

EXHIBIT

3



U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Office of the Chief Information Officer
High Performance Computing and Communications

Via FOIAonline

August 1, 2016

Attn: Stephen S. Schwartz
Cause of Action Institute
1875 Eye St. NW, Suite 800
Washington, DC 20006

Re: FOIA Request No. DOC-NOAA-2016-001453

Dear Mr. Schwartz:

This letter is in response to your Freedom of Information Act (FOIA) request entered into FOIAonline on July 14, 2016, seeking the following records:

All documents related to the appointment or reappointment of members of the New England Fishery Management Council from November 1, 2015 to the present. This request includes all communications, both inside the government and with outside parties, including .gov e-mail, personal e-mail, text messaging, and any other methods of communication. This request specifically includes communications to or from the personal and official e-mail accounts of the following persons and entities: 1. The Office of the Secretary of Commerce 2. The Office of Dr. Kathryn Sullivan, Administrator of NOAA and Under Secretary of Commerce for Oceans and Atmosphere 3. Lois J. Schiffer, NOAA General Counsel 4. Eileen Sobek, Assistant Administrator for Fisheries 5. Samuel D. Rauch III, Deputy Assistant Administrator for Regulatory Programs 6. Dr. Alan D. Risenhoover, Director, Office of Sustainable Fisheries 7. John Bullard, Northeast Regional Administrator 8. Michael Pentony, Assistant Regional Administrator for Sustainable Fisheries 9. Dr. William A. Karp, Science and Research Director, Northeast Fisheries Science Center

In order to determine whether your request qualifies for a fee waiver or reduction in fees, pursuant to 5 C.F.R. § 4.11(k) (2010), we must evaluate whether disclosure of the requested information is: 1) in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government, and 2) not primarily in the commercial interest of the requester.

In determining whether your request meets the first fee waiver requirement, we considered the following factors.

1) Whether the subject of the requested records concerns the operations of activities of the

Government.

- 2) Whether the disclosure is “Likely to contribute” to an understanding of Government operations or activities.
- 3) Whether disclosure of the requested information will contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester.
- 4) Where the disclosure is likely to contribute “significantly” to public understanding of Government operations or activities.

In determining whether your request meets the second fee waiver requirement, we considered the following factors:

- 1) Whether the requester has a commercial interest that would be furthered by the requested disclosure.
- 2) Whether any identified commercial interests of the requester is sufficiently great, in comparison with the public interest in disclosure that disclosures are “primarily in the commercial interest of the requester.”

Based on the above criteria we have determined that you adequately addressed the statutory requirements for a waiver of fees in your July 14, 2016 submission. You have been granted a full waiver for the records requested. This supersedes the partial grant of your prior request for a waiver of fees. Please be advised however, granting this waiver does not automatically apply to future requests submitted by you or your organization. Requests for fee waivers are determined on a case-by-case basis for the records requested under statutory fee waiver requirements.

If you have any questions concerning the response to your fee waiver request, please call (301) 628-5658.

Sincerely,

/S/

Mr. Mark Graff
NOAA FOIA Officer