



U.S. Department of Justice
Environment and Natural Resources Division

236380-4-1-22-05839

Law and Policy Section
P.O. Box 7415
Ben Franklin Station
Washington, DC 20044-7415

Telephone (202) 514-1442

January 13, 2022

VIA EMAIL

Mehreen Rasheed
American Oversight
1030 15th Street NW
Suite B255
Washington, DC 20005
foia@americanoversight.org

FOIA No.: 2022-05839

Dear Ms. Rasheed:

This is a fourth and final response relating to your Freedom of Information Act (FOIA) request seeking email communications sent by Jeffrey Bossert Clark that include any one of 39 search terms, and all types of communications between Jeffrey Clark and the White House or Scott Perry. By letter to you from the Civil Division at the Department of Justice dated May 9, 2022, the Civil Division noted:

[Y]ou agreed to narrow the scope of the request to exclude all documents located in a search for records containing the key words Georgia, Pennsylvania, Michigan and Wisconsin, or Perry, provided that we review all documents returned by the search terms and process any documents related to the 2020 election. You were seeking records from November 4, 2020, through January 20, 2021.

The Environment and Natural Resources Division (ENRD) received your FOIA request on May 9, 2022. Your request originally was directed to the Civil Division. The Civil Division forwarded your request to this Office for processing and direct response to you.

Please find attached 11 pages we are releasing to you in part. Portions of these pages are redacted pursuant to FOIA Exemption 5 and FOIA Exemption 6. 5 U.S.C. § 552(b)(5), (6). Exemption 5's Attorney Work Product Privilege, Attorney-Client Privilege, and Deliberative Process Privilege protect the internal communications among government attorneys that reflect the written work product representing mental impressions, deliberations and considerations on a matter of potential litigation. Exemption 6 relates to information about individuals in "personnel and medical files and similar files" where the disclosure of such information would "constitute an unwarranted invasion of personal privacy." *Id.* § 552(b)(6). The types of privacy information we

redacted includes email addresses and phone numbers. Please be advised that we have considered the foreseeable harm standard when reviewing records and applying FOIA exemptions.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. *See* 5 U.S.C. 552(c) (2006 & Supp. IV 2010). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

This concludes ENRD's response to your request. If you need any further assistance, please contact Madeline Van Nostrand at (202) 514-3473 or our FOIA Public Liaison Charles Smiroldo at (202) 514-0424. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services it offers. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at (202) 741-5770; toll free at 1 (877) 684-6448; or facsimile at (202) 741-5769.

Sincerely,

/s/ Judy Harvey

Judy Harvey
Assistant Chief, Law & Policy Section

From: Wiggins, Jeremy G. EOP/WHO <Jeremy.G.Wiggins3@who.eop.gov>
Sent: 12/9/2020 2:20:04 PM
To: Wiggins, Jeremy G. EOP/WHO <Jeremy.G.Wiggins3@who.eop.gov>; Brooke, Francis J. Jr. EOP/WHO <Francis.J.Brooke@who.eop.gov>; Martin, Nicole (Federal) <NMartin1@doc.gov>; Risko, Daniel (Federal) <DRisko@doc.gov>; samantha_hebert@ios.doi.gov <samantha_hebert@ios.doi.gov>; Brightbill, Jonathan (ENRD) <JBrightbil@ENRD.USDOJ.GOV>; Clark, Jeffrey (ENRD) <JClark@ENRD.USDOJ.GOV>; Varcoe, Andrew R. EOP/WHO <Andrew.R.Varcoe@who.eop.gov>; Palmieri, Rosario A. EOP/OMB <Ex 6>
Subject: Call on ESA Habitat Rule
Location: Participant Dial-In: Ex 6 ; Call ID: Ex 6 Participant Code: Ex 6
Start: 12/9/2020 3:00:00 PM
End: 12/9/2020 3:30:00 PM
Show Time As: Tentative
Recurrence: (none)
Meeting Status: Not yet responded
Required Attendees: Wiggins, Jeremy G. EOP/WHO; Brooke, Francis J. Jr. EOP/WHO; Martin, Nicole (Federal); Risko, Daniel (Federal); samantha_hebert@ios.doi.gov; Brightbill, Jonathan (ENRD); Clark, Jeffrey (ENRD); Varcoe, Andrew R. EOP/WHO; Palmieri, Rosario A. EOP/OMB; Levenbach, Stuart EOP/WHO

Participant Dial-In: Ex 6
Call ID: Ex 6
Participant Code: Ex 6

Secretary Bernhardt
Dep. Sec. Kelley
Jeff Clark or Jon Brightbill
Andy Varcoe
Rosario / Paul Ray

From: Varcoe, Andrew R. EOP/WHO <Andrew.R.Varcoe@who.eop.gov>
To: Clark, Jeffrey (ENRD); Brightbill, Jonathan (ENRD)
Sent: 12/9/2020 12:26:53 PM
Subject: RE: Habitat

FYI.

From: Varcoe, Andrew R. EOP/WHO
Sent: Sunday, December 6, 2020 6:54 PM
To: Levenbach, Stuart EOP/WHO <Stuart.Levenbach@who.eop.gov>
Subject: FW: Habitat

Ex. 5 AC AWP DP

From: Levenbach, Stuart EOP/CEQ [REDACTED] **Ex 6**
Sent: Monday, July 13, 2020 6:02 PM
To: Varcoe, Andrew R. EOP/WHO <Andrew.R.Varcoe@who.eop.gov>
Subject: FW: Habitat
FYI

From: Gustafson, Adam <Gustafson.Adam@epa.gov>
Sent: Monday, June 29, 2020 9:13 PM
To: Levenbach, Stuart EOP/CEQ [REDACTED] **Ex 6**; Clark, Jeffrey (ENRD) [REDACTED] **Ex 6**; Palmieri, Rosario A. EOP/OMB [REDACTED] **Ex 6**; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Cc: Budd-Falen, Karen J <karen.budd-falen@sol.doi.gov>; Salamanca, Paul (ENRD) <Paul.Salamanca@usdoj.gov>
Subject: RE: Habitat

Ex. 5

Copying Matt.
Adam Gustafson
Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Office: 202-564-7263
Cell: 202 [REDACTED] **Ex 6**

From: Levenbach, Stuart EOP/CEQ [REDACTED] **Ex 6**
Sent: Monday, June 29, 2020 5:00 PM

To: Clark, Jeffrey (ENRD) [Ex. 6]; Palmieri, Rosario A. EOP/OMB [Ex 6]
Cc: Budd-Falen, Karen J <karen.budd-falen@sol.doi.gov>; Gustafson, Adam <Gustafson.Adam@epa.gov>; Salamanca, Paul (ENRD) <Paul.Salamanca@usdoj.gov>
Subject: RE: Habitat

Ex. 5 AC AWP DP

From: Clark, Jeffrey (ENRD) [Ex 6]
Sent: Monday, June 29, 2020 3:25 PM
To: Palmieri, Rosario A. EOP/OMB [Ex 6]
Cc: Levenbach, Stuart EOP/CEQ <[Ex 6]>; Budd-Falen, Karen J <karen.budd-falen@sol.doi.gov>; Gustafson, Adam <Gustafson.Adam@epa.gov>; Salamanca, Paul (ENRD) <Paul.Salamanca@usdoj.gov>
Subject: FW: Habitat
Importance: High
PRIVILEGED & CONFIDENTIAL
ATTORNEY WORK PRODUCT
DELIBERATIVE-PREDECISIONAL/FOIA-EXEMPT
NOT FOR FORWARDING

Ex. 5 AC AWP DP

Ex. 5 AC AWP DP

Jeff

From: Clark, Jeffrey (ENRD)

Sent: Monday, June 29, 2020 3:08 PM

To: John Luce - NOAA Federal <john.luce@noaa.gov>

Cc: Paul Salamanca (ENRD) (PSalamanca@ENRD.USDOJ.GOV) <PSalamanca@ENRD.USDOJ.GOV>

Subject: FW: Habitat

Importance: High

PRIVILEGED & CONFIDENTIAL

ATTORNEY WORK PRODUCT

DELIBERATIVE-PREDECISIONAL/FOIA-EXEMPT

John,

Ex. 5 AC AWP DP

Ex. 5 AC AWP DP

Jeff

From: John Luce - NOAA Federal <john.luca@noaa.gov>

Sent: Monday, June 29, 2020 1:04 PM

To: Clark, Jeffrey (ENRD) <Ex 6>

Cc: Salamanca, Paul (ENRD) <PSalamanca@ENRD.USDOJ.GOV>

Subject: Re: Habitat

Ex. 5 AC AWP DP

On Mon, Jun 29, 2020 at 12:52 PM Clark, Jeffrey (ENRD) <Ex 6> wrote:

Ex. 5 AC AWP DP

Jeff

Sent from my iPhone

AMERICAN
OVERSIGHT

DOJ-CIV-21-0142-D-000005

CLARKCONG_TEMP0004436

On Jun 29, 2020, at 11:20 AM, John Luce - NOAA Federal <john.luce@noaa.gov> wrote:

Jeff and Paul,

Ex. 5 AC AWP DP

Thanks

John

Ex. 5 AC AWP DP

John Luce
Chief of Staff and General Counsel
National Oceanic and Atmospheric Administration
U.S. Department of Commerce
cell: 202-**Ex 6**
john.luce@noaa.gov

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John Luce
Chief of Staff and General Counsel
National Oceanic and Atmospheric Administration
U.S. Department of Commerce

cell: 202-**Ex 6**
john.luce@noaa.gov

From: Clark, Jeffrey (ENRD) </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5875129421F04DDDA825F5A484527B3-JCLARK_F6CB>
To: Varcoe, Andrew R. EOP/WHO
CC: Brightbill, Jonathan (ENRD); Coghlan, John (CIV); Helfman, Tara J. EOP/WHO
Sent: 1/1/2021 9:54:15 AM
Subject: Re: FYI - OLC releases Oct. 2019 memo concluding that the President may direct independent agencies to comply with EO 12866

Happy New Year! This is awesome Andy!

Sent from my iPhone

On Jan 1, 2021, at 8:47 AM, Varcoe, Andrew R. EOP/WHO <Andrew.R.Varcoe@who.eop.gov> wrote:

FYI. Happy new year!

<https://www.justice.gov/olc/file/1349716/download>

(posted Dec. 30, 2020)

Andrew R. Varcoe

Special Assistant to the President

Associate Counsel to the President

Office of White House Counsel

Andrew.R.Varcoe@who.eop.gov

O: 202-456-3034 | C: 202-Ex 6

From: Clark, Jeffrey (ENRD) </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5875129421F04DDDA825F5A484527B3-JCLARK_F6CB>
To: Lair, Kate E. EOP/WHO; May.Davis@who.eop.gov
Sent: 12/31/2020 5:31:12 PM
Subject: Pat C #

For Pat I have Ex 6 Is that correct?

If not, can you send me the correct number?

He wants me to call him.

Thanks,

Jeff

From: Clark, Jeffrey (ENRD) </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5875129421F04DDDA825F5A484527B3-JCLARK_F6CB>
To: Varcoe, Andrew R. EOP/WHO
Sent: 11/17/2020 7:05:34 AM
Subject: Re: SEPs suit - Conservation Law Foundation v. Barr, No. 1:20-cv-11827 (D. Mass. filed Oct. 8, 2020) (SEPs)

Thanks Andy

Sent from my iPhone

On Nov 16, 2020, at 9:41 PM, Varcoe, Andrew R. EOP/WHO <Andrew.R.Varcoe@who.eop.gov> wrote:

(I am from PA and have followed CA3 to some extent over the years.)

I feel that's a somewhat middle-of-the-road(ish) CA3 panel, though CA3 is generally a middle-of-the-road sort of court.

This is an interesting resource on CA3 matters:

<http://ca3blog.com/>

The author (left-leaning, but tries conscientiously to be fair) tweets at https://twitter.com/MatthewStiegler?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor .

From: Clark, Jeffrey (ENRD) Ex. 6
Sent: Monday, November 16, 2020 9:34 PM
To: Varcoe, Andrew R. EOP/WHO <Andrew.R.Varcoe@who.eop.gov>
Subject: Re: SEPs suit - Conservation Law Foundation v. Barr, No. 1:20-cv-11827 (D. Mass. filed Oct. 8, 2020) (SEPs)
Jordan, Krause, and Restrepo.
Jeff

Sent from my iPhone

On Nov 16, 2020, at 9:29 PM, Varcoe, Andrew R. EOP/WHO <Andrew.R.Varcoe@who.eop.gov> wrote:

Who's on your panel?

From: Clark, Jeffrey (ENRD) Ex 6 >
Sent: Monday, November 16, 2020 9:25 PM
To: Varcoe, Andrew R. EOP/WHO <Andrew.R.Varcoe@who.eop.gov>
Subject: Re: SEPs suit - Conservation Law Foundation v. Barr, No. 1:20-cv-11827 (D. Mass. filed Oct. 8, 2020) (SEPs)
Hanging in there too.
I have a moot tomorrow for a CA3 argument in a false claims act case.
Jeff

Sent from my iPhone

On Nov 16, 2020, at 9:12 PM, Varcoe, Andrew R. EOP/WHO <Andrew.R.Varcoe@who.eop.gov> wrote:

Thanks! Hope you are doing well. Pounding away at many things...

From: Clark, Jeffrey (ENRD) Ex 6

Sent: Monday, November 16, 2020 9:12 PM

To: Varcoe, Andrew R. EOP/WHO <Andrew.R.Varcoe@who.eop.gov>

Cc: Brightbill, Jonathan (ENRD) <Jonathan.Brightbill@usdoj.gov>

Subject: Re: SEPs suit - Conservation Law Foundation v. Barr, No. 1:20-cv-11827 (D. Mass. filed Oct. 8, 2020) (SEPs)

Hi Andy. I think Jon can give you the update on that

Sent from my iPhone

On Nov 16, 2020, at 8:58 PM, Varcoe, Andrew R. EOP/WHO <Andrew.R.Varcoe@who.eop.gov> wrote:

Jeff,

Any updates of note re: this case (your SEPs case)?

Andy

From: Varcoe, Andrew R. EOP/WHO

Sent: Thursday, October 8, 2020 3:11 PM

To: 'Fotouhi, David' <Fotouhi.David@epa.gov>

Subject: SEPs suit - Conservation Law Foundation v. Barr, No. 1:20-cv-11827 (D. Mass. filed Oct. 8, 2020)

FYI. USDOJ, EPA, the heads of these agencies, and Jeff Clark are the defendants.

<SEPs-Complaint-10.8.20.pdf>