

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

CITIZENS FOR RESPONSIBILITY AND	)	
ETHICS IN WASHINGTON,	)	
	)	
Plaintiff,	)	
	)	
	)	Case No.: 1:07-cv-00365 (RMU)
v.	)	
	)	<b>Judge Ricardo M. Urbina</b>
COUNCIL ON ENVIRONMENTAL	)	
QUALITY	)	
	)	
Defendant.	)	
_____	)	

**JOINT STATUS REPORT**

On January 15, 2009, in a Joint Status Report, the parties informed the Court that they needed additional time to work out certain outstanding issues and anticipated submitting a briefing schedule on March 2, 2009, in the event that a briefing schedule should be necessary. Defendant has begun a re-evaluation of its assertion of the deliberative process privilege for the documents withheld, which needs additional time for the parties to work out the remaining issues and will inform the Court at an undetermined date of whether they intend to seek summary judgment in this case.

1. This action arises under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, as amended, as well as agency FOIA regulations. Defendant has produced more than eleven thousand pages of documents to Plaintiff in response to its FOIA request. Defendant has withheld several thousand pages under FOIA Exemption 5, pursuant to the deliberative process privilege.

2. After defendant produced the three-part preliminary Vaughn Index consisting of 462 pages, plaintiff informed defendant that it was no longer pursuing a number of documents, but sought clarification on others. On January 16, 2009, defendant produced several hundred pages of documents that were partially withheld

3. On January 28, 2009, plaintiff asked the defendant whether it intends to re-examine the documents withheld pursuant to the deliberative process privilege in light of the Presidential Memorandum on the FOIA.

4. On February 20, 2009, defendant informed plaintiff that, as a matter of agency discretion, it is in the process of re-evaluating its assertion of the deliberative process privilege for the documents withheld. Defendant stressed that it could not provide a definitive date to complete the re-evaluation because the agency counsel working on this case recently resigned and the re-examination requires the consultation with several agencies regarding the documents originating from those agencies. Defendant further informed plaintiff that it is working diligently to complete the process and will inform plaintiff whether any further documents will be produced as a result of the re-examination.

5. Defendant has begun the re-examination and has identified several hundred pages of documents for release later this week.

6. After receiving defendant's additional production, plaintiff agrees to make an effort to narrow the scope of the withholdings to those it intends to contest.

7. If the parties cannot agree on the withheld documents, they will then file a Status Report and propose a briefing schedule for their respective motions for summary judgment.

Dated: March 2, 2008

Respectfully submitted,

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