

# EXHIBIT 5

## **Annemarie Wamsted**

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**Subject:** FW: Request to Clarify or Modify an Improper Request re: FOIA EPA-HQ-2017-005657

**FilingDate:** 4/25/2017 4:00:00 PM

**From:** Kym Hunter  
**Sent:** Thursday, April 20, 2017 2:59 PM  
**To:** 'Auther.Larry@epa.gov'  
**Cc:** Annemarie Wamsted; Colin Shive  
**Subject:** RE: Request to Clarify or Modify an Improper Request re: FOIA EPA-HQ-2017-005657

Thank you, Larry.

On the phone call yesterday you told me that you would be sending me a list of custodians. Please go ahead and send me that list and I will be able to identify whose records I would like to review.

I do not know the "file designations or descriptions for the records" so it is not possible for me to provide that information,

I can reconfirm the date range I told you on the phone yesterday which is from February 24 to the date I sent the request. A very short time period.

As noted on the phone, I do not need the documents that have been made publicly available on the website.

Thank you,  
Kym Hunter

**From:** [Auther.Larry@epa.gov](mailto:Auther.Larry@epa.gov) [<mailto:Auther.Larry@epa.gov>]  
**Sent:** Thursday, April 20, 2017 2:44 PM  
**To:** Kym Hunter  
**Subject:** Request to Clarify or Modify an Improper Request re: FOIA EPA-HQ-2017-005657

04/20/2017 02:40 PM  
FOIA Request: EPA-HQ-2017-005657

Ms. Hunter,

This is a follow up to our phone call discussion from 04/19/2017. The purpose of this communication is to assist you in clarifying your FOIA request so that EPA can process your request.

Concerning FOIA EPA-HQ-2017-005657 in which you requested,

**“all records in possession of the U.S. Environmental Protection Agency that in any way relate to Executive Order 13777, Enforcing the Regulatory Reform Agenda, and the execution or implementation of this Executive Order.”**

### **I. Opportunity to Clarify or Modify Your Request**

As submitted, your request is too broad to be completed within 20 days and does not reasonably describe the records you are seeking in a way that will permit EPA employees to identify and locate them. EPA's FOIA regulations state:

“Whenever possible, your request should include specific information about each record sought, such as the date, title or name, author, recipient, and subject matter. If known, you should include any file designations or descriptions for the records that you want. The more specific you are about the records or type of records that you want, the more likely EPA will be able to identify and locate records responsive to your request.” 40 C.F.R. § 2.102(c).”

In addition, requests phrased as legal discovery, e.g., for all records “including but not limited to” and “pertaining to” a subject with no further limitation, do not provide adequate information to allow a professional employee to determine which records you wish EPA to provide. EPA cannot process your request because the subject matter is too broad, it is phrased as legal discovery, and you have not identified any record custodians. In order for EPA to process your request, we require additional details pertaining to the records you are seeking and the EPA employees who would be the custodians of these records.

We would like to provide you the opportunity to discuss the request with us and clarify the records that you are seeking so that EPA can process your request. As indicated in 40 C.F.R. § 2.102(c), please include, or be prepared to discuss, specific information about the records you seek, including time period, authors, or a more detailed description of the records' subject matter.

## **II. Publicly Available Information**

On 04/11/2017 the Agency made public information on the regulatory reform efforts related to Executive Order 13777. This included a Federal Register Notice, a press release, an informational website, and a docket for collecting public comments. Below are links to these public materials directly related to the subject matter of your request;

FR notice: <https://www.federalregister.gov/documents/2017/04/13/2017-07500/evaluation-of-existing-regulations>

Press release: <https://www.epa.gov/newsreleases/regulatory-reform-underway-epa>

Reg Reform central web site: <https://www.epa.gov/laws-regulations/regulatory-reform>

Reg Reform central docket: <https://www.regulations.gov/docket?D=EPA-HQ-OA-2017-0190>

## **III. Next Steps**

The processing clock is stopped for your FOIA request until we receive your clarification or modification. Please use the FOIA request number above as your reference number. Please respond within ten calendar days from the date of this letter to arrange a time to discuss your request, otherwise your request is considered voluntarily withdrawn. You may email [rementer.nicole@epa.gov](mailto:rementer.nicole@epa.gov) or contact Nicole Rementer (202) 564-3692 with your response. If we do not receive a response from you by **May 1, 2017** we will consider your request to be voluntarily withdrawn.

Further, you may email [auther.larry@epa.gov](mailto:auther.larry@epa.gov) or contact Larry Auther at (202) 564-2654, if you have questions.

## **IV. Further Guidance**

Additionally, 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, Room 2510, 8610 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.

Larry Auther

Office of Policy, USEPA