

Estimated Date of Completion : September 30, 2014

Final Disposition : Undetermined

Description :

United States Environmental Protection Agency
Region 2
Freedom of Information Officer
U.S. EPA Region 2
290 Broadway, 26th Floor
New York, NY 10007-1866
Re: Lower Passaic River Study Area Superfund Site

To Whom It May Concern:

I am submitting this document request pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 et seq. This request concerns the United States Environmental Protection Agency's ("EPA") files relating to the Diamond Alkali Superfund Site (the "Site") which includes the former pesticides manufacturing plant and surrounding properties at 80 and 120 Lister Avenue in Newark, New Jersey, the Lower Passaic River Study Area ("LPRSA") and the Newark Bay Study Area. The EPA Site ID number is NJD980528996.

Specifically, I request copies of any and all emails, correspondence, and other documents relating to: (1) EPA's 2008 Conceptual Site Model ("CSM") and Empirical Mass Balance Model ("EMBM") developed as part of the LPRSA lower 8 mile Focused Feasibility Study

("FFS") and any comments, revisions or changes to the CSM that were considered by EPA in the development and issuance of the Proposed Plan for the lower 8 miles of the LPRSA; and (2) EPA's June 2008 peer review of the CSM and EMBM.

I would ask that you contact me at your earliest convenience to discuss arrangements for providing the requested documents. This firm will assume financial responsibility for any necessary copying and/or shipping charges. Your prompt attention to this matter is greatly appreciated. Thank you for your anticipated cooperation.

Sincerely,

Robert Paul La Gravenis

Senior Paralegal
K&L Gates LLP
One Newark Center, 11th Floor
Newark, NJ 07102
robertpaul.lagravenis@klgates.com

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EXHIBIT E

La Gravenis, Robert Paul

From: calderon.wanda@epa.gov
Sent: Monday, April 28, 2014 3:55 PM
To: La Gravenis, Robert Paul
Subject: FOIA Request EPA-R2-2014-006018 Submitted

This message is to confirm your request submission to the FOIAonline application: View Request. Request information is as follows:

- Tracking Number: EPA-R2-2014-006018
- Requester Name: Robert Paul La Gravenis
- Date Submitted: Mon Apr 28 15:54:25 EDT 2014
- Request Status: Submitted
- Description: United States Environmental Protection Agency
  Region 2
  Freedom of Information Officer
  U.S. EPA Region 2
  290 Broadway, 26th Floor
  New York, NY 10007-1866
  Re: Lower Passaic River Study Area Superfund Site

  To Whom It May Concern:

  I am submitting this document request pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 et seq. This request concerns the United States Environmental Protection Agency's ("EPA") files relating to the Diamond Alkali Superfund Site (the "Site") which includes the former pesticides manufacturing plant and surrounding properties at 80 and 120 Lister Avenue in Newark, New Jersey, the Lower Passaic River Study Area ("LPRSA") and the Newark Bay Study Area. The EPA Site ID number is NJD980528996.

  Specifically, I request copies of any and all emails, correspondence, and other documents relating to: (1) EPA's 2008 Conceptual Site Model ("CSM") and Empirical Mass Balance Model ("EMBM") developed as part of the LPRSA lower 8 mile Focused Feasibility Study ("FFS") and any comments, revisions or changes to the CSM that were considered by EPA in the development and issuance of the Proposed Plan for the lower 8 miles of the LPRSA; and (2) EPA's June 2008 peer review of the CSM and EMBM.

  I would ask that you contact me at your earliest convenience to discuss arrangements for providing the requested documents. This firm will assume financial responsibility for any necessary copying and/or shipping charges. Your prompt attention to this matter is greatly appreciated. Thank you for your anticipated cooperation.

  Sincerely,

  Robert Paul La Gravenis

  Senior Paralegal
  K&L Gates LLP
  One Newark Center, 11th Floor

Newark, NJ 07102
robertpaul.lagravenis@klgates.com

EXHIBIT F

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 2, 290 Broadway, 17th Floor
New York, NY 10007

JAN - 5 2015

BY EMAIL AND FOIA ONLINE

Robert Paul La Gravenis
K&L Gates, LLP
1085 Raymond Boulevard
One Newark Center, 11th Floor
Newark, New Jersey 07102-5252

Re: Freedom of Information Act (FOIA) Request EPA-R2-2014-006018

Dear Mr. La Gravenis:

This will respond to your Freedom of Information Act ("FOIA") request EPA-R2-2014-006018 seeking emails, correspondence, and other documents relating to: (1) EPA's 2008 Conceptual Site Model ("CSM") and Empirical Mass Balance Model ("EMBM") developed as part of the LPRSA lower 8 mile Focused Feasibility Study ("FFS") and any comments, revisions or changes to the CSM that were considered by EPA in the development and issuance of the Proposed Plan for the lower 8 miles of the LPRSA; and (2) EPA's June 2008 peer review of the CSM and EMBM.

EPA previously released information responsive to this request on May 27, 2014 through FOIAonline. Additional responsive information was released through FOIAonline between October 20, 2014 and December 9, 2014. This completes our response.

In addition to the information released, EPA is withholding certain responsive information that is exempt from disclosure as set forth on the enclosed withholding log. Where it was possible to segregate nonexempt information from the privileged portions of a responsive document, we have done so. However, segregation was not possible as to a number of the documents. *See, e.g., Horowitz v. Peace Corps,* 428 F.3d 271, 277 (D.C. Cir. 2005)(protecting document where decision maker's thought processes are woven into document to such an extent that any attempt at segregating information would reveal agency deliberations). Where EPA is asserting the deliberative process privilege (embodied within FOIA exemption 5, 5 U.S.C. § 552(b)(5)) as to documents on the log, that is because the documents are internal communications that are both predecisional and deliberative in nature, and release would have a chilling effect on EPA's ability to conduct frank internal discussions as part of a decision-making process, as well as

contribute to public confusion that might result from disclosure of reasons and rationales that were not in fact ultimately the grounds for an agency's action.

You may appeal this denial response to the National Freedom of Information Officer, U.S. EPA, FOIA and Privacy Branch, 1200 Pennsylvania Avenue, N.W. (2822T), Washington, D.C. 20460 (U.S. Postal Service Only), E-mail: hq.foia@epa.gov. Only items mailed through the United States Postal Service may be delivered to 1200 Pennsylvania Avenue, N.W. If you are submitting your appeal via hand delivery, courier service or overnight delivery, you must address your correspondence to 1301 Constitution Avenue, N.W., Room 6416J, Washington, D.C. 20004.

Your appeal must be made in writing, and it must be submitted no later than 30 calendar days from the date of this letter. The Agency will not consider appeals received after the 30 calendar day limit. The appeal letter should clearly identify the determination being appealed, including the assigned FOIA request number shown above. For quickest possible handling, the appeal letter and its envelope should be marked "Freedom of Information Act Appeal." See 40 C.F.R. §2.104(j) for further information regarding appeals of adverse determinations under FOIA.

Pursuant to 40 C.F.R. § 2.107, EPA will transmit a bill for the costs incurred by EPA in searching our files, reproducing documents, and preparing our response to your FOIA request. You should receive the bill through FOIAonline, along with instructions for payment.

Please contact Sarah Flanagan of my staff at 212-637-3136 if you have any questions concerning this matter.

Sincerely yours,

Eric Schaaf
Regional Counsel

Enclosure

cc: Wanda Calderon
Jacqueline Ferreras-De Jesus

Documents Withheld

FOIA R2-2014-006018

Quantity/type of document	Email from/Generated by	Email To/Recipient of	Sent Month-Year	Subjects of documents	Exemption Status
Exemption 5: Deliberative Process					
Three emails and documents transmitted in 2007 between EPA-R2 and EPA-HQ	Yeh, Alice; Ells, Steve; Basso, Ray	Ells, Steve; Yeh, Alice; Woolford, James; Southerland, Elizabeth	11&12/2007	Technical Advisory Committee members; Data Sources and High Resolution Cores	Exemption 5: communicating information that reflects the deliberative process and is predecisional and deliberative.
86 emails and documents transmitted in 2008 between EPA-R2 and EPA-HQ, including CSTAG members	Greenberg, Marc; Winfield, Richard; Keckler, Kymberlee; Zeller, Craig; Ells, Steve; Tomchuk, Doug; Hiltner, Allison; Bergen, Barbara; Burkhard, Lawrence; Yeh, Alice; Basso, Ray; Naranjo, Eugenia	Yeh, Alice; Tomchuk, Doug; OSWER OSRTI CSTAG@EPA; Hiltner, Allison; Greenberg, Marc; Hayter, Earl; Ells, Steve; Bergen, Barbara; Burkhard, Lawrence; Keckler, Kymberlee; Smith, Craig; Zeller, Craig; Rathke, David; Schauffler, Frederick; Meyer, John; Sturgeon, Randy; Linebaugh, Stephanie; Gustavson, Karl; Southerland, Elizabeth; Naranjo, Eugenia; Cyterski, Mike; Woolford, James	1,2,3,4,5,7,8, &9/2008	EMBM Comments; CSTAG memo edits; Passaic modeling; resuspension evaluation; Conceptual Site Model Peer Review members	Exemption 5: communicating information that reflects the deliberative process and is predecisional and deliberative.
Five emails and documents transmitted in 2009 between EPA-R2 and EPA-HQ, including CSTAG members	Yeh, Alice; Ells, Steve; Woolford, James	OSWER OSRTI CSTAG; Woolford, James; Southerland, Elizabeth; Dawson, Helen	1&11/2009	CSTAG Review of Passaic River; CSTAG data needs	Exemption 5: communicating information that reflects the deliberative process and is predecisional and deliberative.
Eight emails transmitted in 2011 between EPA-R2 and EPA-HQ, including CSTAG members	Ells, Steve; Sturgeon, Randy; Basso, Ray	Basso, Ray; Ells, Steve; Sturgeon, Randy	1&2/2011	CSTAG call on Passaic River	Exemption 5: communicating information that reflects the deliberative process and is predecisional and deliberative.

Documents Withheld

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Quantity/type of document	Email from/Generated by	Email To/Recipient of	Sent Month-Year	Subjects of documents	Exemption Status
Two communications transmitted in 2012 between EPA-R2 and EPA-HQ, including CSTAG members	Ells, Steve	Ells, Steve; Hayter, Earl; OSWER OSRTI CSTAG	June, 2012	Draft material for Passaic CSTAG update	Exemption 5: communicating information that reflects the deliberative process and is predecisional and deliberative.
Five emails and documents transmitted in 2013 between EPA-R2 and EPA-HQ, including CSTAG members	Greenberg, Marc	Yeh, Alice; Vaughn, Stephanie	1/4/2013	Groundwater transport to river; CSM	Exemption 5: communicating information that reflects the deliberative process and is predecisional and deliberative.
Eight emails transmitted in 2014 between EPA-R2 and EPA-HQ, including CSTAG members	Ells, Steve; Basso, Ray; Greenberg, Marc	Basso, Ray; Ells, Steve	1&2/2014	Questions relating to Passaic River	Exemption 5: communicating information that reflects the deliberative process and is predecisional and deliberative.
Four emails or documents created in 2006 within EPA-R2	Butler, Elizabeth; Basso, Ray; Yeh Alice	Basso, Ray; Pavlou, George	8&10/2006	Passaic River; Savannah presentation	Exemption 5: communicating information that reflects the deliberative process and is predecisional and deliberative.
84 emails and documents created in 2007 within EPA-R2	Yeh, Alice; Naranjo, Eugenia; Basso, Ray; Butler, Elizabeth; Wilson, EricJ	Butler, Elizabeth; Yeh, Alice; Naranjo, Eugenia; Winfield, Richard; legal staff; Basso, Ray; Pitruzzello, Vince; Pavlou, George; McCabe, Bill; Harewood, Charles; Giacolone, Kristin	3,5,6,7,8,9,10, 11 &12/2007	Weekly Notes; Notes from meetings; CARP; Draft Figures; Comments on FFS Appendices; Draft EMBM; Sediment transport; Additional Sampling; Axys extracts	Exemption 5: communicating information that reflects the deliberative process and is predecisional and deliberative.
107 emails and documents created in 2008 within EPA-R2	Yeh, Alice; Butler, Elizabeth; Naranjo, Eugenia; Winfield, Richard; Hemmett, Roland; Pavlou, George	Butler, Elizabeth; Basso, Ray; Yeh, Alice; Winfield, Richard; Naranjo, Eugenia; Bellow, Bonnie; Pavlou, George; Frisco, John; LaPadula, John	1,2,3,4,5,6,7,8& 9/2008	Weekly Notes; Peer Review questions, candidates; Early Action Fact Sheet; CARP; CSTAG Review; NRRB	Exemption 5: communicating information that reflects the deliberative process and is predecisional and deliberative.

Documents Withheld

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Quantity/type of document	Email from/Generated by	Email To/Recipient of	Sent Month-Year	Subjects of documents	Exemption Status
31 emails and documents created in 2009 within EPA-R2	Butler, Elizabeth; Yeh, Alice; Naranjo, Eugenia; Vaughn, Stephanie; Basso, Ray	Yeh, Alice; Vaughn, Stephanie; Milles, Helga; Berman, Lenore, Basso, Ray; McEnery, Courtney; Pavlou, George; Stern, Eric	1,3,4,6,710,11& 12/2009	Sampling in Passaic/ Newark Bay; PDT meetings; CSM Summit; Review of STM, CARP runs, and revised CSM; Draft figures	Exemption 5: communicating information that reflects the deliberative process and is predecisional and deliberative.
63 emails and documents created in 2010 within EPA-R2	Butler, Elizabeth; Naranjo, Eugenia; Vaughn, Stephanie; Yeh, Alice; Kluesner, David	Yeh, Alice; Naranjo, Eugenia; Basso, Ray; Kluesner, David	1,2, 3,4,6,7,8,9, 10, 11&12/2010	Contractors; FFS CSM; Conference Abstracts; Integration of CPG data into CSM; Draft figures; Quality Review Checklist	Exemption 5: communicating information that reflects the deliberative process and is predecisional and deliberative.
19 emails and documents created in 2011 within EPA-R2	Yeh, Alice; Naranjo, Eugenia; Basso, Ray	Naranjo, Eugenia; Yeh, Alice; Basso, Ray; Vaughn, Stephanie; Pavlou, George	1, 2,3,8,9,10&12/ 2011	Draft FFS document and Appendices; Draft CSM; EMB and Numerical Model; CSTAG	Exemption 5: communicating information that reflects the deliberative process and is predecisional and deliberative.
26 emails and documents created in 2012 within EPA-R2	Yeh, Alice; Naranjo, Eugenia; Mugdan, Walter; Basso, Ray	Naranjo, Eugenia; Yeh, Alice; Basso, Ray; Mugdan, Walter	1,2,3,4,5,6,7,8,9 ,10,11,&12 /2012	CSM/EMBM; Data Evaluation Report; NRRB; Notes of biweekly meetings	Exemption 5: communicating information that reflects the deliberative process and is predecisional and deliberative.
29 emails and documents created in 2013 within EPA-R2	Yeh, Alice; Vaughn, Stephanie; Woolford, James; Ells, Steve	Vaughn, Stephanie; Olsen, Marian; Nace, Charles; Hick, Patricia; Greenberg, Marc, Ells, Steve	1,2,34,5,6,7,8, 9,10,11&12/20 13	draft data evaluation report; Coordination with HQ; Notes of biweekly meetings	Exemption 5: communicating information that reflects the deliberative process and is predecisional and deliberative.
Four emails transmitted in 2014 within EPA-R2	Naranjo, Eugenia; Vaughn, Stephanie; Basso, Ray	Vaughn, Stephanie; Yeh, Alice; Naranjo, Eugenia	1/21/2014	CPG CSM; Comments on FFS	Exemption 5: communicating information that reflects the deliberative process and is predecisional and deliberative.
18 emails and documents transmitted in 2006 between within EPA-R2 and its contractors	McDonald, Shane; Accardi-Dey, AmyMarie; Buckrucker, Elizabeth; Butler, Elizabeth	Naranjo, Eugenia; Thompson, Scott; Warner, Len; Goldstein, Kenneth J.; Fidler, Bruce; Logigian, John; Bossi, Liam	6&8/2006	Draft tables; discussion of data used in evaluating groundwater; Battelle sediment conference	Exemption 5: communicating information that reflects the deliberative process and is predecisional and deliberative.

Documents Withheld

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Quantity/type of document	Email from/Generated by	Email To/Recipient of	Sent Month-Year	Subjects of documents	Exemption Status
236 emails and documents created in 2007 between within EPA-R2 and its contractors	Basso, Ray; Yeh, Alice; Buckrucker, Elizabeth; Bossi, Liam; Thompson, Scott; Hayter, Earl; Dortch, Mark S.; Garland, Edward; McDonald, Shane; Warner, Len; Fidler, Bruce; Accardi-Dey, AmyMarie	Thompson, Scott; Bossi, Liam; Naranjo, Eugenia; Garvey, Ed; Basso, Ray; Butler, Elizabeth; Hayter, Earl; Buckrucker, Elizabeth; Fidler, Bruce; Schroeder, Paul; Johnson, Billy; Dortch, Mark S; Gailani, Joe Z; Warner, Len; Garland, Edward; McGrath, Dennis G.; Yeh, Alice; Fitzpatrick, James; McDonald, Shane; Greenberg, Marc; Atmadja, Juliana; Hansen, Clarissa; Gallaher, Tom; Gunster, Don; Accardi-Dey, AmyMarie	1,2,3,5,6,7, 8,9,10& 11/2007	Data Sources and High Resolution Cores; Sediment Transport Modeling; Additional Sampling; Review of EMBM; SETAC Abstracts; Review of and comments on Draft FFS and Appendices; DQOs; Draft QAPPs; CSM technical support; Sedflume; Pore Water Analyses; Groundwater discharge; Draft NRRB presentation; Future Sediment Concentration; Draft FFS Fact Sheets; NNRB draft outline	Exemption 5: communicating information that reflects the deliberative process and is predecisional and deliberative.

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Quantity/type of document	Email from/Generated by	Email To/Recipient of	Sent Month-Year	Subjects of documents	Exemption Status
214 emails and documents created in 2008 between EPA-R2 and its contractors	Garvey, Edward; DiToro, Dominic; Buckrucker, Elizabeth; Fidler, Bruce; Bopp, Richard; Naranjo, Eugenia; Hayter, Earl; Fitzpatrick, James; Thompson, Scott; Yeh, Alice; Winfield, Richard; Paquin, Paul; Zeiner, Carolyn, Rodgers, Pamela; Brownawell, Bruce; Garvey, Edward; Atmadja, Juliana	Naranjo, Eugenia; Garland, Edward; Fidler, Bruce; Brownawell, Bruce; Bopp, Richard; Butcher, Jon; DiToro, Dominic; Lick, Willy; Christensen, Eric; Garland, Edward; McDonald, Shane; Yeh, Alice; Basso, Ray; Hayter, Earl; Fitzpatrick, James; Gallagher, Tom; Buckrucker, Elizabeth; Thompson, Scott; Gailani, Joe Z; Garvey, Edward; Paquin, Paul; Winfield, Richard; Zeiner, Carolyn; Barrows, Elisabeth; Richardson, Norman, Maxemchuk, Amanda; Grzesik, Dustin; Atmadja, Juliana; Farley, Kevin	1,2,3,5,6,7,9& 10/2008	Comments on CSM, EMBM; CSM Peer Review; Bathymetric comparisons; CSM figures; Comments on EMBM; Evaluation of Modeling Frameworks; CSTAG briefing; TAC Members; CSM Summit; Sediment Transport Modeling; Cluster Analysis; Review of CSTAG comments; Data usability Study	Exemption 5: communicating information that reflects the deliberative process and is predecisional and deliberative.

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Quantity/type of document	Email from/Generated by	Email To/Recipient of	Sent Month-Year	Subjects of documents	Exemption Status
70 emails and documents transmitted in 2009 between EPA-R2 and its contractors	Yeh, Alice; Basso, Ray; Buckrucker, Elizabeth; Warner, Len; Fidler, Bruce; Naranjo, Eugenia; Hayter, Earl; Zeiner, Carolyn	Garvey, Ed; Warner, Len; Vaughn, Stephanie; Basso, Ray; Butler, Elizabeth; Thompson, Scott; Buckrucker, Elizabeth; Jones, Craig; Yeh, Alice; Goldstein, Kenneth J.; Hayter, Earl; Garland, Edward; Fitzpatrick, James; Garvey, Edward; Naranjo, Eugenia; Fidler, Bruce; Gbondo-Tugbawa, Solomon; Farley, Kevin; Gallagher, Tom; McGrath, Dennis G.	1,2,3,4,6,7,8,10, 11, 12/2009	SETAC; Passaic/Newark Bay Sampling; Sediment Stability; Schedule for FFS; Sediment Trasnsport Modeling; Review of Draft CSM; CSTAG submittal; Bathymetric Analysis; CSM Summit	Exemption 5: communicating information that reflects the deliberative process and is predecisional and deliberative.
172 emails and documents transmitted in 2010 between EPA-R2 and its contractors communicating information that is predecisional and deliberative.	Accardi-Dey, AmyMarie; Buckrucker, Elizabeth; Hayter, Earl; Gbondo-Tugbawa, Solomon; Jones, Craig; Yeh, Alice; Thompson, Scott; Garvey, Edward; Garland, Edward; Zeiner, Carolyn; Fidler, Bruce; Kern, John	Yeh, Alice; Vaughn, Stephanie; Naranjo, Eugenia; Pratt, Thad; Smith, Jarrell; Yeh, Alice; Buckrucker, Elizabeth; Gailani, Joe Z; Zeiner, Carolyn; Fidler, Bruce; Gbondo-Tugbawa, Solomon; Jones, Craig; Garland, Edward; Garvey, Edward; Sanford, Larry; Butler, William C; Thompson, Scott; Fidler, Bruce; Kern, John; Flood, Roger; Gallagher, Tom; Fitzpatrick, James; Barrows, Elizabeth; Richardson, Norman; Rodgers, Pamela; Budney, Sharon; Hayter, Earl; Loor, Thalia	2,3,4,5,6,7,8,9,1 0, 11&12/2010	Discussing communications with Partner Agencies; Communications with and Information for ERDC; Bathymetric Survey Review; Elements of CSM; Battelle Conference Abstracts; CSM-STSU reconciliation; CAD cell evaluation; Updating EMBM; Integration of CPG data into CSM; Communications with OSI; FFS Schedule	Exemption 5: communicating information that reflects the deliberative process and is predecisional and deliberative.

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Quantity/type of document	Email from/Generated by	Email To/Recipient of	Sent Month-Year	Subjects of documents	Exemption Status
54 emails and documents transmitted in 2011 between EPA-R2 and its contractors	Gbondo-Tugbawa, Solomon; Garland, Edward; Thompson, Scott; Buckrucker, Elizabeth; Naranjo, Eugenia; Fitzpatrick, James; AccardiDey, AmyMarie; Fidler, Bruce	Yeh, Alice; Naranjo, Eugenia; Paquin, Paul; Garvey, Edward; Buckrucker, Elizabeth; Fitzpatrick, James; Garland, Edward; Richardson, Norman; Rodgers, Pam; Gbondo-Tugbawa, Solomon; Fidler, Bruce; Thompson, Scott; Gbondo-Tugbawa, Solomon; Hayter, Earl	1,3,4,5,7,10& 12 /2011	CSM Trajectories and Model Forecasts; Draft figures and tables; Review of FFS Data Evaluation Report; Review of FFS RI Report Chapters; Integration of CPG data into CSM; Draft CSM Summit Action Items	Exemption 5:communicating information that reflects the deliberative process and is predecisional and deliberative.
55 emails and documents transmitted in 2012 between EPA-R2 and its contractors	Warner, Len; Gbondo-Tugbawa, Solomon; Fidler, Bruce; Buckrucker, Elizabeth; Thompson, Scott; Garvey, Edward; Atmadja, Juliana	Buckrucker, Elizabeth ; Naranjo, Eugenia; Yeh, Alice; Thompson, Scott; Rodgers, Pamela; Richardson, Norman; Barrows, Elizabeth; Atmadja, Juliana; Garvey, Edward; Loor, Thalia	2,3,4,S,7,8,9, 10, 11&12/2012	High Resolution cores; Draft figures and tables; CSM Peer Review Report; Comments on Data Evaluation Reports and other Appendices; EMBM Trajectories; Quality Review Checklist; Draft FFS RI	Exemption 5: communicating information that reflects the deliberative process and is predecisional and deliberative.
61 emails and documents transmitted in 2013 between EPA-R2 and its contractors	Vaughn, Stephaniel Atmadja, Juliana; Thompson, Scott; Yeh, Alice; Richardson, Norman; Franklin, Elizabeth; Bailey, Sharon L; Fidler, Bruce; McGrath, Dennis	Budney, Sharon; Kirchner, Scott; Yeh, Alice; Garvey, Edward; Atmadja, Juliana; Thompson, Scott; Richardson, Norman; Franklin, Elizabeth; Fidler, Bruce	1,2,4,5,6,7,8,9,1 1&12/2013	Draft FFS, Appendices, and figures; Comments on Data Evaluation Reports; Sediment PRGs and Model Outputs; BSAF Regression; Colocation of COPCs and COPECs; Peer review of CSM; CSM & EMBM tasks; Quality Review Checkist	Exemption 5: communicating information that reflects the deliberative process and is predecisional and deliberative.
19 emails and documents transmitted in 2014 between EPA-R2 and its contractors	Wang, Xiulan; Yeh, Alice; Fidler, Bruce; Atmadja, Juliana; Richardson, Norman	Naranjo, Eugenia; Richardson, Norman A; Warner, Len; Fidler, Bruce; Thompson, Scott; Yeh, Alice; Atmadja, Juliana; Bilimoria, Maheyar	1&2/2014	Peer review of EMBM, Comments on Appendices, including Data Evaluation Reports; Quality Review Checklist; Notes of biweekly meetings.	Exemption 5: communicating information that reflects the deliberative process and is predecisional and deliberative.

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Quantity/type of document	Email from/Generated by	Email To/Recipient of	Sent Month-Year	Subjects of documents	Exemption Status
Exemption 5: Deliberative Process; Exemption 7(a): Interference with enforcement proceedings					
15 Internal emails or notes between EPA technical staff	Naranjo, Eugenia; Greenberg, Marc; Nace, Charles	Nace, Charles, Burkhard, Lawrence; Yeh, ALice	June, 2008; July, 2012; April 2013	Newark Bay Ecological Risk Assessment; NJDEP Comments on Data Evaluation Reports; Comments on CSM	Exemption 5: communicating information that reflects deliberative process and is predecisional and deliberative; Exemption 7(a): documents compiled for enforcement purposes, disclosure of which would interfere with enforcement proceedings.
50 communications between EPA and Partner Agencies	MacGregor, Janine; Yeh, Alice; Basso, Ray; Kubiak, Tim; Mehran, Reyhan; Doyle, David; Hayton, Anne; Baron, Lisa; Weppler, Peter	Yeh, Alice; MacGregor, Janine; Slezak, William; Baron, Lisa; Mehran, Reyhan; Kubiak, Tim; Green, Elkins; Cozzi, Tom; Hayton, Anne; Nace, Charles; Olsen, Marian; Durrell, Gregory; EPA attorneys	7,10,11/2006; 6&9/2008; Nov. 2009; Aug. 2010; 7&10/2011; 4,5,7,8,9& 11/2012; 9,10,11& 12/2013; January, 2014	RI/FFS and Appendices, including Data Evaluation Report 6; CSM Summit Action Items; Scheduling of meetings; references for mercury in fish tissue; Sediments Conference; Draft Figures	Exemption 5: communicating information that reflects deliberative process and is predecisional and deliberative; Exemption 7(a): documents compiled for enforcement purposes, disclosure of which would interfere with enforcement proceedings.
27 communications between EPA and its contractors	Barrows, Elisabeth; Buckrucker, Elizabeth; Hayter, Earl; Garvey, Edward; Zeiner, Carolyn; Fidler, Bruce; Thompson, Scott; Atmadja, Juliana; Yeh, Alice	Thompson, Scott; Garvey, Edward; Yeh, Alice; Buckrucker, Elizabeth; Fitzpatrick,James; Garland, Ed; Richardson, Norman A; Rodgers, Pamela J; Gbondo-Tugbawa, Solomon; Naranjo, Eugenia; Fidler, Bruce; Loor, Thalia	Sept. 2007; June, 2008; Dec. 2009; 5,7&10/2011; 4,5,6,7,8&10/ 2012; 10,11&12/ 2013; Jan. 2014	FFS RI chapters and Appendices review; CSM Scope; CSM Summit Tasks; NRRB Packager Review; Scheduling; NJDEP comments on Data Evaluation Reports; Draft Peer Review report; Quality Review Checklist	Exemption 5: communicating information that reflects deliberative process and is predecisional and deliberative; Exemption 7(a): documents compiled for enforcement purposes, disclosure of which would interfere with enforcement proceedings.

Documents Withheld

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Quantity/type of document	Email from/Generated by	Email To/Recipient of	Sent Month-Year	Subjects of documents	Exemption Status
34 emails or documents communicating among EPA, the Partner Agencies, and EPA contractors.	Yeh, Alice; Fidler, Bruce	Hayton, Anne; Kern, John; Yeh, Alice; Hayter, Earl; Garland, Ed; Buckrucker, Elizabeth; MacGregor, Janine; Fitzpatrick, James; Farley, Kevin; Naranjo, Eugenia; Basso, Ray; Thompson, Scott; Gbondo-Tugbawa, Solomon; Gallagher, Tom; Cozzi, Tom; Basso, Ray; Vaughn, Stephanie; Ells, Steve; Greenberg, Marc; Hayter, Earl; Garvey, Edward; Fidler, Bruce; Pecchioli, Joel	July, 2006; 3&6/2007; May, 2008; 7,10&11/2009; January, 2011; 7&8/2012; September, 2013; 2014	CSM Summit; CARP CSO data; Sediments Conference; CSM questions	Exemption 5: communicating information that reflects deliberative process and is predecisional and deliberative; Exemption 7(a): documents compiled for enforcement purposes, disclosure of which would interfere with enforcement proceedings.
Exemption 5: Deliberative Process, Attorney Work Product and Attorney-Client Communications & 7(a): Interference with Enforcement					
Eight emails or documents internal to EPA	Yeh, Alice; Flanagan, Sarah	Olsen, Marian; Flanagan, Sarah; Hick, Patricia; Yeh, Alice	7/2008, 5/2012	Discussing communications with Partner Agencies	Exemption 5: communicating information that reflects deliberative process and is predecisional and deliberative; confidential attorney-client communications relating to legal matter for which client has sought advice; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; Exemption 7(a): documents compiled for enforcement purposes, disclosure of which would interfere with enforcement proceedings.

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Quantity/type of document	Email from/Generated by	Email To/Recipient of	Sent Month-Year	Subjects of documents	Exemption Status
Seven emails and documents transmitted between EPA and Partner Agencies, including attorneys	Yeh, Alice; Dickinson, John	Hick, Patricia; Flanagan, Sarah; MacGregor, Janine; Baron, Lisa, Mehran, Reyhan; Kubiak, Tim; Basso, Ray; Cozzi, Tom	7/2007, 1/2012 & 4/2012	Comments on Draft FFS and Appendices	Exemption 5: communicating information that reflects deliberative process and is predecisional and deliberative; confidential attorney-client communications relating to legal matter for which client has sought advice; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; Exemption 7(a): documents compiled for enforcement purposes, disclosure of which would interfere with enforcement proceedings.
Six emails or documents transmitted among EPA, including attorneys, Partner Agencies and contractors	Yeh, Alice	Hick, Patricia; Flanagan, Sarah; MacGregor,Janine; Garvey, Ed; Tugbawa, Solomon; Atmadja, Juliana; Loor, Thalia; Thompson, Scott; Cozzi, Tom; Blumberg, Alan; Garland, Ed; Farley, Kevin; Fitzpatrick, Jim; Hayter, Earl; Greenberg, Marc; Fidler, Bruce; Kern, John; Budney, Sharon; Ells, Steve; Buckrucker, Elizabeth; Hayton, Anne; Butler, Elizabeth; Ells, Steve; Goldstein, Kenneth; Gallagher, Tom	11/2009; 5&8/2012; 9/2013	Draft Comments; CSM Summit Action Items; Sediment Transport; Data Evaluation Reports; Appendix C, Mass Balance Modeling Analysis	Exemption 5: communicating information that reflects deliberative process and is predecisional and deliberative; confidential attorney-client communications relating to legal matter for which client has sought advice; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; Exemption 7(a): documents compiled for enforcement purposes, disclosure of which would interfere with enforcement proceedings.

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Quantity/type of document	Email from/Generated by	Email To/Recipient of	Sent Month-Year	Subjects of documents	Exemption Status
Two documents transmitted between EPA and contractors incorporating attorney work product and advice	Yeh, Alice	Atmadja, Juliana; Thompson, Scott; Gbondo-Tugbawa, Solomon; Garvey, Edward	5/7/2012	NJDEP comments on EMBM	Exemption 5: communicating information that reflects deliberative process and is predecisional and deliberative; confidential attorney-client communications relating to legal matter for which client has sought advice; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories; Exemption 7(a): documents compiled for enforcement purposes, disclosure of which would interfere with enforcement proceedings.
Exemption 5: Deliberative Process and Attorney-Client Communication					
42 EPA internal emails or documents transmitted between technical and legal staff	Flanagan, Sarah; Hick, Patricia; Yeh, Alice; Naranjo, Eugenia; Butler, Elizabeth; Reddy, Kedari; Basso, Ray	Vaughn, Stephanie; Yeh, Alice; Hick, Patricia; Naranjo, Eugenia; Butler, Elizabeth; Basso, Ray; Flanagan, Sarah; Olsen, Marian; Nace, Chuck; Reddy, Kedari	12/2006; 10/2007; 2,5,9&10/2008 10&11/2009; 4,5,&7/2012; 11&12/2013; 1/2014	LPRSA RI/FS Interim CSM & Modeling Submissions; FFS and Appendices; CSM Summit; Peer Review and Reviewers; Passaic Fact Sheets; Conflict of Interests; NRRB site information package; RI/FS AOC	Exemption 5: communicating information that reflects deliberative process and is predecisional and deliberative; confidential attorney-client communications relating to legal matter for which client has sought advice

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Quantity/type of document	Email from/Generated by	Email To/Recipient of	Sent Month-Year	Subjects of documents	Exemption Status
14 transmittals in emails or documents within EPA incorporating attorney advice	Basso, Ray; Naranjo, Eugenia; Yeh, Alice; Ells, Steve	Naranjo, Eugenia; Basso, Ray; Greenberg, Marc; OSWER OSRTI CSTAG; Vaughn, Stephanie; Yeh, Alice	5/2008; 10/2009; 2/2011; 7,8&11/2012; 1/2013	Peer Review charge; CSM Summit; Peer Review; NRRB topics; Comments on CSM	Exemption 5: communicating information that reflects deliberative process and is predecisional and deliberative; confidential attorney-client communications relating to legal matter for which client has sought advice.
Three emails or documents between EPA and the federal Partner Agencies incorporating attorney advice	Yeh, Alice	Mehran, Reyhan; Kubiak, Tim; Baron, Lisa; Nace, Charles; Olsen, Marian	3,7/2012	FFS DER #6, Draft Appendix C	Exemption 5: communicating information that reflects deliberative process and is predecisional and deliberative; confidential attorney-client communications relating to legal matter for which client has sought advice.
Four emails or documents betweeen EPA and contractors incorporating attorney advice	Buckrucker, Elizabeth	Butler, Elizabeth	October, 2007	FW: SETAC Abstracts for EPA Approval - 2 Additional Abstracts - submittal still possible today	Exemption 5: communicating information that reflects deliberative process and is predecisional and deliberative; confidential attorney-client communications relating to legal matter for which client has sought advice.
Five documents among EPA and the federak Partner Agencies and contractors incorporating attorney advice			November, 2009	CSM Summit Action Items, Summary Info, Detailed Agenda; Summary of Observations; Sediment Characterization	Exemption 5: communicating information that reflects deliberative process and is predecisional and deliberative; confidential attorney-client communications relating to legal matter for which client has sought advice.

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Quantity/type of document	Email from/Generated by	Email To/Recipient of	Sent Month-Year	Subjects of documents	Exemption Status
Exemption 5: Deliberative Process; Attorney-Client Communications; Attorney Work-Product					
95 emails and documents between EPA attorneys and technical personnel	Flanagan, Sarah; Hick, Patricia; Yeh, Alice; Naranjo, Eugenia; Butler, Elizabeth	Yeh, Alice; Hick, Patricia; Flanagan, Sarah; Olsen, Marian; Nace, Charles; Basso, Ray; Wagner, Amelia; Mellott, Deborah	10/2006; 5,6,7,9, 10& 11/2007; 5,7,8/2008; 11/2009; 1&11/2010; 3,5,7,8,& 9/2012; 1,10,11& 12 /2013; 1/2014	Review of FFS and its Appendices; NRRB comments and responses; Peer Review and reviewers; SETAC presentations; CSM Summit; Legal-Technical call; Conflict of Interest; EMBM	Exemption 5: communicating information that reflects deliberative process and is predecisional and deliberative; confidential attorney-client communications relating to legal matter for which client has sought advice; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.
22 emails or documents between EPA attorneys	Flanagan, Sarah; Hick, Patricia	Hick, Patricia; Flanagan, Sarah	10/2006; 6/2007; 2,8/2008; 11/2009; 10/2012; 12/2013; 1/2014	Draft Appendices for Review; Sediment Transport; Conflict of Interest; Risk calculations; Peer Review Panel; CSM	Exemption 5: communicating information that reflects deliberative process and is predecisional and deliberative; confidential attorney-client communications relating to legal matter for which client has sought advice; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.

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Quantity/type of document	Email from/Generated by	Email To/Recipient of	Sent Month-Year	Subjects of documents	Exemption Status
Eight emails between EPA technical personnel incorporating attorney work product and advice	Yeh, Alice; Basso, Ray; Naranjo, Eugenia	Olsen, Marian; Yeh, Alice; Basso, Ray; Naranjo, Eugenia	5/2007; 1,2/2013	Peer Review process; CARP data	Exemption 5: communicating information that reflects deliberative process and is predecisional and deliberative; confidential attorney-client communications relating to legal matter for which client has sought advice; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories
21 emails or documents between EPA technical personnel and contractors incorporating attorney work product	Alice Yeh; Buckrucker, Elizabeth; Butler, Elizabeth; Fidler, Bruce; Gbondo-Tugbawa, Solomon; Hayter, Earl	Buckrucker, Elizabeth; Naranjo, Eugenia; Patricia Hick; Fidler, Bruce; Yeh, Alice; Thompson, Scott; Garvey, Edward; Fitzpatrick, James; Garland, Edward; Richardson, Norman; Rodgers, Pam	5/2006; 5,6,11/2007; 5/2008; 7,11/2009; 10/2011; 1/2014	Sediment Transport; CSM-EMB; SETAC Abstracts; Coordination with NJDEP; Conflict of Interest; FFS Appendices and comments	Exemption 5: communicating information that reflects deliberative process and is predecisional and deliberative; confidential attorney-client communications relating to legal matter for which client has sought advice; attorney work product reflecting mental impressions, conclusions, opinions and/or legal
Three emails between EPA legal personnel and federal Partner Agencies incorporating attorney work product	Kubiak, Tim; Flanagan, Sarah	Flanagan, Sarah; Kubiak, Tim	7/1/2007	Re: Diamond Alkali -LPRSA - PRP Search	Exemption 5: communicating information that reflects deliberative process and is predecisional and deliberative; confidential attorney-client communications relating to legal matter for which client has sought advice; attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories.

Documents Withheld
FOIA R2-2014-006018

Quantity/type of document	Email from/Generated by	Email To/Recipient of	Sent Month-Year	Subjects of documents	Exemption Status
Exemption 5: Attorney Work-Product and Attorney-Client Communications					
Two communications between attorneys	Hick, Patricia; Flanagan, Sarah	Flanagan, Sarah; DOJ attorney	June, 2007; August, 2008	Re: Fw: comments on the CSM peer review document	Exemption 5: Attorney-client communications; Attorney work-product reflecting mental impressions, conclusions, opinions and/or legal theories.
Exemption 5: Attorney Work-Product					
Thirty six sets of attorney notes relating to meetings or teleconferences			7&10/2006; 7&9/2007; 4,6,7,&9/2008; 2,4,6,7&11/2009; 1&10/2010; 4&12/2011; 5&12/2012	Meetings and calls including discussions of EMBM and/or CSM.	Exemption 5: attorney work product reflecting mental impressions, conclusions, opinions and/or legal theories
Exemption 5: Attorney Client					
Seven documents internal to EPA			1/30/2014	Draft Data Evaluation Reports	Exemption 5: confidential attorney-client communications relating to legal matter for which client has sought advice.

EXHIBIT G

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
GENERAL COUNSEL

February 6, 2015

Mr. Robert Paul La Gravenis
K & L Gates LLP
One Newark Center, 11th Floor
Newark, NJ 07102

Re: Freedom of Information Act Request EPA-R2-2014-006018 (HQ-APP-2015-003894)

Dear Mr. La Gravenis:

This letter is being sent to acknowledge receipt of your FOIA appeal received in the Office of General Counsel on February 6, 2015.

Sincerely,

Shirley Blair

Shirley Blair
General Law Office

EXHIBIT H

Request Confirmation

Request Information

Tracking Number : *EPA-R2-2014-006476*

Requester Name : Robert Paul La Gravenis

Date Submitted : 05/14/2014

Request Status : Submitted

Description :

United States Environmental Protection Agency
Region 2
Freedom of Information Officer
U.S. EPA Region 2
290 Broadway, 26th Floor
New York, NY 10007-1866
Re: Lower Passaic River Study Area Superfund Site

To Whom It May Concern:

I am submitting this document request pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 et seq. This request concerns the United States Environmental Protection Agency's ("EPA") files relating to the Diamond Alkali Superfund Site (the "Site") which includes the former pesticides manufacturing plant and surrounding properties at 80 and 120 Lister Avenue in Newark, New Jersey, the Lower Passaic River Study Area and the Newark Bay Study Area. The EPA Site ID number is NJD980528996.

Specifically, I request copies the documents listed in Attachment A annexed hereto, which relate to the Site.

I would ask that you contact me at your earliest convenience to discuss arrangements for providing the requested documents. This firm will of course take responsibility for any necessary copying and/or shipping charges. Your prompt attention to this matter is greatly appreciated. Thank you for your anticipated cooperation.

Sincerely,

Robert Paul La Gravenis

Preview Request

Agency Selection

Agency : U.S Environmental Protection Agency

Sub-Agency : Region 2

Contact Information

Prefix :

First Name : Robert Paul

Middle Initial :

Last Name : La Gravenis

Organization : K&L Gates LLP

Email Address : robertpaul.lagravenis@klgates.com

Phone Number : 973-848-4029

Fax Number : 973-848-4001

Mailing Address Location : United States/U.S. Territories

Address Line 1 : 1085 Raymond Boulevard

Address Line 2 : One Newark Center, 11th Floor

City : Newark

State/Province : New Jersey

Zip Code/Postal Code : 07102-5252

Processing Fees

Will Pay Up To : $ 500.00

Description :

United States Environmental Protection Agency
Region 2
Freedom of Information Officer
U.S. EPA Region 2
290 Broadway, 26th Floor
New York, NY 10007-1866

Re: Lower Passaic River Study Area Superfund Site

To Whom It May Concern:

I am submitting this document request pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 et seq. This request concerns the United States Environmental Protection Agency's ("EPA") files relating to the Diamond Alkali Superfund Site (the "Site") which includes the former pesticides manufacturing plant and surrounding properties at 80 and 120 Lister Avenue in Newark, New Jersey, the Lower Passaic River Study Area and the Newark Bay Study Area. The EPA Site ID number is NJD980528996.

Specifically, I request copies the documents listed in Attachment A annexed hereto, which relate to the Site.

I would ask that you contact me at your earliest convenience to discuss arrangements for providing the requested documents. This firm will of course take responsibility for any necessary copying and/or shipping charges. Your prompt attention to this matter is greatly appreciated. Thank you for your anticipated cooperation.

Sincerely,

Robert Paul La Gravenis

Request a Fee Waiver

Make Request ? No

Request Expedited Handling

Make Request ? No

Attach Supporting Files

Attached File	Type	Size (MB)
NW-#458982-v1-Appendix_A_to_May_14__2014_FOIA_Request.DOCX	Microsoft Word	0.01

☑ Agree to Privacy Act Statement. I have read the Privacy Act Statement and agree to the terms set forth.

☐ Affirmation. Pursuant to 28 USC § 1746, I declare and affirm that under penalty of perjury under the laws of the United States of America that all of the foregoing information, statements, and signatures submitted in connection with this request and in any supporting

documents are true and correct to the best of my knowledge.

Appendix A to May 14, 2014 FOIA Request

1. An accounting of funds spent and/or committed to be spent in developing the April 11, 2014 Proposed Plan (PP) for the Lower 8 Miles of the Lower Passaic River Study Area (LPRSA) and the reports and appendices thereto, including but not limited to the Remedial Investigation (RI) and Focused Feasibility Study (FFS).

2. Any authorization for expenditure of funds for the PP and the reports and appendices thereto.

3. All comments to the National Remedy Review Board (NRRB) from the partner agencies (NOAA, FWS, State of NJ) sent to EPA for transmittal to the NRRB and any EPA responses to such comments.

4. Any and all communications regarding the LPRSA between: 1. Any U.S. EPA personnel and any member of the Community Advisory Group or any other person purporting to be a representative of the community; and 2. Any member of the public and Judith Enck, including any alter egos or aliases of Administrator Enck. This information would include but not be limited to all letters, email (both official accounts and personal accounts used for official business), and any notes, records, reports, summaries or memoranda taken during or prepared after communications with members of the public relating to the LPRSA.

5. The following items related to the public hearing on the PP, held by EPA in Newark, NJ on May 7, 2014 (Hearing): 1. video and/or other recordings taken during the Hearing; 2. a transcript of the Hearing; 3. Sign-in sheets for participants at the Hearing; 4. Communications between Region 2 and members of the public regarding preparations for the Hearing (to the extent not covered by request 4); and 5. Any petitions available for signature during the Hearing.

6. Any documents relating to the designation of any portion of the Diamond Alkali Superfund Site as an operable unit.

Amended Appendix A to May 14, 2014 FOIA Request

1. An accounting of funds spent and/or committed to be spent in developing the April 11, 2014 Proposed Plan (PP) for the Lower 8 Miles of the Lower Passaic River Study Area (LPRSA) and the reports and appendices thereto, including but not limited to the Remedial Investigation (RI) and Focused Feasibility Study (FFS).

2. Any authorization for expenditure of funds for the PP and the reports and appendices thereto.

3. All comments to the National Remedy Review Board (NRRB) from the partner agencies (NOAA, FWS, State of NJ) sent to EPA for transmittal to the NRRB and any EPA responses to such comments.

4. Any and all communications regarding the LPRSA between: 1. Any U.S. EPA personnel and any member of the Community Advisory Group or any other person purporting to be a representative of the community; and 2. Any member of the public and Judith Enck, including any alter egos or aliases of Administrator Enck. This information would include but not be limited to all letters, email (both official accounts and personal accounts used for official business), and any notes, records, reports, summaries or memoranda taken during or prepared after communications with members of the public relating to the LPRSA.

5. The following items related to the public hearing on the PP, held by EPA in Newark, NJ on May 7, 2014 (Hearing): 1. video and/or other recordings taken during the Hearing; 2. a transcript of the Hearing; 3. Sign-in sheets for participants at the Hearing; 4. Communications between Region 2 and members of the public regarding preparations for the Hearing (to the extent not covered by request 4); and 5. Any petitions available for signature during the Hearing.

6. Any documents relating to the designation of any portion of the Diamond Alkali Superfund Site as an operable unit.

7. The sample identification numbers and chemistry for the four core samples, four grab samples and two dam catchment samples that EPA uses to define upriver (above the Dundee Dam) surface sediment background conditions.

EXHIBIT I

La Gravenis, Robert Paul

From: calderon.wanda@epa.gov
Sent: Wednesday, May 14, 2014 2:51 PM
To: La Gravenis, Robert Paul
Subject: FOIA Request EPA-R2-2014-006476 Submitted

This message is to confirm your request submission to the FOIAonline application: View Request. Request information is as follows:

- Tracking Number: EPA-R2-2014-006476
- Requester Name: Robert Paul La Gravenis
- Date Submitted: Wed May 14 14:51:27 EDT 2014
- Request Status: Submitted
- Description: United States Environmental Protection Agency
  Region 2
  Freedom of Information Officer
  U.S. EPA Region 2
  290 Broadway, 26th Floor
  New York, NY 10007-1866
  Re: Lower Passaic River Study Area Superfund Site

  To Whom It May Concern:

  I am submitting this document request pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 et seq. This request concerns the United States Environmental Protection Agency's ("EPA") files relating to the Diamond Alkali Superfund Site (the "Site") which includes the former pesticides manufacturing plant and surrounding properties at 80 and 120 Lister Avenue in Newark, New Jersey, the Lower Passaic River Study Area and the Newark Bay Study Area. The EPA Site ID number is NJD980528996.

  Specifically, I request copies the documents listed in Attachment A annexed hereto, which relate to the Site.

  I would ask that you contact me at your earliest convenience to discuss arrangements for providing the requested documents. This firm will of course take responsibility for any necessary copying and/or shipping charges. Your prompt attention to this matter is greatly appreciated. Thank you for your anticipated cooperation.

  Sincerely,

  Robert Paul La Gravenis

EXHIBIT J

Request Details

Tracking Number : *EPA-R2-2014-006476*

Submitted Evaluation Assignment Processing

Request Information

Full Name : Robert Paul La Gravenis

Closed

Date Submitted : 05/14/2014

Organization : K&L Gates LLP

Estimated Date of Completion : September 30, 2014

Final Disposition : Undetermined

Description :

United States Environmental Protection Agency
Region 2
Freedom of Information Officer
U.S. EPA Region 2
290 Broadway, 26th Floor
New York, NY 10007-1866

Re: Diamond Alkali Superfund Site

To Whom It May Concern:

I am submitting this document request modification to my recent FOIA tracking no.: EPA-R2-2014-006476 to include an additional request (no.: 7) to my Appendix A submitted on May 14, 2014, (submitted hereto as Amended Appendix A) pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 et seq. This request concerns the United States Environmental Protection Agency's ("EPA") files relating to the Diamond Alkali Superfund Site (the "Site") which includes the former pesticides manufacturing plant and surrounding properties at 80 and 120 Lister Avenue in Newark, New Jersey, the Lower Passaic River Study Area and the Newark Bay Study Area. The EPA Site ID number is NJD980528996.

Specifically, I request copies the documents listed in my Amended Appendix A annexed hereto, which relate to the Site.

I would ask that you contact me at your earliest convenience to discuss arrangements for providing the requested documents. This firm will of course take responsibility for any necessary copying and/or shipping charges. Your prompt attention to this matter is greatly appreciated. Thank you for your anticipated cooperation.

Sincerely,

Robert Paul La Gravenis

Senior Paralegal
K&L Gates LLP
One Newark Center, 11th Floor
Newark, NJ 07102
robertpaul.lagravenis@klgates.com

Attached Supporting Files

Attached File	Type	Size (MB)
NW-#458982-v1-Appendix_A_to_May_14__2014_FOIA_Request.DOCX	Microsoft Word	0.01
Amended-Appendix_A_to_May_14__2014_FOIA_Request.docx	Microsoft Word	0.01
Amended-Appendix_A_to_May_14__2014_FOIA_Request.docx	Microsoft Word	0.01

Released Records

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Filter by Title : SUBMIT CLEAR

Results 10

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79 records found, displaying all records. 1

EXHIBIT K

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 2, 290 Broadway, 17th Floor
New York, NY 10007

MAR 20 2015

BY US MAIL & FOIA ONLINE

Mr. Robert Paul La Gravenis
K&L Gates LLP
One Newark Center, 11th Floor
Newark, NJ 07102

Re: Freedom of Information Act (FOIA) Request EPA-R2-2014-006476

Dear Mr. La Gravenis:

This will respond to your Freedom of Information Act ("FOIA") request EPA-R2-2014-006476 seeking information as set forth in Attachment A to your FOIA request. EPA released information responsive to your FOIA request through FOIAonline on June 17, 2014. The balance of the responsive information is enclosed herein on a DVD, and will be uploaded to FOIAonline in the coming days. This completes EPA's response.

EPA is withholding one responsive document: a submission to the National Remedy Review Board by the federal natural resource trustees, National Oceanic and Atmospheric Administration, and Fish and Wildlife Service of the Department of the Interior. That document is exempt from disclosure under FOIA Exemption 5, 5 U.S.C. § 552(b)(5), because it is predecisional and deliberative. Where it was possible to segregate nonexempt information from the privileged portions of a responsive document, we have done so. However, segregation was not possible as to this document. *See, e.g., Horowitz v. Peace Corps,* 428 F.3d 271, 277 (D.C. Cir. 2005)(protecting document where decision maker's thought processes are woven into document to such an extent that any attempt at segregating information would reveal agency deliberations). The document is a communication from EPA's partner federal agencies, the release of which would have a chilling effect on EPA's ability to conduct frank internal discussions as part of a decision-making process, as well as contribute to public confusion that might result from disclosure of reasons and rationales that were not in fact ultimately the grounds for an agency's action.

You may appeal this denial response to the National Freedom of Information Officer, U.S. EPA, FOIA and Privacy Branch, 1200 Pennsylvania Avenue, N.W. (2822T), Washington, D.C. 20460

(U.S. Postal Service Only), E-mail: hq.foia@epa.gov. Only items mailed through the United States Postal Service may be delivered to 1200 Pennsylvania Avenue, N.W. If you are submitting your appeal via hand delivery, courier service or overnight delivery, you must address your correspondence to 1301 Constitution Avenue, N.W., Room 6416J, Washington, D.C. 20004.

Your appeal must be made in writing, and it must be submitted no later than 30 calendar days from the date of this letter. The Agency will not consider appeals received after the 30 calendar day limit. The appeal letter should clearly identify the determination being appealed, including the assigned FOIA request number shown above. For quickest possible handling, the appeal letter and its envelope should be marked "Freedom of Information Act Appeal." See 40 C.F.R. §2.104(j) for further information regarding appeals of adverse determinations under FOIA.

Pursuant to 40 C.F.R. § 2.107, EPA will transmit a bill for the costs incurred by EPA in searching our files, reproducing documents, and preparing our response to your FOIA request, which total $2,100. You should receive the bill through FOIAonline, along with instructions for payment.

Please contact Sarah Flanagan of my staff at 212-637-3136 if you have any questions concerning this matter.

Sincerely yours,

Eric Schaaf
Regional Counsel

Enclosure

cc: Wanda Calderon
Jacqueline Ferreras-De Jesus

FOIA Invoice

U.S Environmental Protection Agency
1200 Pennsylvania Ave, NW
Washington, DC 20460

Mail Payment to	FOIA Tracking Number
USEPA, FOIA and Miscellaneous Payments, Cincinnati Finance Center P.O. BOX 979078 St. Louis, MO 63197-9000	EPA-R2-2014-006476
	Invoice Date 04/08/2015

Requester Contact Information	Description of Records Requested
Robert Paul La Gravenis K&L Gates LLP 1085 Raymond Boulevard One Newark Center, 11th Floor Newark, NJ 07102-5252 robertpaul.lagravenis@klgates.com 973-848-4029	United States Environmental Protection Agency Region 2 Freedom of Information Officer U.S. EPA Region 2 290 Broadway, 26th Floor New York, NY 10007-1866 Re: Diamond Alkali Superfund Site To Whom It May Concern: I am submitting this document request modification

	Date	By
Request Received	05/14/2014	Emergency and Remedial Response Division
Request Fulfilled by Agency	04/08/2015	Alice Yeh

Comments/Instructions

Request Fee Category
Commercial

Description of Costs	Quantity	Amount (USD)
Review	75.0 hours	$2,100.00
Costs Sub-total		***$2,100.00***
	AMOUNT DUE	**$2,100.00**

EXHIBIT L

Request Confirmation

Request Information

Tracking Number : *EPA-R2-2014-007546*

Requester Name : Robert Paul La Gravenis

Date Submitted : 06/17/2014

Request Status : Submitted

Description :

I am submitting this document request pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 et seq. This request concerns the United States Environmental Protection Agency's ("EPA") files relating to the Diamond Alkali Superfund Site (the "Site") which includes the former pesticides manufacturing plant and surrounding properties at 80 and 120 Lister Avenue in Newark, New Jersey, the Lower Passaic River Study Area and the Newark Bay Study Area. The EPA Site ID number is NJD980528996.

Specifically, EPA's Proposed Plan for the lower 8 miles of the Site provides as follows: "The NJDEP use of do not eat values of 0.0077 ng/g, 240 ng/g, and 540 ng/g to set fish consumption advisories for 2,3,7,8-tetrachlorodibenzo-p-dioxin - toxic equivalency ("TCDD -TEQ"), polychlorinated biphenyls ("PCBs") and mercury, respectively. Use of PRGs that exceed these NJDEP advisory triggers would not be protective of allow additional consumption of fish/crabs" (hereinafter referred to as "Fish Advisory Levels"). The cited language regarding Fish Advisory Levels is found in the footnotes for Table 2-10 in the FFS report, as well as the footnotes for Tables 1-8 and 1-10 of Appendix E.

In particular, I request any and all documents, including but not limited to emails, memos, reports and correspondence, that form the technical basis for the New Jersey Department of Environmental Protection's ("NJDEP") Fish Advisory Levels, including but not limited to exposure assumptions, toxicity values, and target risk levels used by the NJDEP to derive the Fish Advisory Levels.
I would ask that you contact me at your earliest convenience to discuss arrangements for providing the requested documents. This firm will of course take responsibility for any necessary

copying and/or shipping charges. Your prompt attention to this matter is greatly appreciated. Thank you for your anticipated cooperation.

DAVID R. ERICKSON
CHRISTOPHER M. MCDONALD
JUSTIN D. SMITH
ATTORNEYS FOR PLAINTIFF
SHOOK, HARDY & BACON L.L.P.
2555 Grand Blvd.
Kansas City, MO 64108-2613
Telephone: (816) 474-6550
Fax: (816) 421-5547
derickson@shb.com
cmcdonald@shb.com
jxsmith@shb.com

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

LOWER PASSAIC RIVER STUDY AREA COOPERATING PARTIES GROUP, *Plaintiff,* vs. U.S. ENVIRONMENTAL PROTECTION AGENCY, *Defendant.*	HON. JOSE L. LINARES *Civil Action No.* 15-cv-7828 (JLL)(JAD)

PLAINTIFF LOWER PASSAIC RIVER STUDY AREA COOPERATING PARTIES GROUP'S RESPONSE TO THE U.S. ENVIRONMENTAL PROTECTION AGENCY'S LOCAL CIVIL RULE 56.1 STATEMENT OF MATERIAL FACTS NOT IN DISPUTE AND SUPPLEMENTAL STATEMENT OF MATERIAL FACTS NOT IN DISPUTE

Plaintiff, Lower Passaic River Study Area Cooperating Parties Group ("CPG"), by and through its undersigned counsel, and pursuant to Rule 56.1 of the Local Civil Rules of the United States District Court for the District of New Jersey:

RESPONSES TO EPA'S STATEMENT OF MATERIAL FACTS

I. The Lower Passaic River / Diamond Alkali Site

1. The Passaic River is 80 miles long. With headwaters in southern Morris County, it passes through rural, suburban and urban areas, draining a watershed of 935 square miles, to empty into Newark Bay. The Lower Passaic River is the 17-mile tidal stretch of the river, from Dundee Dam to Newark Bay. Three major tributaries (Saddle River, Third River and Second River) bring water into the Lower Passaic River's main stem, which is used for recreation and navigation, among other uses. See Declaration of Walter Mugdan, dated May 13, 2016 ("Mugdan Decl."), ¶ 4.

Plaintiff's Response: Plaintiff disputes that Paragraph 1 states a material fact. *See Howley v. Experian Info. Solutions, Inc.*, 813 F. Supp. 2d 629, 633 (D.N.J. 2011) ("A fact is 'material' if, under the governing substantive law, a dispute about the fact might affect the outcome of the suit.") (citing *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986)). Regardless of whether or not there is a dispute as to the accuracy or veracity of the assertions made in Paragraph 1, this will not affect the outcome of this Freedom of Information Act suit. Accordingly, Plaintiff denies that Paragraph 1 states a material fact not in dispute.

2. Starting in the 1800s, the Passaic River was one of the major centers of the American industrial revolution. By the beginning of the 20th Century, a number of industrial operations, such as manufactured gas plants, paper manufacturing facilities, petroleum refineries, shipping, tanneries, creosote wood preservers, metal recyclers and manufacturers of materials such as rubber, rope, textiles, paints and dyes, pharmaceuticals and chemicals, had located along

the river's banks as cities like Newark grew. Industrial operations and municipalities used the river for wastewater disposal. This history of industrial development surrounding the Lower Passaic River resulted in the conditions that can be observed today, including contaminated sediments and surface water, and degraded habitat. *See* Lower Passaic River Restoration Project Fact Sheet at http://passaic.sharepointspace.com/Public%20Documents/fact.pdf. See Mugdan Decl. ¶ 5.

Plaintiff's Response: Plaintiff disputes that Paragraph 2 states a material fact for the reasons set forth in Plaintiff's Response to Paragraph 1.

3. In 2002, EPA formed a partnership with the U.S. Army Corps of Engineers-New York District (the "Corps-NY"), the New Jersey Department of Transportation ("NJDOT"), the New Jersey Department of Environmental Protection ("NJDEP"), the National Oceanic and Atmospheric Administration ("NOAA") and U.S. Fish and Wildlife Service ("USFWS") to conduct a joint study that would bring each agency's authorities to bear on the complex environmental problems of the Lower Passaic River. The goal of the Lower Passaic River Restoration Project is to remediate contaminated sediments, improve water quality, restore degraded shorelines, restore and create new habitats and enhance human use along the Lower Passaic River and in several tributaries from Dundee Dam near Garfield, to Newark Bay. One aspect of the Lower Passaic River Restoration Project is EPA's effort to address contaminated sediments under CERCLA. See Mugdan Decl. ¶ 6.

Plaintiff's Response: Plaintiff disputes that Paragraph 3 states a material fact for the reasons set forth in Plaintiff's Response to Paragraph 1.

4. The Lower Passaic River is being investigated and addressed as by EPA part of the Diamond Alkali Superfund Site. In the early 1980s, investigations by EPA and NJDEP found soil contaminated with dioxin at the former Diamond Alkali manufacturing facility located at 80 Lister Avenue, in Newark, NJ, next to the Passaic River. Cleanup work was initiated and, in 1984, EPA added the Diamond Alkali site to the National Priorities List, identifying the site as one with the most significant risk to human health and the environment. EPA and NJDEP also identified contaminants, such as metals, persistent organic chemicals, pesticides and dioxin, in the sediments of a six mile stretch of the Lower Passaic River adjacent to the former manufacturing facility. In 1994, under EPA oversight, Occidental Chemical Corporation began a remedial investigation of this six mile stretch. The investigation found elevated concentrations of contaminants that originated from the former Diamond Alkali manufacturing facility, as well as other contaminants not clearly linked to the former facility's operations. See Mugdan Decl. ¶ 7.

Plaintiff's Response: Plaintiff disputes that Paragraph 4 states a material fact for the reasons set forth in Plaintiff's Response to Paragraph 1.

5. As documented in the Record of Decision for the Lower 8.3 Miles, the six mile study, and studies by the Corps-NY and other agencies, showed that contaminated sediments and other sources of hazardous chemicals were potentially present along the 17 Miles. Therefore,

EPA decided to expand the study of the Passaic River to include the entire 17 Miles, from Dundee Dam to Newark Bay. See Mugdan Decl. ¶ 8.

Plaintiff's Response: Plaintiff disputes that Paragraph 5 states a material fact for the reasons set forth in Plaintiff's Response to Paragraph 1.

6. EPA started work on the remedial investigation/feasibility study ("RI/FS") for the 17 Miles using federal funds. In 2004, EPA signed an administrative settlement agreement under Section 122(h) of CERCLA with a number of potentially responsible parties ("PRPs"), which provided funding for EPA to perform the 17 Miles RI/FS. The settlement agreement was amended in 2005 and 2007, adding more parties. In 2007, the settling parties entered into a new administrative settlement agreement and order on consent (the "2007 AOC") with EPA, taking over the performance of the 17 Miles RI/FS from EPA. See Mugdan Decl. ¶ 9.

Plaintiff's Response: Plaintiff disputes that Paragraph 6 states a material fact for the reasons set forth in Plaintiff's Response to Paragraph 1.

7. While the 17 Miles RI/FS was underway, in 2006, the EPA concluded that, since the Lower 8.3 Miles contain the bulk of the contaminated sediment, addressing this portion of the river first would better support the overall protection of human health and the environment than would awaiting the outcome of the 17 Miles RI/FS to make a decision for the entire Lower Passaic River. Therefore, EPA undertook a targeted investigation, or Focused Feasibility Study ("FFS") of the Lower 8.3 Miles. As described in Paragraphs 21 to 28 below, EPA has now selected a cleanup for the sediments of the Lower 8.3 Miles and will pursue those parties

responsible for the contamination to perform or pay for both the cleanup, and to recover EPA's unreimbursed past costs incurred in studying and selecting a remedy for the Lower 8.3 Miles. See Mugdan Decl. ¶ 10.

Plaintiff's Response: Plaintiff disputes that Paragraph 7 states a material fact for the reasons set forth in Plaintiff's Response to Paragraph 1.

II. Superfund Background and Process

8. CERCLA, commonly known as the Superfund law, was enacted by Congress on December 11, 1980. Among other things, this law provides broad Federal authority to clean up uncontrolled or abandoned hazardous waste sites as well as accidents, spills, and other emergency releases of pollutants and contaminants into the environment. Under CERCLA, EPA is authorized to seek out those parties responsible for current or past releases and assure their cooperation in the cleanup. EPA may enter into settlement agreements and consent decrees with PRPs requiring them to perform work under CERCLA without compromising the agency's right to recover for any work or costs not specifically addressed by the agreements, including future work needed to effectuate cleanup of the contaminated site. See Mugdan Decl. ¶ 11.

Plaintiff's Response: Plaintiff disputes that Paragraph 8 states a material fact for the reasons set forth in Plaintiff's Response to Paragraph 1. In addition, the assertions in Paragraph 8 are legal arguments and conclusions of law to which no response is required.

9. CERCLA investigations and cleanups follow, to the extent practicable, the National Oil and Hazardous Substances Pollution Contingency Plan (more commonly known as

the National Contingency Plan or "NCP"), promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, et seq., including all amendments thereto. The NCP provides the guidelines and procedures to respond to releases and threatened releases of hazardous substances, pollutants, or contaminants. See Mugdan Decl. ¶ 12.

Plaintiff's Response: Plaintiff disputes that Paragraph 9 states a material fact for the reasons set forth in Plaintiff's Response to Paragraph 1. In addition, the assertions in Paragraph 9 are legal arguments and conclusions of law to which no response is required.

10. In addition to EPA's authority to undertake response actions, under CERCLA Section 104, PRPs, which are people or entities potentially responsible for a release of hazardous substances into the environment, may conduct certain response actions in accordance with CERCLA Section 122, if EPA determines that the action will be done properly and promptly. See Mugdan Decl. ¶ 13.

Plaintiff's Response: Plaintiff disputes that Paragraph 10 states a material fact for the reasons set forth in Plaintiff's Response to Paragraph 1. In addition, the assertions in Paragraph 10 are legal arguments and conclusions of law to which no response is required.

11. CERCLA authorizes two kinds of response actions: 1) actions taken to address releases or threatened releases requiring prompt response (short-term removals), and 2) actions that permanently and significantly reduce the risks associated with releases or threatened releases of hazardous substances that are serious, but not so urgent as to require an immediate response (long-term remedial response actions). Long-term remedial response actions can be conducted

only at sites listed on EPA's National Priorities List ("NPL"), which identifies the sites with the most significant risk to human health and the environment. The Diamond Alkali Site, which includes the Lower Passaic River and Newark Bay, is one such site and as noted above, is listed on the NPL. See Mugdan Decl. ¶ 14.

Plaintiff's Response: Plaintiff disputes that Paragraph 11 states a material fact for the reasons set forth in Plaintiff's Response to Paragraph 1. In addition, the assertions in Paragraph 11 are legal arguments and conclusions of law to which no response is required.

12. At the time a site is listed on the NPL, EPA (or the state, acting as lead agency) begins an RI/FS. An RI/FS can be performed for the site as a whole, or for a particular portion of the site called an operable unit. The investigation and cleanup of a site can be divided into a number of operable units, depending on the complexity of the problems associated with the site. See Mugdan Decl. ¶ 15.

Plaintiff's Response: Plaintiff disputes that Paragraph 12 states a material fact for the reasons set forth in Plaintiff's Response to Paragraph 1. In addition, the assertions in Paragraph 12 are legal arguments and conclusions of law to which no response is required.

13. During an RI/FS, the lead agency (federal or state) either gathers or oversees the gathering of information by another entity such as a PRP, to support an informed decision regarding which remedy (if any) is most appropriate for a given site or an operable unit within a site. In general, the objectives of the remedial investigation ("RI") portion of the RI/FS are to determine the nature and extent of the contamination at the site or operable unit and assess risks

to human health and the environment from this contamination. The RI may also include tests to evaluate the potential performance and cost of the treatment technologies being considered for addressing the risks. See Mugdan Decl. ¶ 16.

Plaintiff's Response: Plaintiff disputes that Paragraph 13 states a material fact for the reasons set forth in Plaintiff's Response to Paragraph 1. In addition, the assertions in Paragraph 13 are legal arguments and conclusions of law to which no response is required.

14. In characterizing the site or operable unit, the lead agency or PRP identifies the source of contamination, potential routes of migration, and current and potential human and en-environmental receptors. A baseline risk assessment conducted during the RI estimates what risks the site or operable unit poses now and would pose in the future if no cleanup action were taken. Thus, the RI provides the scientific and legal basis for taking action under CERCLA and identifies contaminants and the exposure pathways that need to be addressed by the remedial action. See Mugdan Decl. ¶ 17.

Plaintiff's Response: Plaintiff disputes that Paragraph 14 states a material fact for the reasons set forth in Plaintiff's Response to Paragraph 1. In addition, the assertions in Paragraph 14 are legal arguments and conclusions of law to which no response is required.

15. The feasibility study ("FS") portion of the RI/FS involves the identification and detailed evaluation of potential remedial alternatives. The alternatives are evaluated against the NCP evaluation criteria, and compared with each other to gauge their relative performance. Each alternative that makes it to this stage of the analysis, with the exception of the required "No

Action" alternative, should be protective of human health and the environment and compliant with Applicable or Relevant and Appropriate Requirements (unless a waiver is justified), both threshold requirements under CERCLA. EPA guidance also provides for a focused FS (or FFS) for an interim action that is more limited in scope than a site-wide remedy and only addresses areas/media that also will be addressed by a final site/operable unit Record of Decision. See Mugdan Decl. ¶ 18.

Plaintiff's Response: Plaintiff disputes that Paragraph 15 states a material fact for the reasons set forth in Plaintiff's Response to Paragraph 1. In addition, the assertions in Paragraph 15 are legal arguments and conclusions of law to which no response is required.

16. When the FS stage is complete, the lead agency identifies the Preferred Alternative for a site or operable unit and presents it to the public in a Proposed Plan. The Proposed Plan briefly summarizes the alternatives studied in the detailed analysis phase of the RI/FS, highlighting the key factors that led to identifying the Preferred Alternative. The Proposed Plan, as well as the RI/FS and the other information that forms the basis for the lead agency's response selection, is made available for public comment in the Administrative Record file. The opportunity for a public meeting must also be provided at this stage. See Mugdan Decl. ¶ 19.

Plaintiff's Response: Plaintiff disputes that Paragraph 16 states a material fact for the reasons set forth in Plaintiff's Response to Paragraph 1. In addition, the assertions in Paragraph 16 are legal arguments and conclusions of law to which no response is required.

17. Following receipt of public comments and any final comments from the support agency, the lead agency selects and documents the remedy selection decision in a Record of Decision. The Record of Decision documents the remedial action plan for a site or operable unit and serves the following three basic functions: 1) it certifies that the remedy selection process was carried out in accordance with CERCLA and, to the extent practicable, with the NCP; 2) it describes the technical parameters of the remedy, specifying the methods selected to protect human health and the environment including treatment, engineering, and institutional control components, as well as cleanup levels; and 3) it provides the public with a consolidated summary of information about the site and the chosen remedy, including the rationale behind the selection. See Mugdan Decl. ¶ 20.

Plaintiff's Response: Plaintiff disputes that Paragraph 17 states a material fact for the reasons set forth in Plaintiff's Response to Paragraph 1. In addition, the assertions in Paragraph 17 are legal arguments and conclusions of law to which no response is required.

18. As described above, while the RI/FS for 17 Miles was underway, beginning in 2006 EPA undertook a targeted investigation, or FFS, of the Lower 8.3 Miles. The RI and FFS Reports for the Lower 8.3 Miles, and EPA's Proposed Plan for remediation of this portion of the Diamond Alkali Superfund Site were released to the public for comment on April 11, 2014 via the web site www.ourPassaic.org, a website hosted by EPA for the Lower Passaic River. These documents were also made available to the public in the Administrative Record file maintained at the Newark Public Library, 5 Washington Street, Newark, New Jersey, the Elizabeth Public Library, 11 South Broad Street, Elizabeth, New Jersey, and in the EPA Region 2 Records Center

at 290 Broadway, New York City. A notice of availability of the Administrative Record was published in the Star Ledger and Luso Americano on April 25, 2014. EPA also developed fact sheets summarizing the Proposed Plan in Spanish and Portuguese to support its outreach to those communities. In addition, select documents from the Administrative Record were made accessible online at:

http://www.ourPassaic.org

http://www.epa.gov/region02/superfund/npl/diamondalkali

See Mugdan Decl. ¶ 21.

Plaintiff's Response: Plaintiff disputes that Paragraph 18 states a material fact for the reasons set forth in Plaintiff's Response to Paragraph 1.

19. The public comment period for the Lower 8.3 Miles Proposed Plan and supporting documents was originally scheduled by EPA to extend from April 21, 2014 through June 20, 2014. EPA received requests to extend the public comment period, including from the CPG, to allow additional time for consideration of and comment on the Proposed Plan. In response to these requests, EPA extended the public comment period to July 21, 2014, then to August 20, 2014, at which time the comment period closed. See Mugdan Decl. ¶ 22.

Plaintiff's Response: Plaintiff disputes that Paragraph 19 states a material fact for the reasons set forth in Plaintiff's Response to Paragraph 1.

20. By the close of the comment period, EPA had received hundreds of comments, including comments from individuals, organizations, and elected officials. The CPG submitted 91 pages of detailed comments, accompanied by: eight appendices and 15 attachments comprising technical, legal and policy reports and analyses prepared for the CPG; 298 technical references; 87 items of correspondence; 45 documents referenced in Attachment A; 33 quality assurance plans; and 41 reports. In addition, William Hyatt of K&L Gates, LLP, on behalf of the CPG, submitted letters to EPA on May 27, 2014, June 30, 2014 and August 7, 2014 commenting on various aspects of the RI/FFS and EPA's Proposed Plan, which were included as comments to the Proposed Plan. Finally, individual members of the CPG submitted their own comment letters. In all, the CPG's comments comprised thousands of pages of material. See Mugdan Decl. ¶ 23.

Plaintiff's Response: Plaintiff disputes that Paragraph 20 states a material fact for the reasons set forth in Plaintiff's Response to Paragraph 1.

21. Also during the public comment period, EPA held three public meetings to present the findings of the RI, the FFS and EPA's Proposed Plan. At these meetings, all of which were attended by representatives and members of the CPG, EPA personnel answered questions concerning the remedial alternatives developed as part of the FFS. Although not part of the formal public comment process, EPA also participated in a number of public forums, and attended several community meetings, to present information and answer questions about the RI/FFS and Proposed Plan. Representatives of the CPG also attended several of these meetings. See Mugdan Decl. ¶ 24.

Plaintiff's Response: Plaintiff disputes that Paragraph 21 states a material fact for the reasons set forth in Plaintiff's Response to Paragraph 1.

22. Throughout the public comment period, EPA sent numerous news advisories by e-mail, listserv and regional social media accounts announcing the release of the Proposed Plan, reminding the public about EPA's public meetings and the public forums organized by other entities, announcing the extension of the comment period, and reminding the public about the end of the comment period. Representatives and members of the CPG are included in the Region's listserv and e-mail groups. See Mugdan Decl. ¶ 25.

Plaintiff's Response: Plaintiff disputes that Paragraph 22 states a material fact for the reasons set forth in Plaintiff's Response to Paragraph 1.

23. Subsequent to the close of the comment period, as required by the NCP, EPA prepared a detailed response to comments, including those submitted by the CPG. The CPG submitted four late comment letters after the close of the comment period, dated April 17, July 14, September 29 and December 29, 2015. Consistent with the NCP and EPA guidance, Region 2 reviewed the late comments to evaluate whether they substantially supported the need to significantly alter EPA's selected remedy, and found they did not. Therefore, the letters were included in the administrative record file as "Late Comments," but were not addressed in the detailed response to comments. See Mugdan Decl. ¶ 26.

Plaintiff's Response: Plaintiff disputes that Paragraph 23 states a material fact for the reasons set forth in Plaintiff's Response to Paragraph 1.

24. On March 3, 2016, EPA signed the Record of Decision selecting the remedy for the sediments of the Lower 8.3 Miles. Responses to comments received by EPA at public meetings and in writing during the public comment period are included in the Responsiveness Summary, which is an Appendix to the Record of Decision. The Administrative Record for the Record of Decision, which contains approximately 580 documents (in addition to the documents submitted as public comments), is publically available online at: https://semspub.epa.gov/src/collection/02/AR63167. See Mugdan Decl. ¶ 27.

Plaintiff's Response: Plaintiff disputes that Paragraph 24 states a material fact for the reasons set forth in Plaintiff's Response to Paragraph 1.

25. On March 31, 2016, after the issuance of the Record of Decision for the Lower 8.3 Miles of the Lower Passaic River part of the Diamond Alkali Superfund Site, EPA issued a notice letter to PRPs for the Lower Passaic River, advising of the actions that EPA will take to implement the remedy for the Lower 8.3 Miles. As described in the notice letter, the first action is to request the voluntary performance of the remedial design by one particular PRP (though other PRPs may contribute to the funding). After execution of an agreement to perform the remedial design, EPA plans to begin negotiating a remedial action consent decree, under which a number of PRPs will implement and/or pay for the remedy for the Lower 8.3 Miles, and reimburse EPA's costs incurred for the Lower Passaic River. If EPA is unable to reach

agreement on either (or both) the remedial design, or the remedial action, EPA will evaluate its enforcement options, including issuance of one or more unilateral orders and/or litigation in federal court. Members of the CPG, which consists of parties that EPA has identified as potentially responsible for releases of hazardous substances to the Lower Passaic River, will be among the PRPs that EPA will approach to implement and/or pay for the remedy for the Lower 8.3 Miles. See Mugdan Decl. ¶ 28.

Plaintiff's Response: Plaintiff disputes that Paragraph 25 states a material fact for the reasons set forth in Plaintiff's Response to Paragraph 1.

26. The CPG continues to perform the 17 Miles RI/FS. When that work has been completed according to EPA's requirements, with the participation of NJDEP as support agency, EPA will prepare and issue a Proposed Plan for the full 17 Miles. After a public comment period, EPA will select a remedy for that portion of the Diamond Alkali Superfund Site, as well. See Mugdan Decl. ¶ 29.

Plaintiff's Response: Plaintiff disputes that Paragraph 26 states a material fact for the reasons set forth in Plaintiff's Response to Paragraph 1.

III. Relevant Parties and Actions Taken for Lower Passaic River

27. ***The Lower Passaic River Study Area Cooperating Parties Group ("CPG").*** The CPG is a group of PRPs identified for the Diamond Alkali Superfund Site (numbering over 70 in 2007, but currently at approximately 55). In 2004, EPA entered into an administrative settlement

agreement pursuant to Section 122(h) of CERCLA with the companies that at the time, to EPA's knowledge, comprised the CPG. Pursuant to this agreement, the CPG was required to provide funds for EPA to perform an RI/FS for the 17 Miles. The agreement was amended twice to add more parties to the CPG. EPA also understands that a number of former CPG members are no longer participating in the CPG. See Mugdan Decl. ¶ 30.

Plaintiff's Response: Plaintiff does not dispute that the CPG is a group of parties whose members have entered into certain agreements with EPA relating to the Lower Passaic River Study Area of the Diamond Alkali Superfund Site. Plaintiff disputes that Paragraph 27 states any other material facts for the reasons set forth in Plaintiff's Response to Paragraph 1.

28. ***Partner Agencies.*** The Partner Agencies are a group of federal and state agencies studying the Lower Passaic River contemporaneously with EPA. The agencies include U.S. Army Corps of Engineers, New York District; New Jersey Department of Environmental Protection ("NJDEP"); National Oceanographic and Atmospheric Administration ("NOAA"); and U.S. Fish and Wildlife Service ("USFWS"). The New Jersey Department of Transportation ("NJDOT") participated in the Partner Agencies until November 2007, when its responsibilities were transferred to NJDEP. See Mugdan Decl. ¶ 31.

Plaintiff's Response: Plaintiff does not dispute that federal and state agencies have participated in the RI/FS process for the Lower Passaic River Study Area. Plaintiff is thus without information sufficient to form a belief as to the truth of what agencies EPA considers "Partner Agencies" and what dates any agency has participated, and, therefore, disputes the remaining assertions in Paragraph 28.

29. Region 2 has a close relationship with NJDEP for the investigation and cleanup of the Diamond Alkali Superfund Site, including the Lower Passaic River, because under CERCLA, a state agency such as NJDEP is designated as EPA's support agency. Section 121(f) of CERCLA provides for state involvement in the CERCLA process. The EPA must provide the state with an opportunity to comment on an RI/FS and all technical data leading to its issuance and the preferred remedial alternative identified through the RI/FS, among other issues. The NCP, implementing regulations for CERCLA, further provides for the role of the state. Under 40 CFR 300.515(f), the state has the opportunity to comment on the proposed plan for a site (or operable unit), and the EPA seeks the state's concurrence on EPA's final cleanup decision memorialized in the Record of Decision. See Mugdan Decl. ¶ 32.

Plaintiff's Response: Plaintiff disputes that Paragraph 29 states a material fact for the reasons set forth in Plaintiff's Response to Paragraph 1. In addition, the assertions in Paragraph 29 are legal arguments and conclusions of law to which no response is required.

30. In 2005, Region 2 signed a Joint Prosecution and Confidentiality Agreement ("JPCA") with the Partner Agencies covering the work to be done at the Lower Passaic Site. This JPCA provided that the parties' common interests with respect to the Passaic River Matter (defined as the contamination of the Passaic River and environs in New Jersey) include the determination, implementation and supervision of appropriate and effective environmental and natural resource damages response actions, and the preparation for and prosecution of anticipated enforcement litigation against third parties with respect to the Passaic River Matter. The JPCA further provides that for the parties to pursue and achieve their common interests concerning

environmental and natural resource damages response actions and anticipated enforcement litigation with respect to the Passaic River Matter, it has been and remains imperative, and in some instances is mandated by federal law, that the State of New Jersey and federal parties exchange communications, information and documents as part of their deliberative and decision-making processes. Subsequently, and throughout development of the 17 Miles RI/FS and the Lower 8.3 Mile RI/FFS, EPA has shared technical documents in draft form with the partner agencies (primarily NJDEP, but also the Corps-NY, NOAA, USFWS and NJDOT). See Mugdan Decl. ¶ 33.

Plaintiff's Response: Plaintiff does not dispute that the Joint Prosecution and Confidentiality Agreement includes the provisions described in Paragraph 30. Plaintiff is without information sufficient to form a belief as to the truth of EPA's distribution of documents, and, therefore, disputes the remaining assertions in Paragraph 30.

31. ***U.S. Army Corps of Engineers, Kansas City District (the "Corps-KC") and Contractors.*** When EPA begin the 17 Miles RI/FS, in or about 2002, EPA contracted with the Corps-KC to function as EPA's lead contractor for the 17 Miles RI/FS under Interagency Agreement #DW9694197501. In 2006, when EPA began preparing the FFS to evaluate remedial alternatives for the Lower 8.3 Miles, the Corps-KC continued to function as EPA's lead contractor for the RI/FFS under this contract. Under this contract, the Corps-KC was authorized to manage the work necessary to perform the sampling, analysis, and other technical work to develop the RI/FFS, and to support EPA's preparation of the Proposed Plan and Record of Decision. Region 2 provided funds for this Interagency Agreement, and the Corps-KC

subcontracted on EPA's behalf with various contractors to perform much of the sampling, analysis, and technical work, which was provided to the Corps-KC and Region 2 for further review and approval, and incorporation into the eventual RI/FFS, Proposed Plan and Record of Decision. Region 2 provided technical, legal and policy direction to the Corps-KC and, through the Corps-KC, its contractors. Region 2 set the schedule for the technical work. Region 2 reviewed, commented on, edited and approved all contractor work products. See Mugdan Decl. ¶ 34.

Plaintiff's Response: EPA has not produced Interagency Agreement #DW9694197501. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 31, and, therefore, disputes them.

32. The Corps-KC hired contractors Malcolm Pirnie (later Louis Berger Group), HydroQual (later HDR/HydroQual) and Battelle to perform the technical work. See Mugdan Decl. ¶ 35.

Plaintiff's Response: EPA has not produced any contractual agreements entered by the United States Army Corps of Engineers with other entities. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 32, and, therefore, disputes them.

33. At Region 2's and the Corps-KC's direction, Malcolm Pirnie/Louis Berger hired technical advisors as subcontractors to review draft analyses and interim products that were

subsequently combined to form elements of the Lower 8.3 Miles RI/FFS. The technical advisors ensured that the highly technical analyses were performed correctly. See Mugdan Decl. ¶ 36.

Plaintiff's Response: EPA has not produced any contractual agreements entered by EPA or the United States Army Corps of Engineers with contractors or subcontractors. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 33, and, therefore, disputes them.

34. Between 2007 and 2014, the CPG performed the sampling, modeling and analysis to complete the 17 Miles RI/FS that EPA had started, and that the CPG took over in 2007 pursuant to the 2007 AOC, as described above in Paragraph 9. To date, the CPG has submitted to EPA draft human health and ecological risk assessments, and draft RI and FS reports. See Mugdan Decl. ¶ 37.

Plaintiff's Response: Plaintiff does not dispute the assertions in Paragraph 34.

35. From 2007 to 2009, the same team of contractors working with EPA Region 2/the Corps-KC to perform the FFS for the Lower 8.3 Miles also assisted EPA Region 2 in overseeing the CPG's work on the 17 Miles RI/FS, under a new Interagency Agreement, #DW9496212501. See Mugdan Decl. ¶ 38.

Plaintiff's Response: EPA has not produced Interagency Agreement #DW9496212501. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 35, and, therefore, disputes them.

36. In 2009, for the 17 Miles RI/FS oversight, the Corps-KC, working with EPA Region 2, replaced Malcolm Pirnie/Louis Berger with CDM Federal Programs (CDM-Smith). See Mugdan Decl. ¶ 39.

Plaintiff's Response: EPA has not produced any contractual agreements between EPA or the United States Army Corps of Engineers with their contractors. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 36, and, therefore, disputes them.

37. Using funds provided by the CPG pursuant to the 2007 AOC, Region 2 funded the Interagency Agreement for the 17 Miles RI/FS oversight, which the Corps-KC used to hire the contractors. Region 2 also provided technical, legal and policy direction to the Corps-KC and, through the Corps-KC, its contractors. Region 2 set the schedule for the technical work. Region 2 reviewed, commented on, edited and approved all contractor work products incorporated into Region 2's oversight of the CPG 17 Miles RI/FS. See Mugdan Decl. ¶ 40.

Plaintiff's Response: EPA has not produced the Interagency Agreement. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 37, and, therefore, disputes them.

38. ***EPA Contaminated Sediment Technical Advisory Group ("CSTAG").*** The CSTAG is an EPA-internal advisory group that advises EPA regional project managers on how to appropriately manage sediment sites in accordance with EPA guidance. The CSTAG's goals

include encouraging national consistency in the management of sediment sites by providing a forum for exchange of technical and policy information, and providing a mechanism for monitoring and evaluating the progress at a number of the largest or most complex contaminated sediment sites. See Mugdan Decl. ¶ 41.

Plaintiff's Response: Plaintiff does not dispute that EPA's website for the Contaminated Sediment Technical Advisory Group ("CSTAG") describes CSTAG as "a technical advisory group established to monitor and provide advice at a small number of large, complex or controversial contaminated sediment Superfund sites." Plaintiff also does not dispute that EPA's CSTAG website further identifies three purposes of CSTAG: (1) To help RPMs and OSCs appropriately investigate and manage these sites in accordance with the 11 principles for managing contaminated sediments risks; (2) To encourage national consistency in the management of sediment sites by providing a forum for exchange of technical and policy information; and (3) To provide a mechanism for monitoring and evaluating the progress at a number of the largest or most complex contaminated sediment sites. https://www.epa.gov/superfund/superfund-contaminated-sediments-technical-advisory-group-cstag.

39. ***EPA National Remedy Review Board ("NRRB").*** EPA created the NRRB in January 1996 as part of a comprehensive package of reforms designed to make the Superfund program faster, fairer and more efficient. The NRRB is an EPA-internal peer review group that understands both the EPA regional and headquarters perspectives in the remedy selection process. It reviews proposed Superfund cleanup decisions for sites for which the proposed

remedial actions cost more than $25 million to make sure they are consistent with Superfund law, regulations and guidance. NRRB members are EPA managers and senior technical and policy experts with significant experience in Superfund remedy selection issues. See Mugdan Decl. ¶ 42.

Plaintiff's Response: Plaintiff does not dispute that EPA's website for the National Remedy Review Board includes the information in Paragraph 39. https://www.epa.gov/superfund/national-remedy-review-board-nrrb.

40. Due to the size and complexity of the Lower 8.3 Miles, Region 2 presented the proposed Superfund cleanup decisions for the Lower 8.3 Miles to both the CSTAG and the NRRB. The recommendations and comments of the CSTAG and the NRRB were incorporated into the eventual selected remedy and Record of Decision. See Mugdan Decl. ¶ 43.

Plaintiff's Response: EPA has not produced documents between it and the CSTAG or the NRRB that would allow a full understanding of the information that EPA presented to CSTAG and NRRB, the complete recommendations and comments made by CSTAG and NRRB, and how EPA incorporated those recommendations and comments into the selected remedy and Record of Decision. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 40, and, therefore, disputes them.

41. In 2008, Region 2 presented Region 2's technical approach to studying the Lower 8.3 Miles to the CSTAG. See Mugdan Decl. ¶ 44.

Plaintiff's Response: EPA has not produced documents that identify what information it presented to CSTAG in 2008. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 41, and, therefore, disputes them.

42. On April 1, 2008, the CSTAG provided advice to Region 2 on the technical approach in the form of a comment memo. Region 2 responded to the CSTAG's comment memo on May 6, 2008. Both the CSTAG April 1, 2008 comment memo and Region 2's May 6, 2008 response are available to the public via the CSTAG web site. Based on the CSTAG's advice, Region 2 made changes to the work that the Corps-KC and its contractors were performing for Region 2, as part of EPA's development of the Lower 8.3 Miles RI/FFS. See Mugdan Decl. ¶ 45.

Plaintiff's Response: Plaintiff does not dispute that Stephen Ells, chair of CSTAG, sent Alice Yeh of EPA Region 2 a memorandum regarding CSTAG recommendations for the Lower Passaic River Site on April 1, 2008, and that Ms. Yeh provided Mr. Ells with EPA Region 2's responses to those recommendations on May 6, 2008. EPA has not produced documents to allow a full understanding of how CSTAG's recommendations affected EPA's subsequent work. Plaintiff is thus without information sufficient to form a belief as to the truth of the remaining assertions in Paragraph 43, and, therefore, disputes them.

43. Throughout the development of the Lower 8.3 Miles RI/FFS, Region 2 updated the CSTAG on how the technical work was progressing. By phone and e-mail, members of the CSTAG served in an ongoing advisory role that led to ongoing changes and adjustments to the

work that the Corps-KC and its contractors were performing for Region 2. See Mugdan Decl. ¶ 46.

Plaintiff's Response: EPA has not produced documents between EPA and the CSTAG regarding updates or changes and adjustments to work by EPA, the United States Army Corps of Engineers, or others. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 43, and, therefore, disputes them.

44. Before Region 2 completed the Proposed Plan for the Lower 8.3 Miles and released it for public review, Region 2 submitted a technical memo to the NRRB for internal review. In December 2012, Region 2 made a presentation to the NRRB describing the alternative that Region 2 expected to identify as the preferred alternative, and the basis for the Region's approach. CSTAG members also attended the meeting. See Mugdan Decl. ¶ 47.

Plaintiff's Response: EPA has not produced the technical memo, the presentation to NRRB, or other documents relating to a December 2012 meeting. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 44, and, therefore, disputes them.

45. The NRRB reviewed Region 2's description and basis for the likely preferred alternative. The NRRB, together with CSTAG, prepared a memorandum to document its evaluation and advisory recommendations, which Region 2 then referred to during its preparation of the documentation of the basis for choosing the preferred alternative. Drafts of the NRRB/CSTAG memorandum were shared with Region 2 for review. The drafts were

generally provided between January 2013 and May 2013. The NRRB/CSTAG memorandum in its final form was dated April 11, 2014, and was released to the public as part of the Administrative Record for the Lower 8.3 Miles Proposed Plan. See Mugdan Decl. ¶ 48.

Plaintiff's Response: Plaintiff does not dispute that EPA has released a memorandum from NRRB and CSTAG that is dated April 11, 2014. EPA has not produced the documents that NRRB and CSTAG reviewed or any memoranda from NRRB or CSTAG sent to EPA prior to April 11, 2014. In addition, EPA's Vaughn Index lists only two documents between January 2013 and May 2013 that have a document title and a .doc, .docx, or .pdf file extension. These documents – "Draft CSM.pdf" (FOIA_0601800007873, Jan. 4, 2013) and "DER6 NJDEP Comments 2012.docx" (FOIA-06018_Outlook00000085, Apr. 9, 2013) – do not appear to be memoranda between NRRB or CSTAG and EPA. Plaintiff thus is without information sufficient to form a belief as to the truth of the remaining assertions in Paragraph 45, and, therefore, disputes them.

46. As part of the NRRB review process, Region 2 responded to NRRB/CSTAG memorandum in a written response. Region 2's response was shared in draft form with members of NRRB in January through March 2014. Both the NRRB/CSTAG April 11, 2014 memorandum and Region 2's April 11, 2014 response, in final form, were released to the public as part of the Administrative Record for the selection of the remedy for the Lower 8.3 Miles. See Mugdan Decl. ¶ 49.

Plaintiff's Response: Plaintiff admits that EPA has released an April 11, 2014 memorandum from NRRB and CSTAG to EPA, and an April 11, 2014 memorandum from EPA to NRRB and CSTAG. EPA's Vaughn Index lists only one .doc, .docx., or .pdf file extension that has the words NRRB or CSTAG in it, and it is a 2012 CPG submission to NRRB: "20121121 CPG NRRB Submission to EPA pdf." (DASS00006678, Jan. 17, 2014). Plaintiff thus is without information sufficient to form a belief as to the truth of the remaining assertions in Paragraph 46, and, therefore, disputes them.

47. Based on the NRRB/CSTAG advice, provided in the various drafts of the memorandum, Region 2 made changes to the Lower 8.3 Miles Proposed Plan and directed the Corps-KC and its contractors to make changes to the Lower 8.3 Miles RI/FFS. See Mugdan Decl. ¶ 50.

Plaintiff's Response: EPA has not produced NRRB and CSTAG documents prior to the April 11, 2014 memorandum, or any direction EPA gave to the United States Army Corps of Engineers or any other entities in response to the NRRB and CSTAG. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 47, and, therefore, disputes them.

48. In addition to NRRB review, in late 2013 and early 2014, Region 2 provided drafts of the Lower 8.3 Miles Proposed Plan to EPA Office of Solid Waste and Emergency Response, Office of Superfund Remediation and Technology Innovation ("OSWER-OSRTI") for its review. The name of the Office of Solid Waste and Emergency Management ("OSWER")

has now been changed to the Office of Land and Emergency Management ("OLEM"). See Mugdan Decl. ¶ 51 & n.1.

Plaintiff's Response: EPA has not produced documents between it and the EPA Office of Solid Waste and Emergency Response, Office of Superfund Remediation and Technology Innovation regarding the Proposed Plan. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 48, and, therefore, disputes them.

49. In late 2013 and early 2014, EPA OSWER-OSRTI provided comments intended to review Region 2's basis and explanation for selection of the preferred alternative; to evaluate conformance with EPA policies and guidance; and, where the Region had determined that an aspect of EPA guidance would not apply, to understand the basis for that determination. See Mugdan Decl. ¶ 52.

Plaintiff's Response: EPA has not produced any comments from the OSWER-OSRTI. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 49, and, therefore, disputes them.

50. Based on EPA OSWER-OSRTI comments and review, Region 2 made changes to the Lower 8.3 Miles Proposed Plan. These changes were incorporated into the final version of the Lower 8.3 Mile Proposed Plan, which was released to the public in April 2014. However, unlike the NRRB review, there was no final memorandum documenting EPA OSWER-OSRTI comments. See Mugdan Decl. ¶ 53.

Plaintiff's Response: EPA has not produced any comments from the OSWER-OSRTI or any responses by EPA thereto. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 50, and, therefore, disputes them.

51. ***Proposed Plan Public Comment Period.*** As described above in Paragraph 21, EPA issued the Lower 8.3 Miles Proposed Plan as part of its public participation responsibilities under Section 117(a) of CERCLA and Section 300.430(f)(2) of the NCP. The nature and extent of the contamination in the Lower 8.3 Miles and the remedial alternatives summarized in the Lower 8.3 Miles Proposed Plan are described in detail in EPA's Lower 8.3 Miles RI/FFS, and numerous, detailed supporting appendices. A copy of the Lower 8.3 Miles Proposed Plan, Lower 8.3 Miles RI/FFS reports and other documents comprising the administrative record file were made available to the public in the information repositories located at the Newark and Elizabeth Public Libraries and the EPA Region 2 Superfund Records Center. Public notices about the release of the Proposed Plan were published in two local newspapers. See Mugdan Decl. ¶ 54.

Plaintiff's Response: Plaintiff disputes that Paragraph 51 states a material fact for the reasons set forth in Plaintiff's Response to Paragraph 1. In addition, the assertions in Paragraph 51 are legal arguments and conclusions of law to which no response is required.

IV. CPG's FOIA Requests

52. Shortly after the issuance of the Proposed Plan, the CPG submitted four FOIA requests to Region 2, seeking substantial amounts of information (collectively, the "CPG FOIA

Requests"). Specifically, on April 21, 2014, on behalf of the CPG, Robert La Gravenis of K&L Gates, LLP, submitted FOIA request EPA-R2-2014-005768 (the "CPG's First FOIA Request"). On April 28, 2014, on behalf of the CPG, Mr. La Gravenis submitted FOIA request EPA-R2-2014-006018 (the "CPG's Second FOIA Request"). On May 14, 2014, on behalf of the CPG, Mr. La Gravenis, submitted FOIA request EPA-R2-2014-006476 (the "CPG's Third FOIA Request"). Finally, on June 17, 2014, on behalf of the CPG, submitted FOIA request EPA-R2-2014-007546 (the "CPG's Fourth FOIA Request"). See Mugdan Decl. ¶ 55, Exs. A, B, C, D.

Plaintiff's Response: Plaintiff does not dispute that it submitted four FOIA requests to EPA on the dates provided, but disputes EPA's characterization of the requests because the documents referenced speak for themselves.

53. The CPG's first three FOIA Requests were interrelated, and therefore Region 2 responded to the requests in a consolidated and coordinated manner. The CPG's first three FOIA requests were also very broad and required Region 2 staff to collect and review over 66,000 documents as part of the coordinated response. Ultimately, Region 2 expended 298 hours on the CPG FOIA requests. Throughout the time that Region 2 staff worked on these requests, they remained in communication with the CPG to advise it of the schedule and progress, and ask questions as needed. When possible, Region 2 released information to the CPG on a rolling basis. See Mugdan Decl. ¶ 56.

Plaintiff's Response: Plaintiff does not dispute that it received some communications and some documents from EPA in response to its FOIA requests. EPA has not produced documents independent of Mr. Mugdan's declaration that provide details of its response

activities. Plaintiff is thus without information sufficient to form a belief as to the truth of the remaining assertions in Paragraph 53, and, therefore, disputes them.

54. All four CPG FOIA Requests were assigned to Alice Yeh, Remedial Project Manager for the Lower 8.3 Miles. Alice Yeh met with Assistant Region Counsels Sarah Flanagan and Patricia Hick to plan and manage the search, collection and review of responsive information. Between April 30, 2014 and February 19, 2015, Alice Yeh, Sarah Flanagan and Patricia Hick met fourteen times to discuss the steps taken and progress made on the CPG FOIA requests. See Mugdan Decl. ¶ 57.

Plaintiff's Response: EPA has not produced documents independent of Mr. Mugdan's declaration that provide details of meetings attended by Ms. Yeh, Ms. Flanagan, and Ms. Hick. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 54, and, therefore, disputes them.

55. Alice Yeh called Mr. La Gravenis on May 9, 2014 to seek the CPG's agreement to pay the estimated costs of responding to the CPG's First FOIA Request (EPA-R2-2014-005768) and the CPG's Second FOIA Request (EPA-R2-2014-006018), and on May 20, 2014 to seek the CPG's agreement to pay the estimated cost of responding to the CPG's Third FOIA Request (EPA-R2-2014-006476). On May 9 and 20, Alice Yeh also wrote e-mails to Mr. La Gravenis to confirm their telephone discussions. Mr. La Gravenis advised by email dated May 14, 2014 that the CPG would reserve its rights with respect to payment of the FOIA costs. Sarah Flanagan emailed Karyllan Mack of K&L Gates on May 16, 2014 to seek clarification

regarding the CPG's willingness to pay the costs of the FOIA responses, and to provide information about the status of Region 2's response to the CPG's First, Second and Third FOIA Requests. On May 16, 2014, Ms. Mack of K&L Gates responded to Sarah Flanagan's May 16, 2014 email, agreeing to pay the cost of responding to the request and withdrawing sub-request #13. Sarah Flanagan also wrote to William H. Hyatt of K&L Gates by letters dated June 19, 2014 and November 13, 2014 to inform him of the status of Region 2's response to the CPG FOIA Requests. See Mugdan Decl. ¶ 58, Exs. E, F, G.

Plaintiff's Response: Plaintiff does not dispute that Mr. La Gravenis spoke with Ms. Yeh by telephone on May 9, 2014 and May 20, 2014 regarding the CPG's FOIA requests. Plaintiff disputes EPA's characterization of the e-mail correspondence because the documents referenced speak for themselves.

V. CPG's First FOIA Request: EPA-R2-2014-005768

56. The CPG's First FOIA request contained 14 sub-requests for documents:

- Sub-request #1 asked for an Access or Excel file containing each normalized tissue and sediment concentration data pair (with units, basis and data qualifiers) used to generate a regression model, Biota-Sediment Accumulation Factor (BSAF) curve or Biota Accumulation Factor (BAF) curve presented in Final FFS Appendix A, Data Evaluation Report 6 (Biota Analysis). The sub-request indicated that the Access or Excel file should identify, for each biota tissue sample location, all tissue and sediment sample IDs used to generate the normalized tissue and sediment concentration data pair for that location.

- Sub-request #2 asked for a flat file dataset in Access or CSV including at least the following fields for each sample that was used to generate the normalized tissue and sediment concentration data pairs that were used to generate a regression model, BSAF curve or BAF curve presented in Final FFS Appendix A, Data Evaluation Report 6 (Biota Analysis): source; study; location; coordinates; river mile (if appropriate); species and tissue type (for each tissue sample); sample depth (for each sediment sample); sample ID; sample type (e.g., field duplicate); analyte name, including all contaminants, lipid, TOC

and iron; numeric concentration for each analyte, including numeric concentrations for each sum component (e.g., for Polycyclic Aromatic Hydrocarbon (PAH) mixtures) and calculated totals; data qualifiers; Units; and basis (e.g., dry weight).

- Sub-request #3 asked for data files, including database query output (e.g., sample ID, analytical results, and qualifiers) and ProUCL input file, for tissue samples included in current baseline Human Health Risk Assessment (HHRA) fish and crab tissue Exposure Point Calculations (EPC).

- Sub-request #4 asked for technical bases (analyses, calculations, model files and results, and any other relevant materials) for EPA's sliding scale of annual averages based on receptor exposure duration (used to estimate future concentrations).

- Sub-request #5 asked for technical back-up/documentation for EPA's analysis of 2000 US Census data for Essex and Hudson counties (used to estimate residence time).

- Sub-request #6 asked for technical back-up/documentation for EPA's re-analysis of Joanna Burger's 1999 survey of Newark Bay anglers (used to estimate fish and crab consumption rates).

- Sub-request #7 asked for any correspondence between Region 2 and NJDEP on NJDEP angler surveys that included sites on the LPR, and any data and analysis from those surveys.

- Sub-request #8 asked for any correspondence between the Region and the National Remedy Review Board (NRRB) since the group's comments were submitted in Nov. 2012 and issuance of the NRRB/Contaminated Sediments Technical Advisory Group (CSTAG) final comments on April 11, 2014.

- Sub-request #9 asked for any correspondence between Region 2 and HQ on draft versions of the Proposed Remedial Action Plan (PRAP) and Focused Feasibility Study (FFS) documents.

- Sub-request #10 asked for technical bases (analyses, calculations, modelling files and results, mapping, and any other relevant materials) used to develop the capping area footprints for Alternative 4.

- Sub-request #11 asked for technical backup/documentation for all unit or rollup cost items greater than $5,000 that cite to an "Internal Database" cited in FFS Appendix H.

- Sub-request #12 asked for The Louis Berger Group, Inc., 2007. "Staging and Processing Areas, Treatment Technologies, and Transportation Logistics Review." Lower Passaic River Contract. Prepared for the NJDEP. April 2007.

- After further consultation and communication with Region 2 on the scope of sub-request #13, the requester withdrew sub-request #13.

- Sub-request #14 asked for the data set used to develop EPCs used in the Ecological Risk assessment and shown in Table 7-6 of the FFS RI. This would include EPCs for sediment, the tissue concentrations for the 'generic fish', biota tissue for mummichog, and crab EPCs.

See Mugdan Decl. ¶ 59.

Plaintiff's Response: Plaintiff does not dispute the assertions in Paragraph 56.

EPA's Search and Response

57. *Initial Response*. On April 28, 2014, Region 2 assigned the First FOIA Request to Alice Yeh. On May 9, 2014, Alice Yeh called and sent an email to Mr. La Gravenis providing him with an estimate of the costs of responding to the request, seeking an assurance of payment for the costs of responding to the request, informing him that responding to the request would exceed the statutory deadline (because of the breadth of the request), and asking him to clarify sub-request #13. See Mugdan Decl. ¶ 60, Ex. E.

Plaintiff's Response: EPA has not produced any documents showing the assignment of the First FOIA Request to Ms. Yeh. Plaintiff is thus without information sufficient to form a belief as to the truth of this assertion, and, therefore, disputes it. Plaintiff does not dispute that

Ms. Yeh and Mr. La Gravenis communicated on May 9, 2014. Plaintiff disputes EPA's characterization of the e-mail correspondence and further states the document referenced speaks for itself.

58. After receiving the CPG's First FOIA Request, on April 30, 2014, Region 2 staff met to discuss how to interpret the 14-part FOIA request, identify relevant individuals throughout Region 2 who might have potentially responsive documents, develop instructions for conducting the search, and discuss responsive documents that could be released in the first installment. Ten of the 14 meetings described above included discussion of the steps taken and progress made on this FOIA request. See Mugdan Decl. ¶¶ 58, 61.

Plaintiff's Response: EPA has not produced documents independent of Mr. Mugdan's declaration that provide details of meetings attended by EPA Region 2 staff. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 58, and, therefore, disputes them.

59. *Clarifying and Narrowing the CPG's First FOIA Request.* On May 22, 2014, following the exchanges described above, Alice Yeh sent a letter to Mr. La Gravenis estimating that it would take until the end of July 2014 to respond to the CPG's First FOIA Request and giving him the opportunity to modify the request so that Region 2 could process the request within a shorter timeframe. The letter also provided the first installment of documents responsive to four sub-requests and directed Mr. La Gravenis to specific locations on the

OurPassaic.org website and portions of the Lower 8.3 Miles RI/FFS with information responsive to another four sub-requests in the FOIA request. See Mugdan Decl. ¶¶ 58, 62, 74, Ex. H.

Plaintiff's Response: Plaintiff disputes EPA's characterization of the correspondence because the document referenced speaks for itself.

EPA's Search for Responsive Records

60. On May 9, 2014, Alice Yeh spoke to several employees of the Louis Berger Group and Battelle asking for assistance in locating materials submitted to EPA that might be responsive to the FOIA request. In particular, Ms. Yeh requested that the Louis Berger Group assist her in identifying documents or information in EPA's possession that the Louis Berger Group had submitted to EPA that might be responsive to the sub-requests for technical data and information (sub-requests #1, 2, 3, 4, 5, 6, 10, 11, 12, and 14). These documents were located and EPA either provided them to CPG, or directed the CPG to the locations that they had been made available to the public. See Mugdan Decl. ¶¶ 63, 76.

Plaintiff's Response: EPA has not produced communications between Ms. Yeh and the Louis Berger Group and Battelle relating to the FOIA requests. Plaintiff thus is without information sufficient to form a belief as to the truth of the assertions in Paragraph 60, and, therefore, disputes them.

61. In addition to the documents that originated with the Louis Berger Group, Region 2 staff determined that responsive information to the CPG FOIA Requests would likely be located in EPA staff email accounts (both Lotus Notes and Outlook), or as electronic or paper

documents in the possession of Region 2 staff. Therefore, on May 19, 2014, Region 2 staff met to discuss use of the agency's eDiscovery collection software to search the email accounts of specified document custodians using search terms and defined search parameters. Due to the size and complexity of sub-requests #8 and #9, Region 2 determined that EPA's Encase eDiscovery tool should be used for collection of email documents, and that the collected documents should be reviewed using the Agency's Relativity review software. Alice Yeh, Sarah Flanagan and Patricia Hick determined that Region 2 employees (both current and retired) from ERRD, Office of Regional Counsel and Office of the Regional Administrator might be custodians of e-mails responsive to sub-requests #8 and #9, and identified a date range for the search of November 21, 2012 to April 11, 2014. The custodians and search queries were entered into an Excel spreadsheet formatted to allow the Region 2 Encase coordinator, Judy Rubin, to perform the search. The ERRD staff person identified by Alice Yeh as the potential custodian of records responsive to sub-requests #6 and #7 was contacted directly by Alice Yeh and searched her electronic and paper documents for responsive information. Information responsive to #12 was located in EPA's files by Alice Yeh. See Mugdan Decl. ¶ 64.

Plaintiff's Response: EPA has not produced any documents independent of Mr. Mugdan's declaration relating to its search efforts. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 61, and, therefore, disputes them.

EPA's Collection of Responsive Records

62. From approximately 2001 to early 2013, EPA, including Region 2, used Lotus Notes for Agency email. From 2013 to the present, EPA has used Microsoft Outlook email housed in the Agency's O365 cloud service. In order to collect responsive email records, Region 2 used the Encase eDiscovery search tool to search both the archival Lotus Notes email accounts and current Outlook email accounts of ERRD, Office of Regional Counsel and Office of the Regional Administrator personnel (both current and retired), as discussed above. See Mugdan Decl. ¶ 65.

Plaintiff's Response: EPA has not produced documents independent of Mr. Mugdan's declaration regarding EPA's e-mail software, collection software, or search efforts. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 62, and, therefore, disputes them.

63. To respond to sub-request #8 of the First FOIA Request (for correspondence between Region 2 and the CSTAG/NRRB), Region 2 identified nine EPA custodians consisting of EPA Region 2 legal and technical staff, and 10 likely correspondents who were members of the NRRB and the CSTAG. Region 2 then searched for any email correspondence in the accounts of the nine Region 2 custodians which was sent to or from a member of the CSTAG/NRRB in the time frame of November 12, 2012 to April 11, 2014. No additional search terms or filters were used. To respond to sub-request #9 of the First FOIA Request (for correspondence between Region 2 and EPA HQ on the Proposed Remedial Action Plan and Focused Feasibility Study), Region 2 identified 12 EPA custodians consisting of EPA Region 2

technical and legal staff, and 32 likely correspondents consisting of EPA HQ staff, including senior managers, technical staff, and legal staff in the Office of the Administrator, the Office of Solid Waste and Emergency Management (OSWER, now the Office of Land and Emergency Management), the Office of General Counsel, and the Office of Enforcement and Compliance Assurance. Region 2 then searched for any email correspondence in the accounts of the 12 identified custodians which was sent to or from any of the 32 identified HQ staff in the time frame of September 12, 2013 to April 11, 2014. No additional search terms or filters were used. See Mugdan Decl. ¶ 66.

Plaintiff's Response: EPA has not produced any documents independent of Mr. Mugdan's declaration regarding its search efforts. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 63, and, therefore, disputes them.

64. On June 18, 2014, a collection of documents within Relativity named "ED_000018 – Diamond Alkali, Passaic River Focused" was created to facilitate the review and processing of potentially responsive information to all of the CPG FOIA requests. EPA Region 2 created a sub-folder within the Relativity collection to house documents responsive to the CPG's First FOIA Request. Email documents from the Encase automated search of Lotus Notes and Outlook were loaded into the folder on June 24, 2014. After the initial creation of the folder with materials from Lotus Notes and Outlook, additional materials from paper and electronic file searches were also loaded into Relativity. In that way, Region 2 staff determined that all locations reasonably likely to have responsive information had been searched. The final folder contained 42,662 documents that were potentially responsive to the CPG's First FOIA Request. See Mugdan Decl. ¶ 67.

Plaintiff's Response: EPA has not produced documents independent of Mr. Mugdan's declaration regarding its search and collection efforts. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 64, and, therefore, disputes them.

65. Between July 24 and September 26, 2014, as processing and review was ongoing, Alice Yeh sent Mr. La Gravenis several emails revising the estimated completion date for the FOIA request. Alice Yeh's final email on September 26, 2014 revised the completion date estimate to October 3, 2014. See Mugdan Decl. ¶ 68, Ex. I.

Plaintiff's Response: Plaintiff disputes EPA's characterization of the e-mail correspondence because the documents referenced speak for themselves.

EPA's Processing of Responsive Records

66. Region 2 processed the documents responsive to the CPG's First FOIA Request electronically, using the Relativity software as a platform to perform a line-by-line review of each record and mark whether a record was to be released, partially redacted, or fully withheld. Staff also documented in the Relativity database the FOIA exemption(s) asserted for each withheld record. Relativity assigned each record a reference number and staff then prepared an index of the documents marked to be withheld in the database to provide the CPG with EPA Region 2's final production. See Mugdan Decl. ¶ 69.

Plaintiff's Response: EPA has not produced documents independent of Mr. Mugdan's declaration regarding its collection efforts. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 66, and, therefore, disputes them.

67. The steps for retrieving and processing the records in this FOIA response were as follows. First, Region 2 staff reviewed potentially responsive records in the database and categorized the records as not responsive (either because the record was not responsive or duplicative), release in full, withhold in full under a FOIA exemption, or release with redaction under a FOIA exemption. This step allowed the database to: (1) track the number of records for each asserted FOIA exemption; (2) retrieve remaining unprocessed records; or (3) identify records requiring verification that exemptions were properly asserted. Second, Region 2 staff produced records to the CPG. Third, Region 2 staff generated an index of the documents marked to be withheld. See Mugdan Decl. ¶ 70.

Plaintiff's Response: EPA has not produced documents independent of Mr. Mugdan's declaration regarding its review and production efforts. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 67, and, therefore, disputes them.

68. *Segregating Non-Exempt Material.* Region 2 staff also conducted a line-by-line review of each record responsive to the CPG's First FOIA Request for segregability of non-exempt material. Region 2 staff determined that where a record was withheld in full, no meaningful portion could reasonably be released. Region 2 staff performed redactions where

non-exempt material could be reasonably segregated and released non-exempt portions. See Mugdan Decl. ¶ 71.

Plaintiff's Response: EPA has not produced documents independent of Mr. Mugdan's declaration regarding its review and production efforts. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 68, and, therefore, disputes them.

69. In addition, after commencement of litigation, EPA's Office of General Counsel re-reviewed the withheld documents. On May 11, 2016, 51 documents that were previously withheld in full in response to CPG's First Request were released in full and 28 documents were released with redactions. See Mugdan Decl. ¶ 72, Ex. J.

Plaintiff's Response: Plaintiff does not dispute that EPA produced some documents on May 11, 2016. EPA has not produced documents independent of Mr. Mugdan's declaration regarding its review efforts or withholding decisions. Plaintiff is thus without information sufficient to form a belief as to the truth of the remaining assertions in Paragraph 69, and, therefore, disputes them.

EPA's Production of Responsive Records

70. *Initial Production of Records.* Region 2 staff uploaded the first installment of responsive records to the CPG on May 22, 2014. This installment consisted of documents responsive to sub-requests #5, #6, #7 and #12, and direction to specific locations in Lower 8.3 Miles RI/FFS files publicly available on EPA's website, ourPassaic.org, which contained

information responsive to sub-requests #3, #4, #10 and #14. The first installment (10 files) was produced electronically via FOIAOnline on May 27, 2014. On June 17, 2014, and September 19, 2014, Mr. Hyatt of K& L Gates wrote to Sarah Flanagan regarding the initial production of records responsive to CPG's First FOIA Request, among other issues. See Mugdan Decl. ¶ 73, Exs. H, K, L.

Plaintiff's Response: Plaintiff does not dispute that EPA produced some documents on May 27, 2014. Plaintiff disputes EPA's characterization of the e-mail correspondence and further states that the documents referenced speak for themselves.

71. *Second Production*. Region 2 staff uploaded a second installment of responsive records on October 2, 2014. This installment consisted of (460 files). The second installment was produced electronically via FOIAOnline on October 3, 2014. See Mugdan Decl. ¶ 74.

Plaintiff's Response: Plaintiff does not dispute that EPA produced some documents on October 2, 2014.

72. On October 29, 2014, EPA Region 2 uploaded a final letter to FOIAonline, withholding certain responsive records, and completing the response. Region 2 sent an invoice to the CPG through FOIAOnline. See Mugdan Decl. ¶ 75, Ex. M.

Plaintiff's Response: Plaintiff disputes EPA's characterization of the correspondence and further states that the documents referenced speak for themselves.

73. The CPG's First FOIA Request sought 13 categories of information (one of the original 14 having been withdrawn by the CPG), and Region 2 responded by releasing documents through FOIAOnline as follows:

- In response to sub-requests #1-2, seeking database files with numerous specific elements, Region 2 released one document, the file "BSAF Tissue Sediment Data." This is an Excel spreadsheet that includes some, though not all, of the elements identified in the CPG's First FOIA Request. The data elements that were not included simply were not part of the spreadsheet as maintained by EPA.

- In response to sub-request #3, seeking data files for tissue samples included in baseline Human Health Risk Assessment (HHRA) fish and crab tissue Exposure Point Calculations (EPC), Alice Yeh stated in her May 22, 2014 letter accompanying the first release of information that the data files requested were posted in the Digital Library on ourPassaic.org under "Passaic River/Newark Bay Datasets" and the sample identification numbers and associated information needed to recreate the ProUCL input files were provided in Attachment 1 of Appendix D of the RI/FFS (which was and is publicly available on the website hosted by EPA for the Lower Passaic River, ourpassaic.org).

- Similarly, for sub-request #4, seeking technical bases for EPA's sliding scale of annual averages based on receptor exposure duration (used to estimate future concentrations), Alice Yeh's May 22, 2014 letter stated that the technical basis was provided in Table 5-2 and associated text in Appendix D of the RI/FFS, and that EPA had already provided the model files and results to the CPG in March 2014.

- For sub-request #5, seeking technical back-up/documentation for EPA's analysis of 2000 US Census data for Essex and Hudson counties (used to estimate residence time); Region 2 released one document, "Revised Tech Memo 1 – HH exposure".

- For sub-request #6, seeking technical back-up/documentation for EPA's re-analysis of Joanna Burger's 1999 survey of Newark Bay anglers (used to estimate fish and crab consumption rates), Region 2 released 10 documents.

- In response to the sub-request #7, seeking correspondence between Region 2 and NJDEP on NJDEP angler surveys that included sites on the LPR, and data and analysis on those surveys, Region 2 released 37 documents, and withheld 12 documents. (Region 2 identified 15 documents on its withholding log that accompanied the final production but has determined that three of the documents were released.)

- In response to sub-requests #8 and #9, seeking correspondence between Region 2 and NRRB since the group's comments were submitted in November 2012 and until issuance of the NRRB/CSTAG final comments on April 11, 2014, and between Region 2 and HQ on draft versions of the Proposed Plan and FFS documents, Region 2 released over 400 documents through FOIAOnline. Region 2 withheld 571 documents, citing FOIA Exemption 5.

- In response to sub-request #10, seeking technical bases used to develop the capping area footprints for Alternative 4 in the Proposed Plan, Region 2 responded via Alice Yeh's May 22, 2014 letter informing the CPG that the technical basis was provided in Appendix B of the RI/FFS, and that EPA had already provided the modeling files and results to the CPG in March 2014.

- In response to sub-request #11, seeking technical backup/documentation for all unit or rollup cost items over $5,000 that cite to "Internal Database" in FFS Appendix H, Region 2 provided one document, "FFS Appendix H Cost Estimate References."

- In response to sub-request #12, seeking a document prepared by the Louis Berger Group, Inc. in 2007, "Staging and Processing Areas, Treatment Technologies, and Transportation Logistics Review" Region 2 provided the document.

- In response to sub-request #14, seeking the data set used to develop EPCs used in the Ecological Risk Assessment and shown in Table 7-6 of the FFS RI, Region 2 responded by informing the CPG in Alice Yeh's May 22, 2014 letter that the data files requested are posted in the Digital Library on ourPassaic.org, under "Passaic River/Newark Bay Datasets" and sample identification numbers and associated information needed to recreate the ProUCL input files are provided in Attachment 1 of Appendix D of the RI/FFS.

See Mugdan Decl. ¶ 76 & n.2, Exs. H, X.

Plaintiff's Response: Plaintiff does not dispute that EPA produced some documents. Plaintiff disputes EPA's characterization of the documents and further states that the documents referenced speak for themselves.

74. *Production Numbers*. EPA Region 2 identified approximately 42,662 records as potentially responsive to the CPG's First FOIA Request, of which Region 2 released 443 documents in full, released 27 documents with redactions, and withheld 586 documents in full. The remaining documents were determined to be duplicative or otherwise non-responsive to the CPG's First FOIA Request. In addition, on May 11, 2016, 51 documents that were previously withheld in full in response to CPG's First Request were released in full and 28 documents were released with redactions following OGC review. The final number of responsive documents to CPG's First FOIA Request was approximately 1,053 records, with approximately 494 released in full, approximately 55 released with redactions, and 504 withheld in full under one or more exemptions. The Coded Vaughn Index does not include the 27 documents released with redactions in the initial response. These documents were provided to CPG with the redaction on the face of the document. See Mugdan Decl. ¶ 77 & n.3, Ex. X.

Plaintiff's Response: Plaintiff does not dispute that EPA released some documents in full and others with redactions. EPA has not produced documents independent of Mr. Mugdan's declaration regarding EPA's collection and production efforts. Plaintiff is thus without information sufficient to form a belief as to the truth of the remaining assertions in Paragraph 74, and, therefore, disputes them.

VI. CPG's Second FOIA Request: EPA-R2-2014-006018

75. The CPG's Second FOIA Request did not have multiple sub-parts, but rather consisted of a very broad request for all emails, correspondence and other documents relating to: EPA's 2008 Conceptual Site Model ("CSM") and Empirical Mass Balance Model ("EMBM")

developed as part of the Lower 8.3 Miles RI/FFS and any comments, revisions or changes to the CSM that were considered by EPA in the development and issuance of the Proposed Plan for the Lower 8 Miles; and EPA's June 2008 peer review of the CSM and EMBM. See Mugdan Decl.¶ 78.

Plaintiff's Response: Plaintiff does not dispute its requests contained the contents described in Paragraph 75, but disputes EPA's characterization of the requests and further states that the requests referenced speaks for themselves.

EPA's Search and Response

76. On April 29, 2014, Region 2 assigned the request to Alice Yeh. On May 9, 2014, Alice Yeh called and sent an email to Mr. La Gravenis providing him with an estimate of the costs of responding to the request, seeking an assurance of payment for the costs of responding to the request, and informing him that responding to the request would exceed the statutory deadline (because of the breadth of the request) and that until the requestor agreed to pay the costs of production, production would be on hold. See Mugdan Decl. ¶ 79, Ex. E.

Plaintiff's Response: EPA has not produced any documents showing the assignment of the First FOIA Request to Ms. Yeh. Plaintiff is thus without information sufficient to form a belief as to the truth of this assertion, and, therefore, disputes it. Plaintiff does not dispute that Ms. Yeh and Mr. La Gravenis communicated on May 9, 2014. Plaintiff disputes EPA's characterization of the e-mail correspondence because the document referenced speaks for itself.

77. After receiving the CPG's Second FOIA Request, Region 2 staff met on April 30 to discuss how to interpret the FOIA request, identify relevant individuals throughout Region 2 who might have potentially responsive documents, develop instructions for conducting the search, and discuss responsive documents that could be sent in the first installment. The response to the Second FOIA Request was then incorporated into the effort to respond to the First FOIA Request, and included in the meetings discussed above. See Mugdan Decl. ¶¶ 58, 80.

Plaintiff's Response: EPA has not produced documents independent of Mr. Mugdan's declaration that provide details of meetings attended by EPA Region 2 staff. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 77, and, therefore, disputes them.

78. On May 14, 2014, Mr. La Gravenis sent an email responding to Alice Yeh's May 9, 2014 email indicating that the CPG would agree to pay the costs for responding to the request, but would reserve its rights with respect to such costs. On May 16, 2014, Sarah Flanagan of Region 2 sent an email to Karyllan Dodson Mack of K&L Gates requesting that K&L Gates confirm the CPG agreement to pay costs of responding to the FOIA request. Sarah Flanagan's email also summarized the status of the request. On May 16, 2014, Ms. Mack of K&L Gates responded to Sarah Flanagan's May 16, 2014 email agreeing that the CPG would pay the cost of responding to the request. See Mugdan Decl. ¶ 81, Ex. E.

Plaintiff's Response: Plaintiff disputes EPA's characterization of the correspondence and further states that the e-mails referenced speaks for themselves.

79. In her letter dated May 22, 2014 accompanying the first release of information, Alice Yeh estimated that it would take EPA until the end of September 2014 to complete its response to the CPG's Second FOIA Request and gave him the opportunity to modify the request so that EPA Region 2 could process the request within a shorter timeframe. In an email dated September 26, 2014, Alice Yeh extended her estimate of the time for response until the end of October 2014. See Mugdan Decl. ¶ 82, Exs. N, O.

Plaintiff's Response: Plaintiff disputes EPA's characterization of the correspondence and further states that the correspondence referenced speaks for itself.

80. By letter dated November 4, 2014, Mr. Hyatt of K&L Gates inquired whether the Region would be able to complete its response by the end of November 2014. By letter dated November 13, 2014, Sarah Flanagan replied, stating that it was Region 2's intention to complete its review by the end of November 2014, and informing the CPG that the request required the Region to review close to 10,000 documents. See Mugdan Decl. ¶ 83, Exs. G, P.

Plaintiff's Response: Plaintiff disputes EPA's characterization of the correspondence and further states that the correspondence referenced speaks for itself.

EPA's Search for Responsive Records

81. Region 2 staff determined that, due to the number of records likely to be responsive to this request, EPA's Encase eDiscovery tool should be used for collection of email documents, and that the collected documents should be reviewed using EPA's Relativity review software. See Mugdan Decl. ¶ 84.

Plaintiff's Response: EPA has not produced documents independent of Mr. Mugdan's declaration regarding its search and collection efforts. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 81, and, therefore, disputes them.

82. Alice Yeh, Sarah Flanagan and Patricia Hick determined that seven EPA Region 2 employees from ERRD and the Office of Regional Counsel and an EPA Headquarters employee located in Region 2's Edison office might be custodians of e-mails responsive to this FOIA request. The date range for the search was March 31, 2006 to February 10, 2014. The search terms used for all identified custodians for the Second FOIA Request were CSM, EMBM, and DER (whole word), in addition to two complex index queries, "Conceptual AND Site AND Model" and "mass AND balance." Finally, Alice Yeh's email was searched for the index query "Appendix AND (A OR C)" in addition to the search terms described above due to her involvement in the development of these appendices, which describe the CSM and EMBM. The custodians and search terms were entered into an Excel spreadsheet formatted to allow the Region 2 Encase coordinator, Judy Rubin, to perform the search. In addition, the Region 2 staff identified by Alice Yeh as potential custodians of non-email records potentially responsive to this request were contacted directly by Alice Yeh and at her request, the potential custodians searched their working files and notes for responsive documents. See Mugdan Decl. ¶ 85.

Plaintiff's Response: EPA has not produced documents independent of Mr. Mugdan's declaration regarding its search and collection efforts. EPA also has not identified the

custodians. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 82, and, therefore, disputes them.

EPA's Collection of Responsive Records

83. On June 18, 2014, Relativity Collection "ED_000018 – Diamond Alkali, Passaic River Focused" was created. EPA Region 2 created a folder with documents responsive to the CPG's Second FOIA Request on July 10, 2014. The final folder in Relativity contained 13,510 documents that were potentially responsive to the CPG's Second FOIA Request. An additional 220 files from Region 2 staff's search of paper and electronic files were saved to a designated drive on Region 2's computer network for review, but were not added to the Relativity workspace. In this way, Region 2 staff determined that all locations reasonably likely to have records responsive to the CPG's Second FOIA Request had been searched. See Mugdan Decl. ¶ 86.

Plaintiff's Response: EPA has not produced documents independent of Mr. Mugdan's declaration regarding its search and collection efforts. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 83, and, therefore, disputes them. Further, Plaintiff states that the alleged statements contain legal conclusions and/or characterizations of legal requirements and, therefore, denies them.

EPA's Processing of Responsive Records

84. Region 2 processed the documents responsive to the CPG's Second FOIA Request electronically, which involved the use of Relativity to enter records into a database and

determine whether a record was released, partially redacted, or fully withheld. Staff also documented in the database the FOIA exemption(s) asserted for each withheld record. Relativity assigned each record a reference number and staff then prepared an index of the documents marked to be withheld in the database to provide to the FOIA requester with EPA Region 2's final production. See Mugdan Decl. ¶ 87.

Plaintiff's Response: EPA has not produced documents independent of Mr. Mugdan's declaration regarding its review efforts. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 84, and, therefore, disputes them.

85. The steps for retrieving and processing the records in this FOIA response include review, categorization, and processing steps following the procedure as described in Paragraph 72 for the records collected in the Relativity workspace. In addition, the documents collected by Region 2 staff through review of their working files and notes were reviewed by Alice Yeh, Patricia Hick and Sarah Flanagan, who identified whether the documents should be released, withheld in full under a FOIA exemption, or withheld in part under a FOIA exemption. These documents were added manually to the index that was provided to the CPG. See Mugdan Decl. ¶ 88.

Plaintiff's Response: EPA has not produced documents independent of Mr. Mugdan's declaration regarding its review and production efforts. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 85, and, therefore, disputes them.

86. *Segregating Non-Exempt Material.* Region 2 staff also conducted a line-by-line review of each record responsive to the CPG's First FOIA Request for segregability of non-exempt material. Region 2 staff determined that where a record was withheld in full, no meaningful portion could reasonably be released. Region 2 staff performed redactions where non-exempt material could be reasonably segregated and released non-exempt portions. See Mugdan Decl. ¶ 89.

Plaintiff's Response: EPA has not produced documents independent of Mr. Mugdan's declaration regarding its review and production efforts. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 86, and, therefore, disputes them.

87. In addition, after commencement of litigation, EPA's Office of General Counsel re-reviewed the withheld documents. On May 11, 2016, 51 documents that were previously withheld in full in response to CPG's Second Request were released in full and 63 documents were released with redactions. See Mugdan Decl. ¶ 90, Ex. J.

Plaintiff's Response: Plaintiff does not dispute that EPA produced some documents on May 11, 2016. EPA has not produced documents independent of Mr. Mugdan's declaration regarding its review efforts or withholding decisions. Plaintiff is thus without information sufficient to form a belief as to the truth of the remaining assertions in Paragraph 87, and, therefore, disputes them.

EPA's Production of Responsive Records

88. EPA Region 2 uploaded the first installment of records responsive to the CPG's Second FOIA Request on May 22, 2014. The first installment was produced electronically via FOIAOnline on May 27, 2014. See Mugdan Decl. ¶ 91, Ex. N.

Plaintiff's Response: Plaintiff does not dispute that EPA produced some documents on May 27, 2014.

89. Region 2 released interim responses through FOIAOnline on May 27, 2014 (37 files), October 20, 2014 (446 files), November 25, 2014 (205 files) and December 16, 2014 (3 files). See Mugdan Decl. ¶ 92.

Plaintiff's Response: Plaintiff does not dispute that EPA produced some documents on May 27, 2014, October 20, 2014, November 25, 2014, and December 16, 2014.

90. On January 7, 2015, Region 2 uploaded a final letter to FOIAonline withholding certain responsive information and completing the response. Region 2 also uploaded an invoice to FOIAOnline. See Mugdan Decl. ¶ 93, Ex. Q.

Plaintiff's Response: Plaintiff disputes EPA's characterization of the correspondence and further states that the documents referenced speak for themselves.

91. *Production Numbers*. EPA Region 2 identified approximately 13,800 records as potentially responsive to the CPG's Second FOIA Request, of which Region 2 released 662

documents in full and 29 documents with redactions, and withheld 1,799 files in full. The remaining documents were determined to be duplicative or otherwise non-responsive to the CPG's Second FOIA Request. The Coded Vaughn Index does not include the 29 documents released with redactions in the initial response. These documents were provided to CPG with the redaction on the face of the document. In addition, on May 11, 2016, 51 documents that were previously withheld in full in response to CPG's Second FOIA Request were released in full and 64 documents were released with redactions following OGC review. See Mugdan Decl. ¶ 94 & n. 4, Ex. X.

Plaintiff's Response: Plaintiff does not dispute that EPA released some documents in full and others with redactions. EPA has not produced documents independent of Mr. Mugdan's declaration regarding EPA's collection and production efforts. Plaintiff is thus without information sufficient to form a belief as to the truth of the remaining assertions in Paragraph 91, and, therefore, disputes them.

92. The final number of responsive documents to CPG's Second FOIA Request was approximately 2,492 records, with approximately 713 released in full, approximately 93 released with redactions, and approximately 1686 withheld in full under one or more exemptions. See Mugdan Decl. ¶ 95, Ex. X.

Plaintiff's Response: Plaintiff does not dispute that EPA released some documents in full and others with redactions. EPA has not produced documents independent of Mr. Mugdan's declaration regarding EPA's collection and production efforts. Plaintiff is thus without

information sufficient to form a belief as to the truth of the remaining assertions in Paragraph 92, and, therefore, disputes them.

VII. CPG's Third FOIA Request: EPA-R2-2014-006476

93. The CPG's Third FOIA Request sought seven categories of information (the seventh category was added on May 16, 2014, as discussed below):

- Sub-request #1 sought an accounting of funds spent and/or committed to be spent in developing the April 11, 2014 Proposed Plan (PP) for the Lower 8 Miles of the Lower Passaic River Study Area (LPRSA) and the reports and appendices thereto, including but not limited to the Remedial Investigation (RI) and Focused Feasibility Study (FFS).

- Sub-request #2 sought any authorization for expenditure of funds for the PP and the reports and appendices thereto.

- Sub-request #3 sought all comments to the National Remedy Review Board (NRRB) from the partner agencies (NOAA, FWS, and State of NJ) sent to EPA for transmittal to the NRRB and any EPA responses to such comments.

- Sub-request #4 sought any and all communications regarding the LPRSA between: 1) Any U.S. EPA personnel and any member of the Community Advisory Group or any other person purporting to be a representative of the community; and 2) any member of the public and Judith Enck, including any alter egos or aliases of Administrator Enck. This information would include but not be limited to all letters, email (both official accounts and personal accounts used for official business), and any notes, records, reports, summaries or memoranda taken during or prepared after communications with members of the public relating to the LPRSA.

- Sub-request #5 sought the following items related to the public hearing on the Proposed Plan, held by EPA in Newark, NJ on May 7, 2014 (Hearing): 1) video and/or other recordings taken during the Hearing; 2) a transcript of the Hearing; 3) sign-in sheets for participants at the Hearing; 4) communications between Region 2 and members of the public regarding preparations for the Hearing (to the extent not covered by request 4); and 5) any petitions available for signature during the Hearing.

- Sub-request #6 sought any documents relating to the designation of any portion of the Diamond Alkali Superfund Site as an operable unit.

- Sub-request #7 sought the sample identification numbers and chemistry for the four core samples, four grab samples and two dam catchment samples that EPA used to define upriver (above the Dundee Dam) surface sediment background conditions.

See Mugdan Decl. ¶¶ 96, 100, Ex. C.

Plaintiff's Response: Plaintiff does not dispute the facts stated in Paragraph 93.

EPA's Search and Response

94. *Initial Response*. On May 19, 2014, EPA Region 2 assigned the CPG's Third FOIA Request to Alice Yeh. See Mugdan Decl. ¶ 97.

Plaintiff's Response: EPA has not produced any documents showing the assignment of the First FOIA Request to Ms. Yeh. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 94, and, therefore, disputes them.

95. After receiving the CPG's Third FOIA Request, Region 2 staff met on May 20, 2014 to discuss how to interpret the 7-part FOIA request, identify relevant individuals throughout Region 2 who might have potentially responsive documents, develop instructions for conducting the search, and discuss responsive documents that could be released in first installment. The response to the Third FOIA Request was then incorporated into the effort to respond to the First and Second FOIA Requests, and included in 13 of the 14 the meetings discussed above. See Mugdan Decl. ¶¶ 58, 95.

Plaintiff's Response: EPA has not produced documents independent of Mr. Mugdan's declaration that provide details of meetings attended by EPA Region 2 staff. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 95, and, therefore, disputes them.

96. On May 16, 2014, Sarah Flanagan of Region 2 sent an email to Karyllan Dodson Mack of K&L Gates noting that EPA was reviewing the level of effort that would be required for the response to the CPG's Third FOIA Request and would prepare an estimate and determine whether the fee limit included in the request would be sufficient. On May 16, 2014, Ms. Mack of K&L Gates responded to Sarah Flanagan's May 16, 2014 e-mail advising that, on May 15, 2014, she had submitted an amendment to the CPG's Third FOIA Request that added a new sub-request #7. See Mugdan Decl. ¶ 99, Ex. E.

Plaintiff's Response: Plaintiff disputes EPA's characterization of the e-mail correspondence and further states that the documents referenced speak for themselves.

97. *Clarifying and Narrowing the Request.* On May 20, 2014, Alice Yeh spoke to Mr. La Gravenis about the request. Alice Yeh provided Mr. La Gravenis with an estimate of the cost of responding to the request and estimated that it would take until the end of September 2014 to respond to the CPG's Third FOIA Request. Alice Yeh gave Mr. La Gravenis the opportunity to modify the request so that Region 2 could process the request within a shorter timeframe. Alice Yeh also asked Mr. La Gravenis to clarify sub-requests #4 and #5. On May 20, 2014, Alice Yeh sent Mr. La Gravenis an email documenting their conversation and

asking him to agree to pay the costs of responding to the CPG's Third FOIA Request beyond the limits imposed through FOIAOnline. See Mugdan Decl. ¶ 100.

Plaintiff's Response: Plaintiff does not dispute that Ms. Yeh and Mr. La Gravenis spoke by telephone about the request on May 20, 2014. Plaintiff disputes EPA's characterization of the email correspondence and further states that the document referenced speaks for itself.

98. On May 21, 2014, Mr. La Gravenis sent an email responding to Alice Yeh's May 20, 2014 email. In his email, Mr. La Gravenis confirmed that CPG would pay the cost of responding to the CPG's Third FOIA Request. He also provided information clarifying sub-request #4 and #5. On May 23, 2014, Alice Yeh asked a follow-up question regarding sub-request #5, and Mr. La Gravenis responded to this email on May 23, 2016. See Mugdan Decl. ¶ 101, Ex. R.

Plaintiff's Response: Plaintiff disputes EPA's characterization of the email correspondence and further states that the documents referenced speak for themselves.

EPA's Search for Responsive Records

99. Region 2 staff determined that, due to the number of records likely to be responsive to sub-request #4 (part 1) of the CPG's Third FOIA Request, EPA's Encase eDiscovery tool should be used for collection of email documents, and that the collected documents should be reviewed using EPA's Relativity review software. See Mugdan Decl. ¶ 102.

Plaintiff's Response: EPA has not produced documents independent of Mr. Mugdan's declaration regarding its collection and review efforts. Plaintiff is therefore without information sufficient to form a belief as to the truth of the assertions in Paragraph 99, and, therefore, disputes them.

100. Alice Yeh, Sarah Flanagan and Patricia Hick determined that 14 Region 2 employees in the Regional Administrator's Office, the Public Affairs Division, ERRD, and Office of Regional Counsel, might be custodians of e-mails responsive sub-request #4 of this FOIA request. The search terms used for all identified custodians for the Third FOIA Request, sub-request #4, were "Passaic," "Diamond," "LPRSA," and "FFS," in addition to two complex index queries, "17 w/1 mile" and "(interim OR early) w/1 action." The search was then constrained to seek emails to or from the identified custodians and 45 identified domains, which included common email domains used by outside parties (such as gmail.com, yahoo.com, or hotmail.com) in addition to the domains of known academic, governmental, and non-governmental organizations with an interest in the Lower Passaic River and that were thought likely to have communicated with Region 2 regarding the Lower Passaic River part of the Diamond Alkali Superfund Site. Because of the broad nature of the request, the search was not constrained by dates. The custodians and search terms were entered into an Excel spreadsheet formatted to allow the Region 2 Encase coordinator, Judy Rubin, to perform the search. In addition, the Region 2 staff identified by Alice Yeh as potential custodians of non-email records responsive to this request were contacted directly by Alice Yeh and at her request, the potential custodians searched their working files and notes for responsive documents. See Mugdan Decl. ¶ 103.

Plaintiff's Response: EPA has not produced documents independent of Mr. Mugdan's declaration regarding its search and collection efforts. EPA also has not identified the custodians. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 100, and, therefore, disputes them.

101. On May 21, 2014, Alice Yeh sent an email to Regional Administrator Judith Enck informing her of the CPG's Third FOIA Request, specifically sub-request #4, which sought "Any and all communications regarding the Lower Passaic River Study Area between any member of the public and Judith Enck, including any alter egos or aliases of Administrator Enck. This information would include but not be limited to all letters, email (both official accounts and personal accounts used for official business), and any notes, records, reports, summaries or memoranda taken during or prepared after communications with members of the public relating to the LPRSA." Alice Yeh informed Ms. Enck that Region 2 would use EPA's eDiscovery software to search her work e-mail account, so she would not have to do so herself. Alice Yeh specified that Ms. Enck would need to search through all of the other communication methods listed above (personal e-mails used for official business, letters, notes, memos, etc.) for information responsive to this FOIA request (up to 5/14/14). See Mugdan Decl. ¶ 104.

Plaintiff's Response: EPA has not produced any documents exchanged between Ms. Yeh and Ms. Enck regarding search and collection efforts. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 101, and, therefore, disputes them.

102. On June 10, 2014, Steve Carrea, Ms. Enck's Special Assistant, sent Alice Yeh an email stating that Ms. Enck's materials responsive to the request described above had been uploaded to FOIAOnline. This was confirmed via email by Ms. Enck herself and by Wanda Calderon, the Region 2 FOIA Specialist. See Mugdan Decl. ¶ 105.

Plaintiff's Response: EPA has not produced any documents exchanged between Mr. Carrea, Ms. Enck, and Ms. Yeh regarding search and collection efforts. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 102, and, therefore, disputes them.

103. As of May 2016, Ms. Enck has confirmed that her search included all locations reasonably likely to contain responsive information to CPG's Third Request. Ms. Enck has confirmed that she did not use her personal email account for communications regarding the Lower Passaic River Study Area with any members of the public. Ms. Enck has confirmed that she searched her paper files, including the paper files, notes, letters and memoranda referenced above, and her personal email account. See Mugdan Decl. ¶¶ 104, 105.

Plaintiff's Response: Plaintiff disputes this fact. *See* Plaintiffs' Supplemental Statement of Material Facts Not In Dispute ¶ 27-30.

104. On June 4, 2014, Alice Yeh sent an email to custodians in the Public Affairs Division informing them of sub-request #5 (part 4) of the CPG's Third FOIA Request and asking for responsive materials. These individuals either provided responsive materials or informed Alice Yeh that they had no responsive materials. See Mugdan Decl. ¶ 106.

Plaintiff's Response: EPA has not produced documents exchanged between Ms. Yeh and custodians regarding search and collection efforts. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 104, and, therefore, disputes them.

105. On June 17, 2014, EPA Region 2 uploaded information (78 files) responsive to the CPG's Third FOIA Request to FOIAOnline as an interim response. In her transmittal letter dated June 10, 2014 to Mr. La Gravenis, Alice Yeh estimated that it would take until the end of September 2014 to respond to the FOIA request and gave him the opportunity to modify the request through FOIAOnline so that it could be processed within a shorter period. In the letter, Alice Yeh also directed Mr. La Gravenis to a table in an appendix of the Lower 8.3-Mile RI/FFS with information responsive to the FOIA request. See Mugdan Decl. ¶ 107, Ex. S.

Plaintiff's Response: Plaintiff admits EPA produced some documents on June 17, 2014. Plaintiff disputes EPA's characterization of the correspondence because the document referenced speaks for itself.

EPA's Collection of Responsive Records

106. On June 18, 2014, Relativity Collection "ED_000018 – Diamond Alkali, Passaic River Focused" was created. EPA Region 2 created the folder with documents responsive to the CPG's Third FOIA Request on August 6, 2014. The final folder contained 10,560 potentially responsive documents. An additional 100 files from Region 2 staff's search of paper and electronic files were saved to in a designated drive on Region 2's computer network for review.

In this way, Region 2 staff determined that all locations reasonably likely to have responsive information had been searched. See Mugdan Decl. ¶ 109.

Plaintiff's Response: EPA has not produced any documents independent of Mr. Mugdan's declaration regarding its search and collection efforts. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 106, and, therefore, disputes them.

EPA's Processing of Responsive Records

107. The steps for retrieving and processing the records in this FOIA response included review, categorization, and processing steps following the procedure as described in Paragraph 72 for the records collected in the Relativity workspace. For the response to the Third FOIA Request, however, Region 2 staff did not identify any of the responsive records in Relativity as "withhold in full under a FOIA exemption." In addition, the documents collected by Region 2 staff through review of their working files and notes were reviewed by Alice Yeh, Patricia Hick and Sarah Flanagan, and the documents were identified for release, or release with redactions. All these documents were released, two with redactions. See Mugdan Decl. ¶ 110.

Plaintiff's Response: EPA has not produced documents independent of Mr. Mugdan's declaration regarding EPA's collection, review, or production efforts. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 107, and, therefore, disputes them.

108. *Segregating Non-Exempt Material.* Region 2 staff conducted a line-by-line review of each record responsive to the CPG's Third FOIA Request for segregability of non-exempt material. Region 2 staff determined that, for the single document withheld in full, no meaningful portion could reasonably be released. Region 2 staff performed redactions where non-exempt material could be reasonably segregated and released non-exempt portions. See Mugdan Decl. ¶ 111.

Plaintiff's Response: EPA has not produced documents independent of Mr. Mugdan's declaration regarding its review and production efforts. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 108, and, therefore, disputes them.

109. In addition, after commencement of litigation, EPA's Office of General Counsel re-reviewed the withheld documents. See Mugdan Decl. ¶ 112.

Plaintiff's Response: EPA has not produced documents independent of Mr. Mugdan's declaration regarding its review efforts. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertion in Paragraph 109, and, therefore, disputes it.

EPA's Production of Responsive Records

110. EPA Region 2 uploaded the first installment on June 17, 2014 (78 files). The first production was produced electronically via FOIAOnline on June 17, 2014. See Mugdan Decl. ¶ 113, Ex. S.

Plaintiff's Response: Plaintiff does not dispute that EPA uploaded some documents on June 17, 2014.

111. On November 4, 2014, Bill Hyatt of the CPG sent a letter to Sarah Flanagan to discuss the status of the CPG's four FOIA requests. Regarding the CPG's Third FOIA Request, the letter indicated that CPG had not received substantive emails between Judith Enck and members of the community, and asked for a completion date. See Mugdan Decl. ¶ 114, Ex. P.

Plaintiff's Response: Plaintiff disputes EPA's characterization of the correspondence and further states that the document referenced speaks for itself.

112. On November 13, 2014, Sarah Flanagan responded to Mr. Hyatt's letter. Regarding the CPG's Third FOIA Request, Sarah Flanagan stated that Region 2 provided responsive information and informed Mr. Hyatt that whether information is substantive is beyond scope of FOIA review. Sarah Flanagan also indicated EPA's intention to complete review by the end of December 2014 and noted that EPA collected over 10,000 documents, but over 7,000 remained to review. See Mugdan Decl. ¶ 115, Ex. G.

Plaintiff's Response: Plaintiff disputes EPA's characterization of the correspondence and further states that the document referenced speaks for itself.

113. On January 26, 2015, Mr. La Gravenis sent an email to Alice Yeh asking about the status of the CPG's Third FOIA Request. On January 29, 2015, Alice Yeh sent an email to Mr. La Gravenis informing that EPA Region 2 encountered technical issues with the interim

release of responsive information. Alice Yeh revised her estimated completion date to March 2015. See Mugdan Decl. ¶ 116, Ex. T.

Plaintiff's Response: Plaintiff disputes EPA's characterization of the correspondence and further states that the documents referenced speak for themselves.

114. On March 16, 2015, Alice Yeh emailed Mr. La Gravenis revising the costs of responding to the CPG's Third FOIA Request and asking him to confirm that he would pay those costs. On March 17, 2015, Mr. La Gravenis sent an email confirming that CPG would pay the additional cost. See Mugdan Decl. ¶ 117, Ex. U.

Plaintiff's Response: Plaintiff disputes EPA's characterization of the correspondence and further states that the documents referenced speak for themselves.

115. On April 13, 2015, EPA Region 2 released the balance of the responsive information (3073 files) and a final letter dated March 20, 2015 to FOIAOnline. The final letter noted that Region 2 was withholding one responsive document and explained the basis for withholding. EPA Region 2 also sent an invoice through FOIAOnline. See Mugdan Decl. ¶ 118, Ex. V.

Plaintiff's Response: Plaintiff does not dispute that EPA released some documents on April 13, 2015. Plaintiff disputes EPA's characterization of the correspondence and further states that the documents referenced speak for themselves.

116. The CPG's Third FOIA Request sought seven categories of information, and Region 2 responded by releasing documents through FOIAOnline as follows:

- For sub-request #1, seeking an accounting of funds spent and/or committed to be spent in developing the April 11, 2014 Proposed Plan for the Lower 8 Miles of the [Lower Passaic River Study Area ("LPRSA')] and the reports and appendices thereto, including but not limited to the RI/FFS, EPA concluded that it did not have a document or documents responsive to this request.

- In response to sub-request #2, seeking any authorization for expenditure of funds for the Proposed Plan and the reports and appendices thereto, EPA released 33 documents showing commitments of funds under Interagency Agreement IAG DW96941975-01, which EPA understood to be responsive to the CPG's request.

- In response to sub-request #3, seeking all comments to the NRRB from the partner agencies (NOAA, USFWS, NJDEP and USACE), sent to EPA for transmittal to the NRRB and any EPA responses to such comments, EPA released four documents and withheld one, citing FOIA exemptions 5 and 7(A).

- In response to sub-request #4, seeking any and all communications regarding the LPRSA between: 1) any U.S. EPA personnel and any member of the Community Advisory Group or any other person purporting to be a representative of the community; and 2) any member of the public and Judith Enck, including any alter egos or aliases of Administrator Enck, including letters, email (both official accounts and personal accounts used for official business), and any notes, records, reports, summaries or memoranda taken during or prepared after communications with members of the public relating to the LPRSA, EPA released 3075 documents. Of these, 120 documents were redacted to remove personal information, and two were redacted to remove non-responsive information.

- In response to sub-request #5, seeking items related to the public hearing on the PP, held by EPA in Newark, NJ on May 7, 2014 (Hearing): 1) video and/or other recordings taken during the Hearing; 2) a transcript of the Hearing; 3) sign-in sheets for participants at the Hearing; 4) communications between Region 2 and members of the public regarding preparations for the Hearing (to the extent not covered by request 4); and 5) any petitions available for signature during the Hearing, EPA released 39 documents.

- In response to sub-request #6, seeking any documents relating to the designation of any portion of the Diamond Alkali Superfund Site as an operable unit, EPA did not produce any responsive information. Operable unit numbers are used by EPA for managing investigation and remediation at complex sites in phases. Region 2 did not identify

documents discussing the designation of operable unit numbers, other than in correspondence to the CPG which was already in the CPG's possession.

See Mugdan Decl. ¶ 119.

Plaintiff's Response: Plaintiff does not dispute that EPA produced some documents. Plaintiff disputes EPA's characterization of the documents and further states that the documents referenced speak for themselves.

117. *Production Numbers*. EPA Region 2 identified approximately 10,560 records as potentially responsive to the CPG's Third FOIA Request, of which Region 2 released 3,050 documents in full in response to the CPG's Third FOIA Request, and 122 documents with redactions as described above, and withheld one document. The remaining documents were determined to be duplicative or otherwise non-responsive to the CPG's First FOIA Request. As part of the re-review of this FOIA response, the EPA determined that 21 files that had been intended for release had not been produced due to a technical error. These documents were provided to Plaintiff on May 11, 2016. See Mugdan Decl. ¶ 120 & n.5, Ex. J.

Plaintiff's Response: Plaintiff does not dispute that EPA produced some documents. Plaintiff disputes EPA's characterization of the documents and further states that the documents referenced speak for themselves.

VIII. CPG's Fourth FOIA Request: EPA-R2-2014-007546

118. The CPG's Fourth FOIA Request sought all documents, including but not limited to emails, memos, reports and correspondence, that formed the technical basis for the New

Jersey Department of Environmental Protection (NJDEP) Fish Advisory Levels, including but not limited to exposure assumptions, toxicity values, and target risk levels used by the NJDEP to derive the Fish Advisory Levels. See Mugdan Decl. ¶ 121.

Plaintiff's Response: Plaintiff does not dispute that the assertions in Paragraph 117 describe part of the contents of Plaintiff's Fourth FOIA Request. Plaintiff's request included additional information relating to the Fish Advisory Levels.

EPA's Search and Response

119. On June 24, 2014, Alice Yeh discussed the CPG's Fourth FOIA Request by phone with three Region 2 staff from the Clean Water Division, one Region 2 staff from the Office of Policy and Management who was formerly from the Clean Water Division and one Region 2 staff from ERRD. The purpose of this discussion was to determine who in Region 2, if anyone, would potentially have records responsive to the Fourth FOIA request. See Mugdan Decl. ¶ 122.

Plaintiff's Response: EPA has not produced documents independent of Mr. Mugdan's declaration regarding Ms. Yeh's communications with Region 2 staff regarding the requests. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 119, and, therefore, disputes them.

120. The Clean Water Division staff person who was the New York/New Jersey Harbor Estuary Program ("HEP") coordinator said that he did not have any files related to the technical basis for NJDEP's fish consumption advisories. He did remember an effort by the HEP

related to the different bases that the States of New York and New Jersey had for issuing fish consumption advisories on shared water bodies, but the effort did not result in any technical analyses being done on how each state sets fish consumption advisories. See Mugdan Decl. ¶ 123.

Plaintiff's Response: EPA has not released documents independent of Mr. Mugdan's declaration regarding the Clean Water Division staff person's comments on the requests. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 120, and, therefore, disputes them.

121. The Clean Water Division staff person responsible for reviewing the technical bases for state water quality standards said that he had not done any work on fish consumption advisories. He said that the Office of Policy and Management staff who was formerly from the Clean Water Division had dealt with fish consumption advisories. See Mugdan Decl. ¶ 124.

Plaintiff's Response: EPA has not produced documents independent of Mr. Mugdan's declaration regarding the Clean Water Division staff person's comments on the requests. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 121, and, therefore, disputes them.

122. The Office of Policy and Management staff formerly from the Clean Water Division said that she worked on New York & Mohawk Nation advisories, not New Jersey. See Mugdan Decl. ¶ 125.

Plaintiff's Response: EPA has not produced documents independent of Mr. Mugdan's declaration regarding the Office of Policy and Management staff's comments on the requests. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 122, and, therefore, disputes them.

123. The Clean Water Division, Water Management Branch Chief said that he did not have any information responsive to the CPG's Fourth FOIA Request. See Mugdan Decl. ¶ 126.

Plaintiff's Response: EPA has not produced documents independent of Mr. Mugdan's declaration regarding the Clean Water Division, Water Management Branch Chief's comments on the requests. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 123, and, therefore, disputes them.

124. The ERRD risk assessor for the Diamond Alkali Superfund Site, who was the team member most knowledgeable about fish and crab consumption advisories, said that she did not do any work on NJ fish consumption advisories, but forwarded two emails from Gary Buchanan of NJDEP, one with an attachment, that were responsive and were released as described below. See Mugdan Decl. ¶ 127.

Plaintiff's Response: EPA has not produced documents independent of Mr. Mugdan's declaration regarding the ERRD risk assessor's comments or collection efforts. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 124, and, therefore, disputes them.

125. Based on the search process described in Paragraphs 127 to 132, Alice Yeh determined that all individuals reasonably likely to have responsive information had been contacted and searches completed. See Mugdan Decl. ¶¶ 127-32.

Plaintiff's Response: EPA has not produced documents independent of Mr. Mugdan's declaration regarding its search and collection efforts. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 125, and, therefore, disputes them.

EPA's Production of Responsive Records

126. On July 14, 2014, EPA Region 2 uploaded three documents responsive to the CPG's Fourth FOIA Request, as well as Alice Yeh's final response letter to Robert La Gravenis dated July 1, 2014 to FOIAOnline. EPA Region 2 also sent an invoice through FOIAOnline. Region 2 did not withhold or redact any information that was responsive to the Fourth FOIA request. See Mugdan Decl. ¶ 129, Ex. W.

Plaintiff's Response: Plaintiff admits that EPA uploaded some documents on July 14, 2014. Plaintiff disputes EPA's characterization of the documents and further states that the documents referenced speak for themselves.

IX. Coded Vaughn Index and Exemptions Applied

127. As described above, between April 28, 2014 and March 20, 2015, Region 2 collected over 66,000 electronic files, and reviewed them for responsiveness and FOIA

exemptions in response to the CPG's four FOIA requests. Region 2 personnel searched their files and provided responsive information. During this time, Alice Yeh contacted Mr. La Gravenis on a number of occasions to inform him of the progress of Region 2's search and review. See Mugdan Decl. ¶ 130.

Plaintiff's Response: Plaintiff admits that Ms. Yeh and Mr. La Gravenis spoke on multiple occasions regarding the requests. EPA has not produced documents independent of Mr. Mugdan's declaration regarding its search, collection, or review process. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 127, and, therefore, disputes them.

128. As described above Region 2 staff conducted a line-by-line review of each record responsive to the CPG's four FOIA requests for releasability, applicable exemption, and segregability of non-exempt material. Region 2 staff determined that for documents withheld in full, no meaningful portion could reasonably be released. Region 2 staff performed redactions where non-exempt material could be reasonably segregated and released non-exempt portions. See Mugdan Decl. ¶ 131.

Plaintiff's Response: EPA has not produced documents independent of Mr. Mugdan's declaration regarding its review and production efforts. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 128, and, therefore, disputes them.

129. When information was identified containing attorney-client communications, attorney work-product, and/or predecisional and deliberative information, Region 2 identified this information for withholding under FOIA Exemption 5, which applies to inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the affected agency. Where thought processes are woven into document to such an extent that any attempt at segregating information would reveal agency deliberations that information is also exempt from release under FOIA Exemption 5. Region 2 also identified information for withholding under FOIA Exemption 7(A) if the information was compiled for law enforcement purposes, the production of which could reasonably be expected to interfere with enforcement proceedings. Finally, Region 2 identified information for redaction and withholding under FOIA Exemption 6 if the release of said information would constitute an unwarranted invasion of personal privacy. Individual documents may be withheld under multiple FOIA Exemptions, as described in the Coded Vaughn Index. See Mugdan Decl. ¶ 132 & n.6, Ex. X.

Plaintiff's Response: EPA has not produced documents independent of Mr. Mugdan's declaration regarding its review processes. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 129, and, therefore, disputes them. In addition, Plaintiff states that the assertions in Paragraph 129 are legal conclusions and/or characterizations of legal requirements to which no response is required.

130. The final number of responsive documents to all four FOIA requests was approximately 6,721 records, with approximately 4,257 released in full, approximately 270

released with redactions, and approximately 2,191 withheld in full under one or more exemptions. By agreement between the parties, the withheld documents are described by category and code in the attached Coded Vaughn Index and are individually listed, except as noted below. See Mugdan Decl. ¶ 133, Ex. X.

Plaintiff's Response: Plaintiff does not dispute that EPA released some documents in full and some in redacted form, while withholding others. Plaintiff disputes EPA's characterization of any agreement between the parties, and further states that the agreement is recorded in the joint discovery plan submitted to the Court.

131. The documents withheld in Category 17, which are 122 documents released in response to the Third FOIA Request with minor redactions under Exemption 6, have not been individually listed. In addition, as noted above, the documents released with redactions in the initial responses to the First and Second FOIA Requests have not been included in the Coded Vaughn Index. See Mugdan Decl. ¶ 133 n.7, Ex. X.

Plaintiff's Response: EPA has not produced documents independent of Mr. Mugdan's declaration regarding its redaction and Vaughn Index process. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 131, and, therefore, disputes them.

132. As explained above, and set forth in more detail in the withholding log enclosed with final response letter for CPG's First FOIA Request, in response to sub-requests #8 and #9, seeking correspondence between Region 2 and NRRB between November 21, 2012 and

April 11, 2014, and between Region 2 and HQ on draft versions of the Proposed Plan and FFS documents, Region 2 withheld approximately 504 documents under Exemption 5. This request sought internal communications among EPA offices in the time leading up to EPA's issuance of the Proposed Plan, and accordingly, responsive information includes numerous sensitive communications in which legal enforcement staff participated. In addition, a limited amount of information was withheld under Exemption 6 for protection of personal privacy. This information includes discussions of health and medical plans, leave and use of leave, as well as conference lines and conference codes. See Mugdan Decl. ¶ 134, Ex. X.

Plaintiff's Response: EPA has not produced documents independent of Mr. Mugdan's declaration regarding its review and production efforts. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 132, and, therefore, disputes them.

133. As explained above, and set forth in the withholding log enclosed with final response letter for CPG's Second FOIA Request, which sought all emails, correspondence and other documents relating to EPA's 2008 CSM and EMBM, and any comments, revisions or changes to the CSM that were considered by EPA in the development and issuance of the Proposed Plan, and EPA's June 2008 peer review of the CSM and EMBM, Region 2 withheld approximately 1,686 documents under Exemption 5 and 7(A). This request sought internal communications among EPA offices and among EPA and partner agencies in the time leading up to EPA's issuance of the Proposed Plan, and accordingly, responsive information includes

numerous sensitive communications in which legal enforcement staff participated, including discussion of potential law enforcement activities. See Mugdan Decl. ¶ 135, Ex. X.

Plaintiff's Response: EPA has not produced documents independent of Mr. Mugdan's declaration regarding its review and production efforts. Plaintiff is thus without information sufficient to form a belief as to the truth of the assertions in Paragraph 133, and, therefore, disputes them.

134. As explained above, in response to CPG's Third FOIA Request, Region 2 redacted portions of 122 documents on the basis of FOIA Exemption 6, and withheld one document on the basis of Exemptions 5 and 7(A). See Mugdan Decl. ¶ 136, Ex. X.

Plaintiff's Response: Plaintiff does not dispute the assertions in Paragraph 134, but disputes that EPA's basis for redacting or withholding documents is appropriate or lawful.

135. As explained above, no information was withheld from CPG in response to the Fourth Request. Therefore, the Fourth Request is not included in the Coded Vaughn Index. See Mugdan Decl. ¶ 137, Ex. X.

Plaintiff's Response: Plaintiff disputes that no information was withheld from the Plaintiff in response to the Fourth Request. For the reasons outlined in the Plaintiff's opposition to summary judgment, the many deficiencies in EPA's Vaughn Index and issues surrounding EPA's collection and production, the Plaintiff cannot know without discovery and further

information from EPA that all responsive information was collected, and that no responsive information was withheld.

PLAINTIFF'S SUPPLEMENTAL STATEMENT OF MATERIAL FACTS NOT IN DISPUTE

Plaintiff, Lower Passaic River Study Area Cooperating Parties Group ("CPG"), by and through its undersigned counsel, and pursuant to Rule 56.1 of the Local Civil Rules of the United States District Court for the District of New Jersey, submits the following facts not in dispute for the Court to consider in evaluating and ruling on EPA's motion for summary judgment and to provide further background and certain facts which lead up to the CPG's filing of this FOIA lawsuit:

FOIA Request No. 1 – EPA-R2-2014-005768 (April 21, 2014)

1. On or around April 21, 2014, the CPG, through counsel, submitted a FOIA Request with EPA Region 2 seeking records relating to the Diamond Alkali Superfund Site and the Proposed Plan. Among other information, this request sought records related to bioaccumulation samples; data sets and technical documentation used in regression models, biota analysis, human health and ecological risk assessments, and other reports; and correspondence and documents related to the Contaminated Sediments Technical Advisory Group, Proposed Remedial Action Plan, and Focused Feasibility Study. *See* La Gravenis Aff. ¶ 2.

2. On or around April 21, 2014, the EPA confirmed receipt of the April 21, 2014 FOIA request, which the EPA identified as EPA-R2-2014-005768. *See* La Gravenis Aff. ¶ 3.

3. Among other communications regarding the FOIA requests, including numerous calls, emails, and other communications with EPA in attempts to obtain the requested records, on or around June 17, 2014, the CPG, through counsel, submitted a letter to the Assistant Regional Counsel for EPA Region 2 to follow up on the FOIA requests described in this Complaint, including FOIA Request EPA-R2-2014-005768 (Apr. 21, 2014). The letter explained that the

EPA's responses to the FOIA requests had been inadequate and that the CPG needed the requested information and records in order to evaluate the Proposed Plan and prepare comments during the public comment period. *See* Hyatt Aff. ¶ 2.

4. On or around October 10, 2014, EPA Region 2 informed the CPG that information responsive to FOIA request EPA-R2-2014-005768 had been released and that certain documents were publicly available. EPA purported that its response to the FOIA request was complete and that EPA was withholding certain responsive information it claimed was exempt from disclosure. *See* La Gravenis Aff. ¶ 4.

5. EPA did not release all materials responsive to FOIA Request No. EPA-R2-2014-005768. Among other things, EPA did not produce:

- electronic files that identify biota tissue sample IDs and locations;
- datasets used to generate the normalized tissue and sediment concentration data pairs that EPA used in turn to generate a regression model and BSAF curve presented in the FFS;
- correspondence between EPA and NJDEP discussing NJDEP's angler surveys that included sites on the LPRSA, or any data or analysis from those surveys;
- technical bases (analyses, calculations, modeling files and results, mapping, and any other relevant materials) used to develop the capping area footprints for Alternative 4; and
- the dataset used in the Ecological Risk assessment.

See Hyatt Aff. ¶ 3.

6. Examples of withheld documents include:

- A 2012 e-mail between EPA employees regarding additional site data (DASS00000032, Dec. 5, 2012, re: additional site data for next Wed.).
- A 2012 ingestion technical memorandum (FOIA_05768_00009015, 2012-01-25 Fish-Crab Ingestion Tech Memo.docx).
- A 2014 e-mail between EPA employees regarding cost effectiveness (DASS00004239, Jan. 14, 2014, re: Cost effectiveness).

- A 2014 e-mail between EPA employees regarding a meeting with members of the Community Advisory Group (DASS00003645, Mar. 2, 2014, re: Meeting with Ana Bautista and Debbie Mans, Passaic CAG).

See La Gravenis Aff. ¶ 5.

7. On or around November 7, 2014, the CPG, though counsel, timely filed a FOIA administrative appeal of the April 21, 2014 FOIA request. *See* Hyatt Aff. ¶ 4.

8. On or around November 12, 2014, EPA acknowledged receipt of the FOIA appeal related to FOIA request R2-2014-005768. *See* Hyatt Aff. ¶ 5.

9. EPA did not rule on the CPG's administrative appeal of FOIA Request EPA-R2-2014-005768. *See* Hyatt Aff. ¶ 6.

FOIA Request No. 2 – EPA-R2-2014-006018 (April 28, 2014)

10. On or around April 28, 2014, the CPG, through counsel, submitted a FOIA request with EPA Region 2 seeking records relating to the Diamond Alkali Superfund Site. The request sought the following:

> [A]ny and all emails, correspondence, and other documents relating to: (1) EPA's 2008 Conceptual Site Model ("CSM") and Empirical Mass Balance Model ("EMBM") developed as part of the LPRSA lower 8 mile Focused Feasibility Study ("FFS") and any comments, revisions or changes to the CSM that were considered by EPA in the development and issuance of the Proposed Plan for the lower 8 miles of the LPRSA; and (2) EPA's June 2008 peer review of the CSM and EMBM.

See La Gravenis Aff. ¶ 6.

11. Among other communications regarding the FOIA requests, including numerous calls, emails, and other communications with EPA in attempts to obtain the requested records, on or around June 17, 2014, the CPG, through counsel, submitted a letter to the Assistant Regional Counsel for EPA Region 2 to follow up on the FOIA requests described in this Complaint, including FOIA Request EPA-R2-2014-006018 (Apr. 28, 2014). The letter explained that the EPA's responses to the FOIA requests had been inadequate and that the CPG needed the

requested information and records in order to evaluate the Proposed Plan and prepare comments during the public comment period. *See* Hyatt Aff. ¶ 7.

12. On or around January 5, 2015, EPA notified the CPG, through counsel, that EPA had completed its response to the April 28, 2014 FOIA request. EPA withheld certain responsive records and claimed that the withheld documents were exempt under the deliberative process privilege, attorney-client privilege, and attorney work-product doctrine and that disclosure would interfere with enforcement proceedings. *See* La Gravenis Aff. ¶ 8.

13. EPA produced neither the 2008 CSM and EMBM developed as part of the FFS and Proposed Plan nor the comments, revisions or changes to the CSM that were considered by EPA in the development and issuance of the Proposed Plan. *See* Hyatt Aff. ¶ 8.

14. EPA has withheld records that primarily or solely contain facts and/or data. *See* La Gravenis Aff. ¶ 9.

15. Among other things, examples of the withheld documents include:

- 2007 memoranda regarding data sources and high resolution cores (11 & 12/2007, Technical Advisory Committee members; Data Sources and High Resolution Cores);
- 2007 information regarding sampling and modeling data (emails and documents created in 2007, including "Data Sources and High Resolution Cores; Sediment Transport Modeling; Additional Sampling . . . .");
- "86 emails and documents transmitted in 2008 between EPA-R2 and EPA-HQ, including CSTAG members" that included modeling information (1,2,3,4,5,7,8 & 9/2008); and
- 2009 Passaic River sampling information ("31 emails and documents created in 2009 within EPA-R2," 1,3,4,6,7,10,11 & 12/2009, Sampling in Passaic Newark Bay . . .).

See La Gravenis Aff. ¶ 9.

16. On or around February 4, 2015, the CPG, through counsel, timely appealed EPA's decision to withhold agency records pursuant to the April 28, 2014 FOIA request to EPA's

National Freedom of Information Officer. *See* Hyatt Aff. ¶ 9.

17. On or around February 6, 2015, EPA's Office of General Counsel acknowledged receipt of the FOIA appeal related to FOIA Request EPA-R2-2014-006018 (HQ-APP-2015-003894). *See* La Gravenis Aff. ¶ 10.

18. EPA did not rule on the CPG's administrative appeal of FOIA Request EPA-R2-2014-006018. *See* Hyatt Aff. ¶ 10.

FOIA Request No. 3 – EPA-R2-2014-006476 (May 14, 2014)

19. On or around May 14, 2014, the CPG, through counsel, submitted a FOIA request with EPA Region 2 seeking records relating to the Diamond Alkali Superfund Site NJD980528996. Among other things, the request sought records related to funds spent in developing the April 11, 2014 Proposed Plan for the Lower Eight Miles of the Lower Passaic River Study Area; communications about the LPRSA between EPA personnel, including the Region 2 Administrator, Judith Enck, and members of the public or community advisory groups; documents from a public hearing held on May 7, 2014; and records related to the designation of any portion of the Site as an operable unit. *See* La Gravenis Aff. ¶ 11.

20. On or around May 14, 2014, the EPA confirmed receipt of the May 14, 2014 FOIA request, which the EPA identified as EPA-R2-2014-006476. *See* La Gravenis Aff. ¶ 12.

21. On or around May 15, 2015, the CPG submitted an Amended Appendix A to the May 14, 2014 FOIA Request. The amendment appendix included an added request for information about samples EPA used to define upriver (above the Dundee Dam) surface sediment background conditions. *See* La Gravenis Aff. ¶ 13.

22. Among other communications regarding the FOIA requests, including numerous calls, emails, and other communications with EPA in attempts to obtain the requested records, on

or around June 17, 2014, the CPG, through counsel, submitted a letter to the Assistant Regional Counsel for EPA Region 2 to follow up on the FOIA requests described in this Complaint, including FOIA Request EPA-R2-2014-006476 (May 14, 2014; amended May 15, 2014). The letter explained that the EPA's responses to the FOIA requests had been inadequate and that the CPG needed the requested information and records in order to evaluate the Proposed Plan and prepare comments during the public comment period. *See* Hyatt Aff. ¶ 11.

23. Among other communications regarding the FOIA requests, including numerous calls, emails, and other communications with EPA in attempts to obtain the requested records, on or around November 4, 2014, the CPG, through counsel, submitted a letter to EPA to review the status of the FOIA requests and information that remained outstanding. Regarding FOIA Request No. 3, EPA-R2-2014-006476, the CPG informed EPA that, apart from scheduling-related emails, EPA had not produced "any substantive email communications between Judith Enck and members of the community (on either personal or official email accounts)." The CPG asked EPA to confirm that no such emails existed. *See* Hyatt Aff. ¶ 12.

24. On or around November 13, 2014, EPA responded that it had provided information responsive to the FOIA request for communications between members of the public and Administrator Enck and stated that that it was "beyond the scope of [EPA's] FOIA review" to determine whether or not the communications released were "substantive." *See* Hyatt Aff. ¶ 13.

25. On or around March 20, 2015, EPA released more documents and purported that its response to FOIA Request EPA-R2-2014-006476 was complete. *See* La Gravenis Aff. ¶ 14.

26. Among other things, EPA did not produce:

- an accounting of funds spent or committed to be spent in developing the Proposed Plan and the reports and appendices thereto, including but not limited to the Remedial Investigation and Focused Feasibility Study;
- documents authorizing the expenditure of funds for the Proposed Plan;
- documents that explain EPA's decision to designate of any portion of the Diamond Alkali Superfund Site as an operable unit; and
- all responsive emails between Administrator Enck, including responsive emails from her official email account and responsive emails from personal email accounts.

See Hyatt Aff. ¶ 14.

27. On or around February 13, 2014, EPA responded to FOIA Request EPA-R2-2014-1585 submitted by the Competitive Enterprise Institute. *See* Hyatt Aff. ¶ 24.

28. In its response to FOIA Request EPA-R2-2014-1585, EPA produced approximately 439 pages of records from Ms. Enck's personal e-mail account. *See* Hyatt Aff. ¶ 25.

29. Ms. Enck sent at least two e-mails from her personal e-mail account with references to the Passaic River. *See* Hyatt Aff. ¶ 25.

30. Ms. Enck discussed the Passaic River with a member of the public in at least one e-mail from her personal account. *See* Hyatt Aff. ¶ 25.

31. EPA withheld a responsive document under the deliberative process privilege, which contains a submission to the National Remedy Review Board by other federal agencies. *See* La Gravenis Aff. ¶ 15.

32. On or around April 17, 2015, the CPG, through counsel, timely appealed EPA's decision to withhold agency records in response to the May 14, 2014 FOIA request to EPA's National Freedom of Information Officer. *See* Hyatt Aff. ¶ 15.

33. EPA neither acknowledged receipt of nor ruled on the CPG's administrative

appeal of FOIA Request EPA-R2-2014-006476. *See* Hyatt Aff. ¶ 16.

FOIA Request No. 4 – EPA-R2-2014-007546 (June 17, 2014)

34. On or around June 17, 2014, the CPG, through counsel, submitted a FOIA request with EPA Region 2 seeking records relating to the Diamond Alkali Superfund Site NJD980528996. Among other things, the request sought records relating to the technical basis for New Jersey Department of Environmental Protection's Fish Advisory Levels, on which EPA's Proposed Plan relies. *See* La Gravenis Aff. ¶ 16.

35. On or around June 17, 2014, the EPA confirmed receipt of the June 17, 2014 FOIA request, which the EPA identified as EPA-R2-2014-007546. *See* La Gravenis Aff. ¶ 17.

36. Among other communications regarding the FOIA requests, including numerous calls, emails, and other communications with EPA in attempts obtain the requested records, on or around June 17, 2014, the CPG, through counsel, submitted a letter to the Assistant Regional Counsel for EPA Region 2 to follow up on the FOIA requests described in this Complaint, including FOIA Request EPA-R2-2014-007546 (June 17, 2014). The letter explained that the EPA's responses to the FOIA requests had been inadequate and that the CPG needed the requested information and records in order to evaluate the Proposed Plan and prepare comments during the public comment period. *See* Hyatt Aff. ¶ 17.

37. On or around June 19, 2014, EPA responded to the CPG's June 17, 2014 letter regarding "the four [FOIA] requests that the Cooperating Parties Group ("CPG") has submitted to EPA in the last two months." The letter purported that EPA had processed the CPG's FOIA requests, had provided some responsive information, and that more responsive information would be forthcoming. *See* Hyatt Aff. ¶ 18.

38. On or around November 13, 2014, EPA sent a letter to the CPG purporting that all responsive information to FOIA Request EPA-R2-2014-007546 had been released. *See* Hyatt Aff. ¶ 19.

39. In response to FOIA Request EPA-R2-2014-007546, EPA did not provide documentation relating to the technical basis of the "trigger levels," including toxicity values and exposure assumptions, that are listed in the FFS. *See* Hyatt Aff. ¶ 20.

40. On or around November 26, 2014, the CPG, through counsel, timely appealed EPA's decision to withhold agency records in response to the June 17, 2014 FOIA Request (EPA-R2-2014-007546) to EPA's National Freedom of Information Officer. *See* Hyatt Aff. ¶ 21.

41. EPA neither acknowledged receipt of nor ruled on the CPG's administrative appeal of FOIA Request EPA-R2-2014-007546. *See* Hyatt Aff. ¶ 22.

Respectfully submitted,

Dated June 10, 2016

SHOOK, HARDY & BACON L.L.P.

By: s/ Justin D. Smith
David R. Erickson, MO #31532
Christopher M. McDonald, MO #39559
Justin D. Smith, NJ #039692012

2555 Grand Blvd.
Kansas City, MO 64108-2613
Telephone: (816) 474-6550
Fax: (816) 421-5547
derickson@shb.com
cmcdonald@shb.com
jxsmith@shb.com

ATTORNEYS FOR THE LOWER PASSAIC RIVER STUDY AREA COOPERATING PARTIES GROUP ("CPG")

7610920