Kolsky, Joshua (USADC)

From:	Kolsky, Joshua (USADC)
Sent:	Friday, March 16, 2018 11:26 AM
To:	Stacey Nathanson - NOAA Federal
Cc:	Bogomolny, Michael (Federal); Graff, Mark (Federal); Almeida, John (Federal); Patterson, Amanda (Federal)
Subject:	RE: FW: CoA Inst. v. NOAA
Attachments:	JSR 3-16-2018.docx

(b)(5) [redacted].

From: Stacey Nathanson - NOAA Federal [mailto:stacey.nathanson@noaa.gov]
Sent: Friday, March 16, 2018 10:14 AM
To: Kolsky, Joshua (USADC) <JKOLSKY@usa.doj.gov>
Cc: Bogomolny, Michael (Federal) <MBogomolny@doc.gov>; Graff, Mark (Federal) <Mark.Graff@noaa.gov>; Almeida, John (Federal) <John.Almeida@noaa.gov>; Patterson, Amanda (Federal) <Amanda.Patterson@noaa.gov>
Subject: Re: FW: CoA Inst. v. NOAA

Hi Josh,

(b)(5) [redacted] Thanks!

Stacey

Stacey Nathanson
Attorney-Advisor
NOAA Office of the General Counsel
Fisheries and Protected Resources Section
Phone: 301-713-9673
Email: Stacey.Nathanson@noaa.gov
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On Fri, Mar 16, 2018 at 9:53 AM, Kolsky, Joshua (USADC) <Joshua.Kolsky@usdoj.gov> wrote:

> Thanks. (b)(5) [redacted]
>
> [redacted]?
>
> ---
>
> **From:** Bogomolny, Michael (Federal) [mailto:MBogomolny@doc.gov]
> **Sent:** Friday, March 16, 2018 2:57 AM
> **To:** Kolsky, Joshua (USADC) <JKOLSKY@usa.doj.gov>; Nathanson, Stacey (Federal) <Stacey.Nathanson@noaa.gov>
> **Cc:** Graff, Mark (Federal) <Mark.Graff@noaa.gov>; Almeida, John (Federal) <John.Almeida@noaa.gov>; Patterson, Amanda (Federal) <Amanda.Patterson@noaa.gov>
> **Subject:** Re: FW: CoA Inst. v. NOAA
>
> (b)(5) [redacted].
>
> ---
>
> **From:** Kolsky, Joshua (USADC) <Joshua.Kolsky@usdoj.gov>
> **Sent:** Thursday, March 15, 2018 6:34 PM
> **To:** Nathanson, Stacey (Federal)
> **Cc:** Bogomolny, Michael (Federal); Graff, Mark (Federal); Almeida, John (Federal); Patterson, Amanda (Federal)
> **Subject:** RE: FW: CoA Inst. v. NOAA
>
> (b)(5) [redacted]
>
> [redacted]?
>
> (b)(5) [redacted]:

(b)(5) [redacted]

[redacted]?

From: Stacey Nathanson - NOAA Federal [mailto:stacey.nathanson@noaa.gov]
Sent: Thursday, March 15, 2018 4:42 PM
To: Kolsky, Joshua (USADC) <JKOLSKY@usa.doj.gov>
Cc: Bogomolny, Michael (Federal) <MBogomolny@doc.gov>; Mark Graff - NOAA Federal <mark.graff@noaa.gov>; John Almeida - NOAA Federal <john.almeida@noaa.gov>; Amanda Patterson - NOAA Federal <amanda.patterson@noaa.gov>
Subject: Re: FW: CoA Inst. v. NOAA

Hi Josh,

(b)(5) [redacted]

[redacted]

[redacted]

[redacted]

(b)(5) [redacted].

Mark -- please feel free to chime in if I have missed something or gotten something wrong.

Josh -- please let me know if you need anything else on this one. Thank you all!

Stacey

Stacey Nathanson

Attorney-Advisor

NOAA Office of the General Counsel

Fisheries and Protected Resources Section

Phone: 301-713-9673

Email: Stacey.Nathanson@noaa.gov

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On Thu, Mar 15, 2018 at 3:58 PM, Kolsky, Joshua (USADC) <Joshua.Kolsky@usdoj.gov> wrote:

> Could someone please respond to my emails below?
>
> ---
>
> **From:** Kolsky, Joshua (USADC)
> **Sent:** Thursday, March 15, 2018 11:24 AM
> **To:** 'Stacey Nathanson - NOAA Federal' <stacey.nathanson@noaa.gov>
> **Cc:** 'Bogomolny, Michael (Federal)' <MBogomolny@doc.gov>; 'Mark Graff - NOAA Federal' <mark.graff@noaa.gov>; 'John Almeida - NOAA Federal' <john.almeida@noaa.gov>; 'Amanda Patterson - NOAA Federal' <amanda.patterson@noaa.gov>
> **Subject:** RE: FW: CoA Inst. v. NOAA
> **Importance:** High
>
> H (b)(5) [redacted] Please let me know.
>
> ---
>
> **From:** Kolsky, Joshua (USADC)
> **Sent:** Wednesday, March 14, 2018 10:26 AM
> **To:** 'Stacey Nathanson - NOAA Federal' <stacey.nathanson@noaa.gov>
> **Cc:** Bogomolny, Michael (Federal) <MBogomolny@doc.gov>; Mark Graff - NOAA Federal <mark.graff@noaa.gov>; John Almeida - NOAA Federal <john.almeida@noaa.gov>; Amanda Patterson - NOAA Federal <amanda.patterson@noaa.gov>
> **Subject:** RE: FW: CoA Inst. v. NOAA
>
> Good morning (b)(5) [redacted]. Let me know.
>
> Thanks,
>
> Josh

From: Stacey Nathanson - NOAA Federal [mailto:stacey.nathanson@noaa.gov]
Sent: Friday, March 9, 2018 3:06 PM
To: Kolsky, Joshua (USADC) <JKOLSKY@usa.doj.gov>
Cc: Bogomolny, Michael (Federal) <MBogomolny@doc.gov>; Mark Graff - NOAA Federal <mark.graff@noaa.gov>; John Almeida - NOAA Federal <john.almeida@noaa.gov>; Amanda Patterson - NOAA Federal <amanda.patterson@noaa.gov>
Subject: Re: FW: CoA Inst. v. NOAA

Hi Josh,

(b)(5) [redacted]

[redacted]

[redacted]

Thanks!

Stacey

Stacey Nathanson

Attorney-Advisor

NOAA Office of the General Counsel

Fisheries and Protected Resources Section

Phone: 301-713-9673

Email: Stacey.Nathanson@noaa.gov

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On Fri, Mar 9, 2018 at 11:55 AM, Kolsky, Joshua (USADC) <Joshua.Kolsky@usdoj.gov> wrote:

> (b)(5) [redacted].
>
> Thanks,
>
> Josh
>
> ---
>
> **From:** Ryan Mulvey [mailto:ryan.mulvey@causeofaction.org]
> **Sent:** Friday, March 9, 2018 4:21 AM
> **To:** Kolsky, Joshua (USADC) <JKOLSKY@usa.doj.gov>
> **Cc:** Eric Bolinder <eric.bolinder@causeofaction.org>
> **Subject:** RE: CoA Inst. v. NOAA
>
> Josh,
>
> Good morning. I hope this email finds you well. Eric and I have a couple of issues we'd like to raise with you concerning NOAA's processing of our FOIA requests.
>
> *First*, with respect to the April 27, 2017 request regarding the retention of Google Chat/Hangout

messages, we are concerned that NOAA has been unable to find anything else pertaining to its relevant policies. All the correspondence released last week dates to 2011, and it does not appear to reflect any final policy decisions. (Even the Google contracts appear to be all drafts.) Although such deliberative information is useful and response to our request, would the agency be willing to attempt to locate more formal and/or more recent records? For example, the CIO memoranda that were previously disclosed in this case do not appear directly on point. Indeed, they only obliquely refer to the agency's policy of not retaining chat messages, and then rely on the FRA itself, rather than any agency electronic message records schedule. Furthermore, we have located at least two different versions of the "NOAA Unified Messaging Service Operational Procedures" handbook through a Google search. One of those—the March 2012 version—was attached to our original request. Is that still in force? Such a handbook would be responsive to our request. Finally, as it appears NOAA (and Commerce) are transitioning to a Capstone approach to email retention—which under the GRS can include chat messages created or received on an email function (like Google Chat)—we wonder whether there's any documents concerning that transition responsive here.

Second, we'd like to share our concern with the use of (b)(6) in the two attached records. I apologize, but I unintentionally changed the file name for one of them, and I don't have ready access to whatever it was originally called by NOAA. It is not apparent to us why all the withheld information is exempt. We would appreciate if the agency could explain its processing of these records, say, by providing the sort of information that would be included in a *Vaughn* index. Besides these two emails, we do not intend to challenge the use of FOIA Exemptions in any other record released thus far.

We look forward to speaking about next week's JSR and the foregoing issues.

Kind regards,

Ryan Mulvey

From: Kolsky, Joshua (USADC) [mailto:Joshua.Kolsky@usdoj.gov]
Sent: Thursday, March 01, 2018 9:41 AM
To: Ryan Mulvey <ryan.mulvey@causeofaction.org>
Cc: Eric Bolinder <eric.bolinder@causeofaction.org>
Subject: RE: CoA Inst. v. NOAA

Okay, thanks.

From: Ryan Mulvey [mailto:ryan.mulvey@causeofaction.org]
Sent: Thursday, March 1, 2018 6:37 AM
To: Kolsky, Joshua (USADC) <JKOLSKY@usa.doj.gov>
Cc: Eric Bolinder <eric.bolinder@causeofaction.org>
Subject: CoA Inst. v. NOAA

Josh,

I just wanted to confirm that we received the final supplemental production from NOAA yesterday. We will be in touch in the coming week to discuss any remaining issues and to schedule a time to discuss the next JSR, which I believe is due on March 16.

Thanks,

Ryan

Ryan P. Mulvey | Counsel

Cause of Action Institute

1875 Eye Street NW, Suite 800

Washington, D.C. 20006

(o) 202.400.2729 / ((b)(6) [redacted]

Ryan.Mulvey@causeofaction.org

Admitted to the practice of law in New York State and the District of Columbia

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