Public Employees for
Environmental Responsibility
962 Wayne Avenue, Suite 610 • Silver Spring, MD 20910
Phone: (202) 265-PEER • Fax: (202) 265-4192
Email: info@peer.org • Web: http://www.peer.org

March 14, 2018

Regional Freedom of Information Officer
U.S. EPA, Region 9
75 Hawthorne Street (OPA-2)
San Francisco, CA 94105

RE: FOIA REQUEST

VIA U.S. MAIL, EMAIL & FAX

To FOIA Officer, EPA Region 9:

For nearly 30 years, the Hunters Point shipyard has been on the U.S. Environmental Protection Agency's (EPA) National Priority List (Superfund). Recent media reports indicate that the U.S. Navy has arranged for analyses of past sampling soil and other environmental media following reports that a key contractor involved with site cleanup may have falsified years of sampling data.

Pursuant to the Freedom of Information Act, 5 U.S.C. 552, as amended, Public Employees for Environmental Responsibility (PEER) requests information concerning this matter. Specifically, we request the documents containing the following:

1. The most recent EPA estimate of what fraction, percent, and/or number of samples and/or sample units at the Hunters Point Shipyard Superfund site are suspect, questionable, unreliable, and/or potentially fraudulent or otherwise inaccurate; and

2. The most recent estimate EPA has received from the U.S. Navy concerning what fraction, percent, and/or number of samples and/or sample units at the Hunters Point Shipyard Superfund site are suspect, questionable, unreliable, and/or potentially fraudulent or otherwise inaccurate.

For any documents or portions of documents that you block release due to specific exemption(s) from the requirements of the Freedom of Information Act, please provide an index itemizing and describing the documents or portions of documents withheld. The index should, pursuant to the holding of Vaughn v. Rosen (484 F.2d 820 [D.C. Cir. 1973] cert. denied, 415 U.S. 977 [1974]), provide a detailed justification for claiming a particular exemption that explains why each such exemption applies to the document or portion of a document withheld.

To the extent that EPA needs to perform a detailed review, PEER requests that all fees be waived because "disclosure of the information is in the public interest . . . and is not primarily in the commercial interest of the requestor" (5 U.S.C. 552 (a) (4)(A)):

1. The subject matter of the requested records must specifically concern identifiable operations or activities of the government.
The FOIA request is, by its terms, limited to identifiable activities of EPA and its employees.

2. For the disclosure to be "likely to contribute" to the understanding of specific government operations or activities, the releasable material must be meaningfully informative in relation to the subject matter of the request.
The documents would indicate the extent to which the Hunters Point cleanup has been mismanaged. They would also indicate if areas previously declared clean are, in fact, still contaminated. Further, they would provide some insight of the potential extent of ongoing toxic exposure to community residents and on-site workers.

As these topics are the explicit focus of this request, the requested material is directly informative in relation to the request.

3. The disclosure must contribute to the understanding of the public at large, as opposed to the understanding of the requestor or a narrow segment of interested persons.
While the disclosure primarily affects the Hunters Point community, the information would enlighten the San Francisco Bay Area, as a whole. More broadly, the subject matter concerns one of the most egregious instances of environmental injustice afflicting a poor and minority community. The latter is a matter of national concern.

In addition, the information would shed light on the effectiveness of Superfund cleanup administration. EPA estimates that approximately 53 million people live within 3 miles of a Superfund remedial site; this is roughly17% of the U.S. population, including 18% of all children in the U.S. under the age of five. Consequently, the public at large would be concerned about serious maladministration of Superfund.

Further, the requested materials may expose extensive contractor fraud by a company paid with tax dollars. The public at large has an interest in the integrity of public programs.

Moreover, as the health of thousands of Hunters Point residents and on-site works may be at risk or adversely impacted, the public is concerned about instances of potentially major public health mortality.

Finally, the fact that both EPA and the Department of the Navy Base Realignment and Closure Program Management Office maintain public websites on this site underlines the wide public interest in the topic.

PEER intends to provide the requested information to the general public through —

- Release to the news media;
- Posting on the PEER website that draws between 1,000 and 10,000 viewers per day; and

- Publication in the PEER newsletter that has a circulation of approximately 20,000, including 1,500 environmental journalists.

PEER has a long track record of attracting media and public attention to the internal workings of EPA and the Department of Defense.

4. The disclosure must contribute "significantly" to public understanding of government operations or activities.
The requested records may reflect on one of the largest cases of environmental fraud in U.S. history. The records would reveal how much fraud has occurred and for how long.

The records would also reveal the extent to which past pronouncements that certain portions of the site are fit for occupancy were untrue.

In addition, the nature of the information should shed direct light on the quality, openness, and integrity of EPA oversight of Superfund cleanups.

5. The extent to which disclosure will serve the requestor's commercial interest.
Disclosure is in no way connected with any commercial interest of the requestors in that PEER is a nonprofit, nonpartisan public interest organization concerned with upholding the public trust through responsible management of our nation's resources and with supporting professional integrity within public land management and pollution control agencies. To that end, PEER is designated as a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code.

6. *The extent to which the identified public interest in the disclosure outweighs the requestor's commercial interest.*
As stated above, disclosure is in no way connected with any commercial interest of the requestors in that PEER is a nonprofit, nonpartisan public interest organization concerned with upholding the public trust through responsible management of our nation's resources and with supporting professional integrity within public land management and pollution control agencies. To that end, PEER is designated as a tax-exempt organization under section 501 (c) (3) of the Internal Revenue code.

If you have any questions about this FOIA request, please contact me at (202) 265-PEER. I look forward to receiving the agency's final response within 20 working days.

Cordially,

Jeff Ruch
Executive Director