



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
Region I – New England  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912

Sent via FOIAonline

March 20, 2020

**RE: Freedom of Information Act (FOIA) Request No. EPA-R1-2020-003122**

Dear Ms. Thomas:

This is in response to your FOIA request of January 31, 2020, **for specific records related to the Great Bay Estuary in New Hampshire**. In an email communication on March 4, 2019, you clarified that you were not asking EPA to search for all email communications on the peer review request, but were seeking “backup electronic file records,” by which you mean any non-email electronic records (e.g., Word, PDF, Powerpoint, etc.) EPA has regarding the subject matter of the request. You further clarified that you only sought “the specific analysis relied upon to not grant the request.”

We have uploaded, into FOIAonline, 4 non-privileged documents responsive to your request, which relates to EPA’s December 19, 2019, peer review request response. We are withholding 3 records in their entirety and certain information contained in an additional 2 documents. EPA is withholding such information and records pursuant to Exemption 5 – deliberative process privilege and attorney-client privilege, 5 U.S.C. § 552(b)(5). Exemption (5) protects the quality of the Agency’s decision-making process to encourage candid and frank discussions among Agency officials, and to avoid premature disclosure which could mislead the public. The information withheld includes internal, pre-decisional records concerning the development of the draft NPDES permit for the Great Bay Estuary. The records withheld in their entirety include pre-public drafts of the draft permit, fact sheet or excerpts thereof. EPA took reasonable steps to segregate and release all nonexempt information from these three documents. See 5 U.S.C. § 552(a)(8)(A)(i)(I).

EPA notes that you have submitted 9 separate FOIA requests regarding the Great Bay Estuary in New Hampshire. Due the overlapping nature of these requests, EPA has identified records that may be potentially responsive to more than one of these requests. EPA encourages you to review the totality of records provided as part of EPA’s response to all 9 of your requests, as there may be a document(s) provided in one response which is also responsive to another.

This letter concludes our response to your request. You may appeal this determination by email at, or by mail to the EPA’s National FOIA Office, U.S. EPA, 1200 Pennsylvania Avenue, N.W. (2310A), Washington, DC 20460 or through FOIAonline if you are an account holder. If you are submitting your appeal by hand delivery, courier service, or overnight delivery, you must address your correspondence to 1200 Pennsylvania Avenue, N.W., WJC-N Building, Room 7309C, Washington, DC 20460. Your appeal must be in writing, and it must be received no later than 90 calendar days from the date of this letter. The Agency will not consider appeals received after the 90-calendar-day limit. Appeals received after 5:00 p.m. EST will be considered received the next business day. The appeal letter should include the FOIA tracking number listed

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above. For quickest possible handling, the subject line of your email, the appeal letter, and its envelope, if applicable, should be marked "Freedom of Information Act Appeal." If you need any further assistance or would like to discuss any aspect of your request, you may seek assistance from EPA's FOIA Public Liaison at [hq.foia@epa.gov](mailto:hq.foia@epa.gov) or call (202) 566-1667. You may also seek assistance from the Office of Government Information Services (OGIS). You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001; email: [ogis@nara.gov](mailto:ogis@nara.gov); telephone: (202) 741-5770 or (877) 684-6448; or fax: (202) 741-5769. For all media inquiries, please contact [press@epa.gov](mailto:press@epa.gov).

You will be separately billed for the processing of this request.

Sincerely,

**KENNETH MORAFF** Digitally signed by KENNETH MORAFF  
Date: 2020.03.20 15:48:44 -04'00'

Ken Moraff, Director  
Water Division

cc: Cris Schena, R1 FOI Officer