

U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:22-cv-03177-RDM

CHELMOWSKI v. UNITED STATES ENVIRONMENT
PROTECTION AGENCY

Assigned to: Judge Randolph D. Moss

Related Case: 1:24-cv-01336-RDM

Cause: 05:552 Freedom of Information Act

Plaintiff

JAMES CHELMOWSKI

Date Filed: 10/14/2022

Jury Demand: None

Nature of Suit: 895 Freedom of
Information Act

Jurisdiction: U.S. Government Defendant

represented by **JAMES CHELMOWSKI**

705 W. Central Road

Mt. Prospect, IL 60056

(847) 768-0000

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PRO SE

V.

Defendant

**UNITED STATES ENVIRONMENT
PROTECTION AGENCY**

EPA

represented by **John Bardo**

DOJ-USAO

601 D Street NW

Washington, DC 20530

(202) 870-6770

Email: john.bardo@usdoj.gov

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
10/14/2022	<u>1</u>	COMPLAINT against UNITED STATES ENVIRONMENT PROTECTION AGENCY (Filing fee \$ 402, receipt number 203273) filed by JAMES CHELMOWSKI. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Exhibit)(zjm) (Entered: 10/20/2022)
10/14/2022		SUMMONS Not Issued as to UNITED STATES ENVIRONMENT PROTECTION AGENCY (zjm) (Entered: 10/20/2022)
10/24/2022	<u>2</u>	STANDING ORDER: The parties are hereby ORDERED to comply with the directives set forth in the attached Standing Order. See document for details. Signed by Judge Randolph D. Moss on 10/24/2022. (lcrdm3) (Entered: 10/24/2022)
10/27/2022		SUMMONS (3) Issued as to UNITED STATES ENVIRONMENT PROTECTION AGENCY, U.S. Attorney and U.S. Attorney General (zjm) (Entered: 10/27/2022)
12/12/2022	<u>3</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 11/25/2022. (Answer due for ALL FEDERAL DEFENDANTS by 12/25/2022.), RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 11/22/2022., RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. UNITED STATES ENVIRONMENT PROTECTION AGENCY served on 11/21/2022 (zjm) (Entered: 12/15/2022)
12/21/2022	<u>4</u>	NOTICE of Non-Service by UNITED STATES ENVIRONMENT PROTECTION AGENCY (Hudak, Brian) (Entered: 12/21/2022)
01/11/2023	<u>5</u>	RESPONSE to Defendant's Notice of Non-Service and US Attorney Confirmation of Proof of Services re <u>4</u> Notice (Other) filed by JAMES CHELMOWSKI. (zjm) (Entered: 01/13/2023)

01/11/2023	<u>6</u>	MOTION for CM/ECF Password by JAMES CHELMOWSKI. (zjm) (Entered: 01/13/2023)
01/15/2023		MINUTE ORDER: Upon consideration of Plaintiff's motion for CM/ECF password, Dkt. <u>6</u> , it is hereby ORDERED that the motion is GRANTED. Signed by Judge Randolph D. Moss on 1/15/2023. (lcrdm1) (Entered: 01/15/2023)
01/25/2023	<u>7</u>	MOTION for Extension of Time to <i>Respond to Complaint</i> by UNITED STATES ENVIRONMENT PROTECTION AGENCY. (Attachments: # <u>1</u> Text of Proposed Order)(Bardo, John) (Entered: 01/25/2023)
01/25/2023		MINUTE ORDER: Upon consideration of Defendant's motion for extension of time, Dkt. <u>7</u> , it is hereby ORDERED that (1) Defendant's deadline to respond to Plaintiff's complaint is STAYED pending further Order of the Court; and (2) Plaintiff shall respond to Defendant's motion for extension of time, Dkt. <u>7</u> , on or before February 1, 2023. Signed by Judge Randolph D. Moss on 1/25/2023. (lcrdm3) (Entered: 01/25/2023)
01/25/2023	<u>8</u>	NOTICE of <i>Errata</i> by UNITED STATES ENVIRONMENT PROTECTION AGENCY re <u>7</u> Motion for Extension of Time to (Bardo, John) (Entered: 01/25/2023)
02/01/2023	<u>9</u>	RESPONSE re <u>7</u> MOTION for Extension of Time to <i>Respond to Complaint Opposition Due to Defendant's Decision to use False Statements in the Motion to Deceive the Court</i> filed by JAMES CHELMOWSKI. (CHELMOWSKI, JAMES) (Entered: 02/01/2023)
02/02/2023	<u>10</u>	REPLY to opposition to motion re <u>7</u> MOTION for Extension of Time to filed by UNITED STATES ENVIRONMENT PROTECTION AGENCY. (Bardo, John) Modified on 2/3/2023 to correct docket link/ text (zjm). (Entered: 02/02/2023)
02/02/2023		MINUTE ORDER: Upon consideration of Defendant's motion to enlarge the response deadline, Dkt. <u>7</u> , it is hereby ORDERED that the motion is GRANTED. It is further ORDERED that Defendant shall respond to Plaintiff's complaint on or before March 1, 2023. Signed by Judge Randolph D. Moss on 2/2/2023. (lcrdm3) (Entered: 02/02/2023)
03/01/2023	<u>11</u>	ANSWER to <u>1</u> Complaint by UNITED STATES ENVIRONMENT PROTECTION AGENCY.(Bardo, John) (Entered: 03/01/2023)
03/01/2023		MINUTE ORDER: It is ORDERED that, on or before March 28, 2023, the parties shall confer and file a joint status report addressing (1) any documents still to be produced pursuant to FOIA; (2) an anticipated schedule for processing and producing any such documents; and (3) any substantive areas of disagreement between the parties. It is FURTHER ORDERED that the parties shall appear by video for an Initial Scheduling Conference on April 4, 2023, at 11:15 a.m., via Zoom. Signed by Judge Randolph D. Moss on 3/1/2023.(lcrdm3) (Entered: 03/01/2023)
03/28/2023	<u>12</u>	STATUS REPORT by UNITED STATES ENVIRONMENT PROTECTION AGENCY. (Bardo, John) (Entered: 03/28/2023)
03/28/2023	<u>13</u>	STATUS REPORT <i>PLAINTIFF'S STATUS REPORT COMPLYING WITH THE REQUIRED ITEMS IN MARCH 1, 2023 ORDER</i> by JAMES CHELMOWSKI. (Attachments: # <u>1</u> Exhibit Declaration with Exhibits, # <u>2</u> Proposed Order)(CHELMOWSKI, JAMES) (Entered: 03/28/2023)
04/04/2023		Minute Entry for proceedings held before Judge Randolph D. Moss: Scheduling Conference held on 4/4/2023 via Zoom. For the reasons stated on the record, EPA will conduct a search of records on or before June 5, 2023 and the parties shall file a Joint Status Report on or before 6/9/2023). (Court Reporter Jeff Hook) (zglw) (Entered: 04/04/2023)
04/12/2023	<u>14</u>	TRANSCRIPT OF SCHEDULING CONFERENCE (ZOOM) before Judge Randolph D. Moss held on April 4, 2023. Page Numbers: 1 – 17. Date of Issuance: April 12, 2023. Court Reporter: Jeff Hook. Telephone number: 202–354–3373. Transcripts may be ordered by submitting the Transcript Order Form For the first 90 days after this filing date, the transcript may be viewed at the courthouse at a public terminal or purchased from the court reporter referenced above.

		<p>After 90 days, the transcript may be accessed via PACER. Other transcript formats, (multi–page, condensed, CD or ASCII) may be purchased from the court reporter.</p> <p>NOTICE RE REDACTION OF TRANSCRIPTS: The parties have twenty–one days to file with the court and the court reporter any request to redact personal identifiers from this transcript. If no such requests are filed, the transcript will be made available to the public via PACER without redaction after 90 days. The policy, which includes the five personal identifiers specifically covered, is located on our website at www.dcd.uscourts.gov.</p> <p>Redaction Request due 5/3/2023. Redacted Transcript Deadline set for 5/13/2023. Release of Transcript Restriction set for 7/11/2023.(Hook, Jeff) (Entered: 04/12/2023)</p>
06/09/2023	<u>15</u>	Joint STATUS REPORT by UNITED STATES ENVIRONMENT PROTECTION AGENCY. (Bardo, John) (Entered: 06/09/2023)
06/09/2023		MINUTE ORDER: Upon consideration of the parties' joint status report, Dkt. <u>15</u> , it is hereby ORDERED that (1) Defendant produce any responsive, non–exempt records to Plaintiff on or before August 8, 2023; and (2) the parties shall file a further joint status report on or before August 25, 2023. Signed by Judge Randolph D. Moss on 6/9/2023. (lcrdm3) (Entered: 06/09/2023)
08/25/2023	<u>16</u>	Joint STATUS REPORT by UNITED STATES ENVIRONMENT PROTECTION AGENCY. (Bardo, John) (Entered: 08/25/2023)
08/25/2023		MINUTE ORDER: Upon consideration of the parties' joint status report, Dkt. <u>16</u> , it is hereby ORDERED that the parties shall file a further joint status report on or before September 25, 2023. Signed by Judge Randolph D. Moss on 08/25/2023. (lcrdm3) (Entered: 08/25/2023)
09/25/2023	<u>17</u>	Joint STATUS REPORT by UNITED STATES ENVIRONMENT PROTECTION AGENCY. (Bardo, John) (Entered: 09/25/2023)
09/27/2023		MINUTE ORDER: Upon consideration of the parties' joint status report, Dkt. <u>17</u> , the parties are hereby ORDERED to file a further joint status report on or before November 13, 2023. Plaintiff is advised to review the Court's requirement, described in subsection 10(a)(i) of the Court's standing order, Dkt. <u>2</u> at 4, that he seek a pre-motion conference and the parties file pre-motion statements before proceeding to summary judgement should he wish to do so. Signed by Judge Randolph D. Moss on 09/27/2023. (lcrdm3) (Entered: 09/27/2023)
11/13/2023	<u>18</u>	Joint STATUS REPORT by UNITED STATES ENVIRONMENT PROTECTION AGENCY. (Bardo, John) (Entered: 11/13/2023)
11/16/2023		MINUTE ORDER: Upon consideration of the parties' joint status report, Dkt. <u>19</u> , it is hereby ORDERED that: (1) Plaintiff shall file his pre–motion notice on or before November 30, 2023; (2) Defendant shall file its pre–motion notice on or before December 13, 2023; (3) the parties shall appear for a pre–motion conference on December 18, 2023, at 3:00 p.m., in Courtroom 8. Signed by Judge Randolph D. Moss on 11/16/2023. (lcrdm3) (Entered: 11/16/2023)
11/30/2023	<u>19</u>	ENTERED IN ERROR.....NOTICE <i>for Pre–Motion Conference and Proposed Briefing Schedule</i> by JAMES CHELMOWSKI (CHELMOWSKI, JAMES) Modified on 12/1/2023 (zjm). (Entered: 11/30/2023)
12/01/2023		NOTICE OF ERROR regarding <u>19</u> Notice (Other). The following error(s) need correction: Incorrect format (Letter)– correspondence is not permitted (LCvR 5.1(a)). Please refile. (zjm) (Entered: 12/01/2023)
12/01/2023	<u>20</u>	NOTICE <i>PRO SE PLAINTIFFS NOTICE FOR PRE–MOTION CONFERENCE AND PROPOSED BRIEFING SCHEDULE RESUBMITTED</i> by JAMES CHELMOWSKI (Attachments: # <u>1</u> Proposed Order)(CHELMOWSKI, JAMES) (Entered: 12/01/2023)
12/04/2023		MINUTE ORDER: Upon consideration of Plaintiff's notice for pre–motion conference and proposed briefing schedule, Dkt. <u>20</u> , the Court notes that the parties are free to address questions of scheduling at the pre–motion conference scheduled for December 18, 2023, at 3:00 p.m., in Courtroom 8, and further notes that there is no need to move that conference. Signed by Judge Randolph D. Moss on 12/4/2023. (lcrdm3) (Entered: 12/04/2023)

		12/04/2023)
12/12/2023	<u>21</u>	NOTICE <i>Requesting a Pre-Motion Conference</i> by UNITED STATES ENVIRONMENT PROTECTION AGENCY (Bardo, John) (Entered: 12/12/2023)
12/13/2023	<u>22</u>	Consent MOTION for Leave to Appear by Telephone <i>or by Video</i> by JAMES CHELMOWSKI. (Attachments: # <u>1</u> Proposed Order)(CHELMOWSKI, JAMES) (Entered: 12/13/2023)
12/14/2023		MINUTE ORDER: Upon consideration of Plaintiff's consent motion to appear remotely, Dkt. <u>22</u> , it is hereby ORDERED that the motion is GRANTED. It is further ORDERED that the pre-motion conferenced currently scheduled for December 18, 2023, at 3:00 p.m., shall proceed via Zoom. Signed by Judge Randolph D. Moss on 12/14/2023. (lcrdm3) (Entered: 12/14/2023)
12/18/2023		Minute Entry for proceedings held before Judge Randolph D. Moss: Pre-motion Conference held on 12/18/2023. Defendant's Motions for Summary Judgment to be filed on or before 3/1/2024; Plaintiff's opposition and cross motion to be filed on or before 5/3/2024; Defendant's reply and oppositions to be filed on or before 6/7/2024; Plaintiff's final reply due on or before 7/9/2024. (Court Reporter Tammi Sefranek) (zglw) (Entered: 12/19/2023)
02/22/2024	<u>23</u>	Consent MOTION for Extension of Time to <i>Complete Summary Judgment Briefing</i> by UNITED STATES ENVIRONMENT PROTECTION AGENCY. (Attachments: # <u>1</u> Text of Proposed Order)(Bardo, John) (Entered: 02/22/2024)
02/25/2024		MINUTE ORDER: Upon consideration of Defendant's consent motion to enlarge summary judgment briefing schedule, Dkt. <u>23</u> , it is hereby ORDERED that the motion is GRANTED. It is further ORDERED that: (1) Defendant's motion for summary judgment shall be filed on or before March 15, 2024; (2) Plaintiff's opposition and cross motion shall be filed on or before May 17, 2024; (3) Defendant's reply and opposition shall be filed on or before June 21, 2024; and (4) Plaintiff's final reply shall be filed on or before July 23, 2024. Signed by Judge Randolph D. Moss on 2/25/2024. (lcrdm3) (Entered: 02/25/2024)
03/15/2024	<u>24</u>	MOTION for Summary Judgment by UNITED STATES ENVIRONMENT PROTECTION AGENCY. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Statement of Facts, # <u>3</u> Declaration Ex. 1, Epp Decl., # <u>4</u> Exhibit Exhibits to Epp Decl., # <u>5</u> Declaration Ex. 2, Levine Decl., # <u>6</u> Exhibit Ex. 3, Vaughn Index, # <u>7</u> Text of Proposed Order)(Bardo, John) (Entered: 03/15/2024)
03/18/2024	<u>25</u>	FOX/NEAL ORDER: Plaintiff is hereby ORDERED to respond to Defendant's motion for summary judgment, Dkt. <u>24</u> , on or before April 1, 2024. See document for details. Signed by Judge Randolph D. Moss on 3/18/2024. (lcrdm3) (Entered: 03/18/2024)
03/25/2024	<u>26</u>	Consent MOTION for Extension of Time to File Response/Reply <i>Motion For Summary Judgment and Plaintiff's Cross-Motion</i> by JAMES CHELMOWSKI. (Attachments: # <u>1</u> Proposed Order)(CHELMOWSKI, JAMES) (Entered: 03/25/2024)
03/25/2024		MINUTE ORDER: Upon consideration of Plaintiff's consent motion for extension of time, Dkt. <u>26</u> , it is hereby ORDERED that the motion is GRANTED. It is further ORDERED that: (1) Plaintiff's opposition and cross-motion shall be filed on or before May 3, 2024; (2) Defendant's reply and opposition shall be filed on or before June 7, 2024; and (3) Plaintiff's final reply shall be filed on or before July 9, 2024. Signed by Judge Randolph D. Moss on 3/25/2024. (lcrdm3) (Entered: 03/25/2024)
04/29/2024	<u>27</u>	Consent MOTION for Extension of Time to <i>File Opposition and Cross-Motion</i> by JAMES CHELMOWSKI. (Attachments: # <u>1</u> Proposed Order)(CHELMOWSKI, JAMES) (Entered: 04/29/2024)
04/29/2024		MINUTE ORDER: Upon consideration of Plaintiff's second consent motion for extension of time, Dkt. <u>27</u> , it is hereby ORDERED that the motion is GRANTED. It is further ORDERED that: (1) Plaintiff's opposition and cross-motion shall be filed on or before May 24, 2024; (2) Defendant's reply and opposition shall be filed on or before June 28, 2024; and (3) Plaintiff's final reply shall be filed on or before July 30, 2024. Signed by Judge Randolph D. Moss on 4/29/2024. (lcrdm3) (Entered: 04/29/2024)

05/24/2024	<u>28</u>	Consent MOTION for Extension of Time to File Response/Reply as to <u>24</u> MOTION for Summary Judgment <i>and Plaintiff's Cross-Motion</i> by JAMES CHELMOWSKI. (Attachments: # <u>1</u> Proposed Order)(CHELMOWSKI, JAMES) (Entered: 05/24/2024)
05/24/2024		MINUTE ORDER: Upon consideration of Plaintiff's third consent motion for extension of time, Dkt. <u>28</u> , it is hereby ORDERED that the motion is GRANTED. It is further ORDERED that Plaintiff's opposition to Defendant's motion for summary judgment, Dkt. <u>24</u> , shall be filed on or before May 31, 2024. Signed by Judge Randolph D. Moss on 5/24/2024. (lcrdm3) (Entered: 05/24/2024)
05/31/2024	<u>29</u>	RESPONSE re <u>24</u> MOTION for Summary Judgment <i>and Cross Motion</i> filed by JAMES CHELMOWSKI. (CHELMOWSKI, JAMES) (Entered: 05/31/2024)
06/24/2024	<u>30</u>	Consent MOTION for Extension of Time to <i>Complete Summary Judgment Briefing</i> by UNITED STATES ENVIRONMENT PROTECTION AGENCY. (Attachments: # <u>1</u> Text of Proposed Order)(Bardo, John) (Entered: 06/24/2024)
06/25/2024		MINUTE ORDER: Upon consideration of Defendant's consent motion to enlarge the summary judgment briefing schedule, Dkt. <u>30</u> , it is hereby ORDERED that the motion is GRANTED. It is further ORDERED that: (1) Defendant's reply shall be filed on or before July 19, 2024 and (2) Plaintiff's cross-reply shall be filed on or before August 20, 2024. Signed by Judge Randolph D. Moss on 6/25/2024. (lcrdm3) (Entered: 06/25/2024)
07/01/2024	<u>31</u>	MOTION for Leave to File <i>FOR PRO SE PLAINTIFF TO REFILE AND CORRECT HIS PREVIOUS FILING INCLUDING NEW OPPOSITION AND NEW CROSS-MOTION</i> by JAMES CHELMOWSKI. (Attachments: # <u>1</u> Supplement Proposed Order, # <u>2</u> Exhibit Exhibits 1 to 7, # <u>3</u> Exhibit Exhibits 8 to 11, # <u>4</u> Exhibit Exhibit 12)(CHELMOWSKI, JAMES) (Entered: 07/01/2024)
07/15/2024	<u>32</u>	Memorandum in opposition to re <u>31</u> Motion for Leave to File, filed by UNITED STATES ENVIRONMENT PROTECTION AGENCY. (Attachments: # <u>1</u> Text of Proposed Order)(Bardo, John) (Entered: 07/15/2024)
07/17/2024		MINUTE ORDER: Upon consideration of Plaintiff's motion for leave to file an amended opposition and cross-motion, Dkt. <u>31</u> , it is hereby ORDERED that the motion is DENIED. Plaintiff has failed to demonstrate good cause and granting the motion at this late stage would impose an unfair burden on Defendant by shifting the playing field in the third quarter. Signed by Judge Randolph D. Moss on 7/17/2024. (lcrdm3) (Entered: 07/17/2024)
07/19/2024	<u>33</u>	REPLY to opposition to motion re <u>24</u> MOTION for Summary Judgment filed by UNITED STATES ENVIRONMENT PROTECTION AGENCY. (Bardo, John) (Entered: 07/19/2024)
08/21/2024	<u>34</u>	SURREPLY re <u>24</u> MOTION for Summary Judgment <i>PLAINTIFFS AUGUST 20, 2024 RESPONSE WITH NEW EVIDENCE DISCOVERED IN AUGUST 2024 THAT PROVIDES FACTS OF EPAS FALSE DECLARATION STATEMENTS BY EPA</i> filed by JAMES CHELMOWSKI. (CHELMOWSKI, JAMES) Modified on 8/23/2024 to correct event (zjm). (Entered: 08/21/2024)
08/27/2024	<u>35</u>	SURREPLY re <u>24</u> MOTION for Summary Judgment <i>PLAINTIFFS UPDATED RESPONSE WITH NEW EVIDENCE DISCOVERED IN AUGUST 2024 THAT PROVIDES FACTS OF EPAS PERJURY IN THIS LITIGATION AND PRIOR LITIGATION</i> filed by JAMES CHELMOWSKI. (CHELMOWSKI, JAMES) Modified event title on 8/28/2024 (znmw). (Entered: 08/27/2024)
08/27/2024	<u>36</u>	DECLARATION & Exhibits to <i>PLAINTIFFS UPDATED RESPONSE WITH NEW EVIDENCE DISCOVERED IN AUGUST 2024 THAT PROVIDES FACTS OF EPAS PERJURY IN THIS LITIGATION</i> by JAMES CHELMOWSKI re <u>35</u> Reply to opposition to Motion,. (Attachments: # <u>1</u> Exhibit Exhibits 1 to 6, # <u>2</u> Exhibit Exhibits 7 to 11, # <u>3</u> Exhibit Exhibits 12 to 17, # <u>4</u> Exhibit Exhibits 18 to 19)(CHELMOWSKI, JAMES) (Entered: 08/27/2024)