

1 WAYNE K. LEMIEUX (SBN 43501)  
2 LEMIEUX & O'NEILL  
3 4165 E. Thousand Oaks Blvd., Suite 350  
4 Westlake Village, California 91362-3852  
5 Telephone: (805) 495-4770  
6 Facsimile: (805) 495-2787

7 Attorneys for Plaintiffs  
8 LEMIEUX & O'NEILL, EX REL. LAS  
9 VIRGENES-TRIUNFO JOINT POWERS AUTHORITY

10 **UNITED STATES DISTRICT COURT**  
11 **CENTRAL DISTRICT OF CALIFORNIA**

13 LEMIEUX & O'NEILL, EX REL. LAS  
14 VIRGENES - TRIUNFO JOINT POWERS  
15 AUTHORITY,

16 Plaintiffs,

17 v.

18 GINA McCARTHY, Administrator of the  
19 UNITED STATES ENVIRONMENTAL  
20 PROTECTION AGENCY, and DOES 1-10,  
21 inclusive,

22 Defendants.

CASE NO.:

**EXHIBIT 1**  
**TO COMPLAINT FOR INJUNCTIVE**  
**RELIEF**



4165 East Thousand Oaks Blvd. • Suite 350 • Westlake Village • California 91362 • Tel: 805-495-4770 • Fax: 805-495-2787

December 16, 2014

Regional Freedom of Information Officer  
U.S. Environmental Protection Agency, Region 9  
(OPPA-2)  
75 Hawthorne Street  
San Francisco, CA 94105

**Re: Freedom of Information Act Request**

This letter requests a copy of records pursuant to the Freedom of Information Act ("FOIA"), which are believed to be held by your agency. (5 U.S.C. § 552.)

We are requesting records and correspondence, including email, between the Environmental Protection Agency ("EPA"), and any of the following: (1) consultants; (2) contractors and subcontractors; (3) nonpublic entities; (4) public entities and joint powers authorities; (5) non-governmental organizations; (6) academic institutions; and (7) the general public for the period between 2010 and 2014, in connection with the "Malibu Creek and Lagoon TMDL for Sedimentation and Nutrients to Address Benthic Community Impairments" promulgated by the EPA in 2013 ("2013 TMDL"). As used herein, "EPA" includes officers, agents and employees of EPA, and, as used herein, email includes email sent to or received by EPA, regardless of the name of the addressee who purportedly sent or received the email and regardless of email address.

This request does not include records and correspondence between EPA and Las Virgenes Municipal Water District, Triunfo Sanitation District, or between EPA and Las Virgenes - Triunfo Joint Powers Authority. We are also not requesting records and correspondence which have been included in the Administrative Record prepared for *Las Virgenes - Triunfo Joint Powers Authority v. E.P.A., et al*, U.S.D.C. Case No. C 14-01392 SBA.

FOIA provides that if only portions of a requested file are exempted from release, the remainder must still be released. We request you provide the non-exempt portions which are reasonably segregable. We further request you describe the deleted or withheld material in detail and specify the statutory basis for the failure to provide the material and as your reasons for asserting a statutory justification for failure to provide applies in this instance.

Please separately state your reasons for not invoking your discretionary powers to release the requested documents in the public interest. Such statements will be helpful in deciding whether

Regional Freedom of Information Officer  
U.S. Environmental Protection Agency, Region 9  
December 16, 2014  
Page 2 of 2

to appeal an adverse determination. The EPA's written justification might also help avoid unnecessary litigation. We reserve the right to appeal the withholding or deletion of information and expect you will list the office and address where such an appeal may be sent.

We anticipate you will make the requested materials available within the statutorily prescribed period. Failure to respond within 20 business days from the date of your receipt of this letter shall be viewed as a denial of this request, in which case the requestors may immediately file an administrative appeal.

If you have any questions or need additional information, please do not hesitate to contact our office.

Thank you for your time and attention.

Very truly yours,

LEMIEUX & O'NEILL

A handwritten signature in black ink, appearing to read "Christine N. Han", written over the typed name. The signature is stylized with loops and a long horizontal stroke extending to the right.

Christine N. Han

CNH/mdd