From: Palomaki, Ashley
To: Timothy A. McKeever
Subject: RE: FOIA Request EPA-R10-2016-008731
Date: Monday, August 15, 2016 8:10:00 AM

Tim,

Answers to your questions are below.

Best,

Ashley

Ashley Palomaki
Assistant Regional Counsel
U.S. EPA Region 10 Office of Regional Counsel
1200 Sixth Avenue, Suite 900, ORC-113
Seattle, WA 98101
206-553-8582

From: Timothy A. McKeever [mailto:Tmckeever@hwb-law.com]
Sent: Friday, August 12, 2016 12:05 PM
To: Palomaki, Ashley <Palomaki.Ashley@epa.gov>
Subject: RE: FOIA Request EPA-R10-2016-008731

Follow up questions—if we decide to narrow our request could we get another rough estimate of the cost of the narrowed request?
Yes – The government would not proceed without providing you an estimate for search and review and then getting a fee assurance from you.
Would we have to start all over with a narrowed request or would we simply proceed on this pending request as narrowed.
You would not have to start all over with a narrowed request. When and if you narrow the request, I would follow up with a letter confirming the new scope of the request. That letter would be uploaded to FOIAonline so that the new scope is documented.
Once you process a narrowed request would you normally tell us how many pages or documents have been identified as responsive? And in this case would you be in a position to tell us how many of the responsive documents are marked 'confidential' and how many are not?
Yes – For a "normal" FOIA, all responsive documents are accounted for. They are accounted for because they are released in full or in part to the requester or documented on a privilege log if they are withheld in full. Here, the government would provide the number of documents stamped confidential that it is unable to release because of the second amended protective order. Documents that have not been stamped confidential would be accounted for because they would either be released to you in full or in part or documented on a privilege log if they are withheld in full due to an applicable FOIA exemption.

This would help us decide how to proceed.

From: Palomaki, Ashley [mailto:Palomaki.Ashley@epa.gov]
Sent: Friday, August 12, 2016 11:27 AM
To: Timothy A. McKeever
Subject: RE: FOIA Request EPA-R10-2016-008731

Mr. McKeever,

Per our conversation this morning, a copy of the second amended protective order is attached.

Best,

Ashley

From: Timothy A. McKeever [mailto:Tmckeever@hwb-law.com]
Sent: Thursday, August 11, 2016 4:56 PM
To: Palomaki, Ashley
Subject: Re: FOIA Request EPA-R10-2016-008731

Would 9:30 Seattle time work?

Sent from my iPhone

On Aug 11, 2016, at 2:46 PM, Palomaki, Ashley <Palomaki.Ashley@epa.gov> wrote:

> Mr. McKeever,
>
> DOJ and I are available at 12pm eastern (9 am pacific) tomorrow. Are you in Seattle or Anchorage? This is a little early Anchorage time. If this does not work for you, just let me know, and we will schedule another time.
>
> Once we have a time scheduled, I will send a conference line around.
>
> Best,
>
> Ashley
>
> **Ashley Palomaki**
> Assistant Regional Counsel
> U.S. EPA Region 10 Office of Regional Counsel
> 1200 Sixth Avenue, Suite 900, ORC-113
> Seattle, WA 98101
> 206-553-8582
>
> ---
>
> **From:** Timothy A. McKeever [mailto:Tmckeever@hwb-law.com]
> **Sent:** Thursday, August 11, 2016 2:20 PM

To: Palomaki, Ashley <Palomaki.Ashley@epa.gov>
Subject: Re: FOIA Request EPA-R10-2016-008731

Dear Ms. Palomaki,

I am happy to meet with you to discuss this issue. I could do it tomorrow, or Monday or Tuesday of next week or anytime after August 25th. Please let me know what work for you and the DOJ atty.

Sent from my iPhone

On Aug 11, 2016, at 12:44 PM, Palomaki, Ashley <Palomaki.Ashley@epa.gov> wrote:

> Mr. McKeever,
>
> The EPA has received your FOIA request, which seeks the following:
>
> Copies of all documents produced by Pebble Limited Partnership and/or its parent company, Northern Dynasty Minerals Ltd. and/or any other entity, to the US Environmental Protection Agency and/or the US Department of Justice in response to Requests for Production 19-21, 23, 25-26 in Defendants' First Set of Requests for Production of Documents at 6, Exhibit 1, Defendants' Motion to Compel [etc.], Docket No. 209, in the case entitled Pebble Limited Partnership vs. Environmental Protection Agency, et. al.; Case No 3:14-cv-0171-HRH in the United States District Court for the District of Alaska. This request extends to all records or documents produced in response to the Order dated May 5, 2016 relating to the Motion to Compel in that case.(attached) The documents sought are those documents discussed in the paragraph beginning on page 10 of the attached Order which are ordered to be produced on pages 11 and 12 of the same.
>
> I would like to set a time to discuss this request with you and a Department of Justice attorney that works on the case entitled Pebble Limited Partnership vs. Environmental Protection Agency, et. al.; Case No 3:14-cv-0171-HRH. We would like to better understand your request, see if you would like to narrow your request in light of the fee waiver denial or for any other reason, and to explain the potential implications of the amended protective order and other possible FOIA exemptions to your request.
>
> The processing clock is stopped for your FOIA request until we receive your clarification or modification.

Please respond within ten calendar days from the date of this letter to arrange a time to discuss your request. If we do not receive a response from you within this time period, we will consider your request to be voluntarily withdrawn. Once the request is clarified and we receive a written assurance of payment for the full processing amount, we will continue processing your FOIA request and provide you with an updated estimated timeframe for completion.

I look forward to hearing from you.

Ashley

Ashley Palomaki
Assistant Regional Counsel
U.S. EPA Region 10 Office of Regional Counsel
1200 Sixth Avenue, Suite 900, ORC-113
Seattle, WA 98101
206-553-8582

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