

EXHIBIT 5



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D C. 20460

08-25-2023

Joseph S. St. John:
State of Louisiana, Department of Justice
Office of the Attorney General
P.O. BOX 94005
Baton Rouge, 70804-9005

RE: Freedom of Information Act Request - EPA-2023-005099 Follow-Up and Proposed Clarification

Dear Mr. Joseph S. St. John:

This letter concerns the above-mentioned Freedom of Information Act (FOIA) request, submitted to the U.S. Environmental Protection Agency (EPA), National FOIA Office (NFO) on June 29, 2023. Your request is for the following records:

1. Any and all Records regarding, related to, or mentioning the Subject Matter exchanged between or among EPA and the following people and/or organizations:

- Halle Parker and/or Nola.com;
- Morgan Radford and/or MSNBC;
- Timothy Puko, Darryl Fears, Michael Phillis, and/or The Washington Post;
- Oliver Laughland and/or The Guardian;
- Anna McAllister and/or WGNO;
- Mike Smith and/or The Advocate.
- Bobbi-Jeanne Misick and/or WWNO;
- Sharon Lavigne and/or RISE St. James;
- Any other member of RISE St. James;
- Dr. Beverly Wright and/or The Deep South Center for Environmental Justice;
- Monique Harden and/or The Deep South Center for Environmental Justice;
- Rev. Gregory Manning and/or Coalition Against Death Alley;
- Any member of Concerned Citizens of St. John;
- Robert Taylor; and
- Brenda Bryant.

2. Any and all Records regarding, related to, or mentioning any requests to schedule a meeting or conference with Administrator Michael S. Regan

(“Administrator Regan”) or his representatives during the Journey to Justice tour in Louisiana, whether the request was made before or during the Journey to Justice tour in Louisiana. This request specifically includes any requests by organizations and/or entities representing industrial facilities in Louisiana, such as the Louisiana Chemical Association.

3a. The calendar of Administrator Regan, electronic or otherwise, for all dates during the Journey to Justice tour.

3b. Any and all Records regarding, related to, or mentioning the scheduling any meeting or conference between Administrator Regan or his representatives and any group, person, or organization during the Journey to Justice tour in Louisiana.

4. Any and all Records provided by EPA to, or provided to EPA by, any meeting participant during, or as a follow-up to, any meeting with Administrator Regan or his representatives during the Journey to Justice tour in Louisiana.

5. Any and all notes, handwritten or electronic, taken or created by EPA, including Administrator Regan or his representatives, during the Journey to Justice tour in Louisiana, including any notes, handwritten or electronic, taken by EPA, including Administrator Regan or his representatives, during or about any meeting during the Journey to Justice tour in Louisiana.

6. Any and all Records or communications regarding, related to, or mentioning the Subject Matter provided to EPA by any of the following or provided by EPA to any of the following:

- Concerned Citizens of St. John;
- Sierra Club;
- Stop the Wallace Grain Terminal;
- Inclusive Louisiana;
- RISE St. James;
- Louisiana Bucket Brigade;
- Tulane Environmental Law Clinic;
- Any member or officer of those organizations; and/or
- Any counsel, person, or group representing those organizations.

7. Any and all Records regarding, related to, or mentioning the Complaint dated January 20, 2022 submitted to EPA by Concerned Citizens of St. John and the Sierra Club, including all communications between EPA and Concerned Citizens of St. John, the Sierra Club, counsel for Concerned Citizens of St. John and the Sierra Club, and any member, representative, or counsel of those organizations, whether before or after January 20, 2022. For the avoidance of doubt, communications regarding informal resolution of that complaint are within the scope of this request.

8. Any and all Records regarding, related to, or mentioning the Complaint dated February 1, 2022 submitted to EPA by Stop the Wallace Grain Terminal, Inclusive Louisiana, RISE St. James, the Louisianan Bucket Brigade, and/or the Tulane Environmental Law Clinic between EPA and Stop the Wallace Grain Terminal, Inclusive Louisiana, RISE St. James, the Louisianan Bucket Brigade, and the Tulane Environmental Law Clinic, including any communications between EPA and any member, representative, or counsel of those organizations, whether before or after February 1, 2022. For the avoidance of doubt, communications regarding informal resolution of that complaint are within the scope of this request.

9. Any and all evidence underlying EPA's Letter of Concern to Dr. Chuck Carr Brown and Dr. Courtney N. Phillips, dated October 12, 2022, and signed by Lilian S. Dorka.

10. Any and all communications regarding EPA's Administrative Closure of EPA Complaint Nos. 01R-22-R6 and 04R-22-R6.

11. Any and all communications regarding EPA's Administrative Closure of EPA Complaint No. 02R-22-R6.

Background

On July 25, 2023 EPA sent you an initial response letter requesting clarification of your request, offering you the opportunity to discuss and modify the request, and providing links to several online resources.

On August 4th, 2023 you responded in writing and provided suggested key words and custodians as well as available dates to meet with EPA to discuss.

On August 22, 2023, EPA representatives, Denise Dykeman, Chris Creech, Sam Pogue, Jonathan Stein and Zahra Khan met with you and Drew Ensign to discuss your request.

Request Clarification and Modification

Thank you for meeting with us to discuss your request and for engaging in a productive conversation. Based on our discussion, we propose to modify your request as described below. Please review and let us know if you have any questions. As discussed, we will meet again next week on **August 30th at 2:00pm Eastern/ 1:00 Central** to follow-up to discuss the modifications, make any needed edits, and clarify any outstanding questions.

As a preliminary matter, during the call, we discussed the definitions of subject matter and environmental justice that you provided and discussed portions of your request that could potentially be grouped together for efficiency. Those edits are reflected below. In addition, upon

review of the custodians that you provided, we note that David McCay appears to be an attorney for Louisiana, thus we are not able to include him as a record custodian. We have also identified additional custodians to include.

To conduct the searches for your records, we propose the following for each portion of your request as follows:

Part 1 and Part 6. We understand that you are seeking external communications to or from complainants, members of the press, and environmental NGO or advocacy groups. EPA will conduct the search for these records using the parameters below. Note that over the course of two years, EPA expects that our public affairs professionals will regularly communicate with major media outlets on any number of topics, thus we have added additional search terms.

Custodians:

- EPA key public affairs office custodians in HQ and R6: Nancy Grantham, Christina Motillal, Chuck Widener, Dominique Joseph, Jeff McAttee.
- Lilian Dorka, James Payne, Melissa Hoffer, Mary O’Lone, Ronald Scott, Daniel Isales, Zahra Khan, Anhthu Hoang, Julia Rhodes, James McGuire, Marcia Moncrieffe, Suzanne Andrews, Lynde Schoellkopf, Dimple Chaudhary, Ariadne Goerke, Jeff Robinson.

Date Range: March 1, 2021 to June 29, 2023

Key Words: (“Halle Parker” OR “Nola.com” OR “Morgan Radford” OR “MSNBC” OR “Timothy Puko” OR “Darryl Fears” OR “Michael Phillis” OR “The Washington Post” OR “Oliver Laughland” OR “The Guardian” OR “Anna McAllister” OR “WGNO” OR “Mike Smith” OR “The Advocate” OR “Bobbi-Jeanne Misick” OR “WWNO” OR “Sharon Lavigne” OR “RISE St. James” OR “Dr. Beverly Wright” OR “The Deep South Center for Environmental Justice” OR “Monique Harden” OR “Rev. Gregory Manning” OR “Coalition Against Death Alley” OR “Concerned Citizens of St. John” OR “Robert Taylor” OR “Brenda Bryant” OR “Sierra Club” OR “Stop the Wallace Grain Terminal” OR “Inclusive Louisiana” OR “Tulane Environmental Law Clinic”)

AND

(“Denka” OR “Formosa” OR “environmental justice” OR “disparate impact” OR “Title VI” OR “Cancer Alley” OR “Journey to Justice”)

AND

(“Louisiana” OR “LDEQ” OR “LDH”)

Record Type: EPA Outlook emails to or from external domains.

Declaration of Anhthu Hoang, Document 29-9- Louisiana also identified the specific documents referenced in the August 16, 2023 Declaration of Anhthu Hoang, Document 29-9, regarding communications with outside parties, as responsive to this portion of the request. EPA notes that the August 16th declaration was created after the FOIA request

was submitted to the agency. Nevertheless, EPA will search for the documents referenced in the declaration.

Parts 2, 3b, and 4: Internal and external communications related to meetings or conferences with Administrator Michael S. Regan (“Administrator Regan”) or his representatives during the Journey to Justice tour in Louisiana to include agendas, attachments, and/or materials.

Custodians: Journey to Justice tour custodians located in the Administrator’s Office

Date Range: September 14, 2021 to November 19, 2021

Key Words:

(“Journey to Justice”) AND (“meeting” OR “conference”)

Record Type: 1) EPA Outlook emails and calendar entries to or from internal or external domains.

Part 3a. You are seeking the calendar of Administrator Regan, electronic or otherwise, for all dates during the Journey to Justice tour. As discussed during our call, this information is publicly available and was previously released to a different FOIA requester under FOIA ID EPA-2022-001215. You may access these records at:

<https://foiaonline.gov/foiaonline/action/public/submissionDetails?trackingNumber=EPA-2022-001215&type=Request>.

Part 5. Any and all notes, handwritten or electronic, taken or created by EPA, including Administrator Regan or his representatives, during the Journey to Justice tour in Louisiana, including any notes, handwritten or electronic, taken by EPA, including Administrator Regan or his representatives, during or about any meeting during the Journey to Justice tour in Louisiana.

Custodians: Journey to Justice tour custodians located in the Administrator’s Office

Date Range: November 14, 2021 to November 19, 2021

Key Words: N/A

Record Type: Handwritten or electronic notes

Parts 7, 8, 10, and 11: External Party Communications concerning the Title VI complaints dated January 20, 2022 and February 1, 2022.

Custodians:

- Lilian Dorka, James Payne, Melissa Hoffer, Mary O’Lone, Ronald Scott, Daniel Isales, Zahra Khan, Anhthu Hoang, Julia Rhodes, James McGuire, Marcia Moncrieffe, Suzanne Andrews, Lynde Schoellkopf, Dimple Chaudhary, Ariadne Goerke, Jeff Robinson.

Date Range: March 1, 2021 to June 29, 2023

Key Words:

“01R-22-R6” OR “02R-22-R6” OR “04R-22-R6” OR “St. John” OR “St. James”

Record Types: Microsoft Outlook email files

Part 9: Any and all evidence underlying EPA’s Letter of Concern to Dr. Chuck Carr Brown and Dr. Courtney N. Phillips, dated October 12, 2022, and signed by Lilian S. Dorka.

Additional clarification provided by the requester: If there is a file or files of relevant evidence, search those files for records. EPA explained that it cannot make judgement calls about what constitutes “evidence” through a FOIA request. EPA can search for agency records.

Custodians:

- Lilian Dorka, James Payne, Melissa Hoffer, Mary O’Lone, Ronald Scott, Daniel Isales, Zahra Khan, Anhthu Hoang, Julia Rhodes, James McGuire, Marcia Moncrieffe, Suzanne Andrews, Lynde Schoellkopf, Dimple Chaudhary, Ariadne Goerke, Jeff Robinson.

Date Range: March 1, 2021 to June 29, 2023

Key Words: N/A

Record Types: Records located in any hard copy or electronic “evidence file” for EPA’s Letter of Concern to Dr. Chuck Carr Brown and Dr. Courtney N. Phillips, dated October 12, 2022.

Unusual Circumstances and Extension of Time

Pursuant to 40 C.F.R. § 2.104(e), an extension of time remains necessary to respond to your request. Given the scope of the request, EPA anticipates that the response will require a significant amount of EPA’s resources and time to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request, to search for, collect, and appropriately examine a voluminous amount of separate and distinct records and to consult with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein, including: AO, R6, EJCRO, and OGC.

Based on the request as written, your updated estimated date of completion is: **December 1, 2023**. Please note that EPA will provide you with interim releases as records are available.

Processing Fees

You were placed in the “other” fee category, which means you may be charged for search and duplication costs in accordance with the Agency’s regulations under 40 C.F.R. Part 2, Subpart A.

Next Steps

The processing clock has been restarted for your FOIA request effective August 4, 2023. EPA looks forward to meeting with you to discuss these proposed modifications on **August 30, 2023 at 2:00pm Eastern.**

Additional Contacts

For all media related inquiries, please contact: press@epa.gov

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 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; telephone: (202) 741-5770 or (877) 684-6448; or fax: (202) 741-5769.

If you have any questions or concerns about the status of your request, please do not hesitate to contact us. Please be sure to include the FOIA request tracking number. Thank you for your interest in the work of the EPA.

We look forward to speaking with you.

Sincerely,

**DENISE
DYKEMAN**

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DENISE DYKEMAN
Date: 2023.08.25
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Denise A. Dykeman

EPA National FOIA Office