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LOUISA EBERLE (SBN 320803)
louisa.eberle@sierraclub.org
JOSHUA SMITH (*pro hac vice* application to be filed)
joshua.smith@sierraclub.org
SIERRA CLUB ENVIRONMENTAL LAW PROGRAM
2101 Webster Street, Suite 1300
Oakland, CA 94612
Telephone: (415) 977-5765 (Ms. Eberle)
Telephone: (415) 977-5560 (Mr. Smith)
Fax: (510) 208-3140

Attorneys for Plaintiff Sierra Club

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SIERRA CLUB,)	Civil No.
)	
Plaintiff,)	
)	COMPLAINT FOR
v.)	DECLARATORY AND
)	INJUNCTIVE RELIEF
UNITED STATES DEPARTMENT OF THE)	
)	
INTERIOR,)	
)	
Defendant.)	
_____)	

1 Plaintiff Sierra Club, through counsel, alleges as follows:

2 **INTRODUCTION**

3 1. Defendant U.S. Department of the Interior (“DOI”) violated the Freedom of Information
4 Act (“FOIA”), 5 U.S.C. § 552, by failing to produce documents in its possession in response to
5 lawful requests by Sierra Club.

6 2. Sierra Club, the nation’s oldest grassroots environmental organization and a strong
7 supporter and proponent of clean energy sources, sought to further its long-standing interest in
8 government accountability and transparency by filing a FOIA request with DOI on July 1, 2018,
9 seeking documents showing communications between external parties and several “special
10 assistants,” secretaries, and schedulers to DOI officials. That request was intended to obtain
11 communications and educate the public about industry attempts to influence Department of the
12 Interior policy, and the agency’s attempts to open national monuments, wilderness areas, and
13 other public lands to oil, gas, and coal exploration. On or about October 16, 2018, DOI
14 unilaterally closed that FOIA request without producing any documents and without providing a
15 final and complete determination in violation of 5 U.S.C. § 552(a)(6)(A)(i).

16 3. On September 24, 2018, Sierra Club submitted a second FOIA request seeking
17 documents showing communications between a single DOI official and external parties, as well
18 as records of travel expenditures. Despite subsequent inquiries from Sierra Club, on November 6,
19 2018 and January 28, 2019, regarding the status of this request, DOI has been unable to offer a
20 timeline for when the agency will respond to the September 24, 2018 request and has failed to
21 provide any further response.

1 4. On January 22, 2019, Sierra Club sent a third FOIA request to DOI supplementing its
2 July 1, 2018 request, and seeking additional documents showing communications between
3 external parties and twenty “special assistants,” secretaries, and schedulers to DOI officials.

4 5. The January 22, 2019 FOIA request sought to supplement Sierra Club’s prior FOIA
5 requests for external communications and schedules of multiple high-level political appointees at
6 DOI by seeking the external communications and calendars for individuals identified as support,
7 scheduling, or advance staff to those appointees.

8 6. FOIA required DOI to make determinations on Sierra Club’s September 24, 2018 and
9 January 22, 2019 requests on or about October 22, 2018 and February 20, 2019, respectively, and
10 to produce responsive documents promptly thereafter.

11 7. DOI ignored the deadlines required by FOIA and still has not made determinations on
12 Sierra Club’s requests, nor produced any documents, as FOIA required it to do. In doing so, DOI
13 has violated the law.

14 8. Sierra Club brings this lawsuit to hold DOI accountable, and to respectfully request that
15 the Court order DOI to produce the external communications, schedules, and travel expenditure
16 records requested.

17 9. During former-DOI Secretary Ryan Zinke’s tenure, the agency attempted to slash the size
18 of national monuments, open vast swaths of the coastline and wilderness areas, including within
19 the Arctic, Gulf of Mexico, and Atlantic regions to oil and gas drilling, eliminate former
20 President Barack Obama’s ban on coal mining on federal lands, and cut protections for
21 endangered species to make way for private development on public lands. These activities are of
22 significant public interest and concern, making timely disclosure imperative here. Because key
23 DOI staff involved in agency decision-making, including the Acting Administrator, appear to
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1 have strong industry ties, it is critical that the public be able to understand how the agency was
2 influenced in these matters, both before and after former-Secretary Zinke's departure. Moreover,
3 the confirmation process is currently underway for Acting Secretary of the Interior David
4 Bernhardt to take over as Secretary of DOI. The external communications and calendars of his
5 support staff (including special assistants, schedulers, and other advisors) will provide additional
6 context and insight into how Acting Secretary Bernhardt may be influenced in these matters and
7 how effective he may be as Zinke's replacement.

8
9 **JURISDICTION, VENUE, AND INTRADISTRICT ASSIGNMENT**

10 10. This Court has jurisdiction over this matter pursuant to 5 U.S.C. § 552(a)(4)(B)
11 and 28 U.S.C. § 1331.

12 11. Venue is proper in this Court under 5 U.S.C. § 552(a)(4)(B) because Plaintiff
13 Sierra Club has its principal place of business in Oakland, California.

14 12. For the same reason, intradistrict assignment is proper in the Oakland Division.
15 *See* N.D. Cal. L.R. 3-2.

16 **PARTIES**

17 13. Plaintiff Sierra Club is incorporated in the State of California as a Nonprofit
18 Public Benefit Corporation with headquarters in Oakland, California. Sierra Club is the nation's
19 oldest environmental grassroots organization and has more than 790,000 members nationwide.
20 Sierra Club is dedicated to protecting and preserving the natural and human environment, and its
21 purpose is to explore, enjoy, and protect the wild places of the earth; to practice and promote the
22 responsible use of the earth's ecosystems and resources; and to educate and enlist humanity to
23 protect and restore the quality of the natural and human environments. Sierra Club is a leading
24 non-governmental organization seeking to educate and mobilize the public on issues related to
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1 our public lands. In support of those efforts and to further Sierra Club’s long-standing interest in
2 government accountability and transparency, Sierra Club submitted to DOI the FOIA requests at
3 issue in this case.

4 14. Plaintiff brings this action on its own behalf and on behalf of its members.
5 Plaintiff and its members have been and continue to be injured by Defendant’s failure to provide
6 the requested public records within the statutory timeframes mandated by the FOIA. Absent this
7 critical information, Plaintiff cannot advance its mission to educate public about industry
8 attempts to influence Department of the Interior policy, and the agency’s attempts to open
9 national monuments, wilderness areas, and other public lands to oil, gas, and coal exploration.
10 The requested relief will redress these injuries.

11 15. Defendant DOI is an agency of the executive branch of the United States
12 government within the meaning of 5 U.S.C. § 551(1). It has in its possession and control the
13 records sought by Sierra Club and is therefore subject to FOIA under 5 U.S.C. § 552(f).

14
15 **STATUTORY FRAMEWORK**

16 16. FOIA requires that federal agencies promptly release, upon request by a member
17 of the public, documents and records within the possession of the agency, unless a statutory
18 exemption applies. 5 U.S.C. § 552(a)-(b).

19 17. Within twenty business days of an agency’s receipt of a FOIA request, the agency
20 must “determine . . . whether to comply” with the request. 5 U.S.C. § 552(a)(6)(A)(i). The
21 agency must “immediately notify” the requester of “such determination and the reasons
22 therefor.” *Id.* If an agency determines that it will comply with the request, it must “promptly”
23 release responsive, non-exempt records to the requester. 5 U.S.C. § 552(a)(6)(C)(i).

1 18. If the agency fails to comply with the statutory time limits, the requester is
2 deemed to have exhausted her administrative remedies. *Id.* District courts may enjoin an agency
3 from withholding agency records and “order the production of any agency records improperly
4 withheld.” 5 U.S.C. § 552(a)(4)(B).

5 **STATEMENT OF FACTS**

6 **Industry Influence at the Department of the Interior**

7 19. In recent months, the public has watched closely as DOI has elevated private
8 interests at the expense of protections for public lands. During Ryan Zinke’s tenure as Secretary
9 of the Interior, Secretary Zinke and his staff took numerous actions that prioritized private
10 development and extraction of resources at the expense of conserving public lands, communities,
11 and public health. For example, DOI (i) opened nearly all of the U.S. coastline to offshore
12 drilling, including expanding areas in the Gulf and Atlantic regions available for oil and gas-
13 related ecologically-damaging exploration activities; (ii) rescinded the implementation of a rule
14 designed to curb the release of methane, a potent greenhouse gas; (iii) overturned a moratorium
15 on new leases for coal mining on federal land; (iii) recommended dramatic reductions in the size
16 of national monuments such as Bears Ears and Grand Staircase-Escalante in Utah; and
17 (iv) proposed extensive rule changes to gut protections under the Endangered Species Act, as
18 well as an overhaul of a comprehensive plan to protect the greater sage grouse so that much of
19 the bird’s habitat will be open to resource extraction. Despite Secretary Zinke’s departure from
20 DOI, the agency will likely continue this trend of gutting environmental protections, including
21 cutting protections for the greater sage grouse, and facilitating increased extraction of fossil fuels
22 and minerals on public land. For example, under Acting Secretary Bernhardt and during the 35-
23 day partial government shutdown from December 2018 to January 2019, the agency prioritized
24 continuing to accept and process drilling applications from the oil and gas industry.

1 20. In January 2018, public attention focused on DOI in light of the resignation of the
2 majority of the members of the National Parks Service advisory panel, who cited concerns over
3 the direction of policymaking at DOI. In December 2018, DOI resurrected the panel with mainly
4 current or retired business executives, including a California winemaker, a beer distributor in
5 Texas, and three veterans of the real estate and home-building industry. DOI's motivations in
6 making policy decisions are, in short, of intense public interest.

7 21. The links between industry and DOI's current staff are well documented. As a
8 congressional representative, former Secretary Zinke was a champion of the leasing of public
9 lands for mineral extraction. When serving as Secretary, he appeared to be interacting with fossil
10 fuel interests in the course of his official duties; as just one example, his twelve-thousand-dollar
11 charter flight on a charter plane owned by oil and gas executives is now the subject of an
12 investigation by DOI's inspector general. Secretary Zinke departed DOI in December 2018 amid
13 various ethical inquiries, including questions about a land deal in Zinke's hometown. Upon
14 information and belief, because the deal involved an organization run by Zinke's wife and the
15 chairman of fossil-fuel company Halliburton, Acting Inspector General at DOI Mary Kendall
16 opened an investigation in summer 2018 to examine possible ethical violations, including
17 whether any taxpayer resources were used to advance the deal. When Zinke announced his
18 resignation, he tweeted that he could not "justify spending thousands of dollars defending myself
19 and my family against false allegations."

20 22. Acting Secretary of the Interior David Bernhardt previously worked at DOI under
21 George W. Bush; while he was there, connections between DOI and industry were widely
22 reported. After his previous DOI tenure, Acting Secretary Bernhardt worked as a lobbyist on
23 behalf of fossil fuel energy and mining companies. On February 4, 2019, President Trump
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1 announced that he will nominate Acting Secretary Bernhardt to replace former Secretary Zinke
2 as head of DOI. On February 7, 2019, Chair of the House Natural Resources Committee, Raul
3 Grijalva (D-Ariz), and Chair of the Subcommittee on Oversight and Investigations, T.J. Cox (D-
4 Cal), sent a letter to Bernhardt noting that the Acting Secretary's public calendars "are missing
5 important details" such as the attendees at nearly 100 hours of meetings and numerous vague
6 notes like "call" or "external meeting" without further descriptions. The letter also highlights
7 discrepancies between the public calendars of former Secretary Zinke and Acting Secretary
8 Bernhardt, including a failure to list specific attendees, which "raises questions about the intent
9 to hide or manipulate federal records to avoid full disclosure."

10 23. Assistant Secretary of the Interior for Land and Minerals Management Joseph
11 "Joe" Balash is the former Commissioner of the Alaska Department of Natural Resources, and
12 has a long history working for politicians. Since 1998, Balash has worked for the Alaska
13 Legislature, advised Sarah Palin on natural resource policy, permitting, and energy, and most
14 recently, served as Chief of Staff to Alaska Senator Dan Sullivan.

15 24. Chief of Staff to the Secretary Scott Hommel has two decades of experience in
16 state and federal government, as well as work on behalf of military organizations like the
17 National Guard Association of the United States. Hommel served as Chief of Staff to former
18 Secretary Zinke and, on information and belief, continues to serve Acting Secretary Bernhardt.
19 Most recently before DOI, Hommel served as then-Congressman Zinke's Chief of Staff in the
20 House.

21 25. In addition to these high-level political appointees and managers themselves,
22 numerous individuals at DOI may have records relevant to industry influence at DOI because
23 they may have played a key role in setting up meetings and coordinating communication
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1 between industry representatives and high-level DOI staff. Relevant here, the individuals of
2 interest fall into three main categories: (1) managers within the Office of Scheduling and
3 Advance for the Office of the Secretary; (2) schedulers and assistants who support the Secretary
4 of DOI; and (3) miscellaneous other individuals who have served as “advisors” or assistants
5 more broadly within the Office of the Secretary or the Office of the Deputy Secretary.

6 26. In the first category, the following individuals are, or have been, managers within
7 the Office of Scheduling and Advance under the Trump administration:

- 8 a. Director of the Office of Scheduling and Advance Samantha Hebert previously
9 worked for the Mississippi Public Service Commission and as a contractor for the
10 Mississippi Department of Marine Resources. On information and belief, Director
11 Hebert works in the Office of the Secretary.
- 12 b. Former Director of Scheduling and Advance Russel “Rusty” Roddy was
13 previously a presidential appointee in the administrations of Presidents Ronald
14 Reagan, George H.W. Bush, and George W. Bush. He served as the Director until
15 January 2018. While at DOI, Mr. Roddy worked in the Office of the Secretary.
- 16 c. On information and belief, Deputy Director of Scheduling and Advance Leila
17 Getto has created and scheduled meetings for the DOI Secretary. Getto has
18 previously worked for DCI Group, then called DCI Companies, a Republican
19 public relations and lobbying firm, and upon information and belief, for Davis
20 Manafort Inc., Paul Manafort’s consulting company.

21 27. In the second category, the following “special assistants” and schedulers, upon
22 information and belief, directly support, or supported, either the Secretary of DOI or the Deputy
23 Secretary:

- 1 a. Advance Representative Wesley “Luke” Bullock previously worked for numerous
2 politicians, including Rick Perry, Mitt Romney, Scott Brown, and the Texas
3 governor’s office and Agricultural Commissioner. On information and belief,
4 Advance Representative Bullock performs advance and planning duties for the
5 Secretary of DOI.
- 6 b. Special Assistant Natalie Davis previously served as Director of Ohio’s
7 Sportsmen for Trump coalition, worked on the Presidential Inaugural Committee,
8 and held various jobs on the Donald J. Trump for President campaign. On
9 information and belief, Natalie Davis is a “special assistant” to the Secretary of
10 DOI, but the exact nature of her duties is unclear.
- 11 c. Special Assistant Elinor (Renner) Werner previously worked as the Assistant
12 Director for the Young Leaders Program at The Heritage Foundation. On
13 information and belief, she now works as a Special Assistant to the Secretary of
14 DOI.
- 15 d. Special Assistant Caroline Boulton previously worked as a scheduler in then-
16 Congressman Zinke’s Montana Congressional office. On information and belief,
17 she worked as a scheduler for then-Secretary Zinke and still works as an assistant
18 to the Secretary of DOI.
- 19 e. Former Special Assistant Melissa Simpson previously worked on Trump’s
20 presidential campaign in Colorado, for Scott McInnis (R-Co), and served in
21 George W. Bush’s Department of the Interior and the U.S. Department of
22 Agriculture. On information and belief, she worked as an assistant to the
23 Secretary of DOI from early 2017 until July 2017.
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1 f. Former Special Assistant Wadi Yakhour worked for DOI from January 2017 until
2 June 2017 and served as a field consultant for the Trump campaign. On
3 information and belief, while at DOI, Mr. Yakhour worked as a Special Assistant
4 to the Secretary of DOI with scheduling and advance duties.

5 g. Former Special Assistant Nancy Guiden worked for DOI until May 2017 and
6 served as an assistant to the Secretary of DOI. She previously worked as a
7 secretary for Lyn Nofziger, who served as a White House advisor to Presidents
8 Nixon and Reagan.

9 h. Former Special Assistant Ben Keel served as the Oklahoma State Director for
10 Donald J. Trump for President. Mr. Keel served as Special Assistant to the
11 Secretary of DOI until June 2017. The exact nature of his duties while at DOI is
12 unclear.

13 i. Former Special Assistant Amy Mitchell served on the Interior Beachhead Team
14 as a “special assistant” to the Secretary from February to April 2017.

15 j. Former Special Assistant Brendon Quinn resigned from DOI in February 2018.
16 He previously worked for Koch-backed Americans for Prosperity. While at DOI,
17 Mr. Quinn worked as an assistant to the Deputy Secretary of DOI.

18 28. In the third category, the following individuals serve, or served, as “special
19 assistants,” advisors, or schedulers within the broader Office of the Secretary, and on information
20 and belief, these individuals scheduled meets for or attended meetings with the Secretary of DOI
21 or the Deputy Secretary under the Trump administration:

22 a. Senior Advance Representative Holly Lane has worked for various Republican
23 campaigns and in Republican administrations and a project manager at Kyle
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1 Moyer & Co., a Republican consulting and lobbying firm. On information and
2 belief, after working on President Trump's campaign and Inaugural Committee,
3 she has worked as a Senior Advance Representative in the Office of the Secretary.

- 4 b. Special Assistant Nicholas Davis has worked for DOI since he graduated from
5 The Ohio State University in May 2018, where he was president of Ohio State
6 Students for Trump and a member of The Ohio State University College
7 Republicans.
- 8 c. On information and belief, Special Assistant Matthew Dermody works in the
9 Office of the Secretary and has previously worked for Water Strategies, LLC, a
10 lobbying firm.
- 11 d. Advance Representative Aaron Thiele previously worked for then-Congressman
12 Ryan Zinke as his Military Legislative Assistant in the House after working, from
13 2012 to 2015, in Majority Leader Kevin McCarthy's office. On information and
14 belief, Mr. Thiele works in the Office of Congressional and Legislative Affairs.
- 15 e. Advisor Thomas Baptiste works at the Bureau of Land Management and
16 previously served as a senior project director at the Braynard Group, which is,
17 upon information and belief, a consulting firm that has worked for pro-fossil-fuel
18 clients such as Americans for Prosperity and Americans for Tax Reform. On
19 information and belief, Baptiste serves as an "advisor" within the Office of the
20 Secretary and is regularly involved in briefings with industry representatives, but
21 the exact nature of his duties is unclear.
- 22 f. Former Special Assistant Lacey Smethers worked in the Immediate Office of the
23 Secretary of the Interior until March 2017. On information and belief, Ms.
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1 Smethers has attended “political” meetings with Acting Secretary Bernhardt and
2 other high-level DOI appointees.

3
4 September 2018 Sierra Club Requests for
5 DOI External Communications and Travel Expenditures

6 29. Because of the widespread concern that DOI decision-making is unduly
7 influenced by industry representatives motivated by private interests rather than the best interests
8 of the public, and due to reports that Assistant Secretary of the Interior for Land and Minerals
9 Management Joseph Balash was improperly using DOI funds for personal travel, Sierra Club
10 submitted a FOIA request to DOI on September 24, 2018, requesting the following, for the
11 period December 7, 2017 through the date of the agency’s search for responsive records, for
12 Assistant Secretary of the Interior for Land and Minerals Management Joseph “Joe” Balash:

- 13 1. Records of expenditures for all travel to or within Alaska by Assistant Secretary
14 Balash, as well as any DOI staff that accompanied Balash, including travel vouchers,
15 or any other records of travel expenditures that are not included in travel vouchers.
- 16 2. All emails, text messages, faxes, voice mails, and other form of communications
17 from, or to Balash with any person outside of DOI.
- 18 3. All calendars, whether electronic or in paper format, of the DOI Personnel for the
19 above listed time period.

20 *See Exhibit A.*

21 30. The September 24, 2018 request set forth certain definitions and exclusions. It
22 defined the term “person outside of DOI” to mean “**any person** who is **not** an employee within
23 the DOI,” and stated: “You may also specifically exclude from processing and release any
24 records that are publicly available (e.g., through regulations.gov).”
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1 31. Sierra Club submitted the September 24, 2018 request as part of its ongoing
2 national effort to protect our public lands, to promote the transition from fossil fuels to clean
3 energy sources, and to ensure that government resources are used to promote the interests of the
4 public.

5 32. FOIA required DOI to make a final determination upon Sierra Club's September
6 24, 2018 request within twenty working days of the request, which was on or about October 22,
7 2018, and to produce documents responsive to the request immediately thereafter. *See* 5 U.S.C. §
8 13552(a)(6)(A)(i).

9 33. DOI provided an initial acknowledgment of Sierra Club's September 24, 2018
10 FOIA request by phone on September 28, 2018 and asked Counsel for Sierra Club to narrow the
11 scope of the request related to "All emails, text messages, faxes, voice mails, and other forms of
12 communications from or to Joseph "Joe" Balash with any person outside of DOI"

13 34. On October 1, 2018, Counsel for Sierra Club agreed to narrow that portion of its
14 request to all electronic messages to or from e-mail addresses ending with the following domain
15 names: .com, .org, .net, .alaska.gov, .int, and .edu. Sierra Club also narrowed its request "to seek
16 only records that have been preserved in a format facilitating key word searching, and which
17 include any of the following terms: Alaska, Arctic, ASRC, caribou, coastal plain, gas, leasing,
18 Marsh Creek, oil, polar bear, refuge, SAExploration, and seismic."

19 35. After sending the clarifying instructions for narrowing the request on October 1,
20 2018, Sierra Club had no response, and followed up by email on November 6, 2018. On
21 November 8, DOI responded by email stating that DOI had incorrectly logged the clarification as
22 a new request, providing a control number for the request OS-18-001660, and indicating that the
23 acknowledgment letter would be forthcoming. On November 15, 2018, DOI sent an email
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1 acknowledging the request, stating that it had been classified under the “Normal” processing
2 track, and notifying Sierra Club that DOI would take “a 10-workday extension” under 43 C.F.R.
3 § 2.19 because DOI “will need to search for and collect requested records from field facilities or
4 other establishments that are separate from the office processing the request.” Otherwise, DOI
5 stated that Sierra Club “can expect to hear from us promptly regarding the outcome of this
6 search.” DOI did not provide any further information about whether documents would be
7 produced, and when. Counsel for Sierra Club followed up by email on January 28, 2019. DOI
8 responded the same day that, although the agency is “working to complete your request as
9 promptly as we can,” “we cannot provide you a timeline at this point.” DOI has yet to make a
10 final determination on the FOIA response or to produce any responsive documents.

11 36. DOI’s failure to make a final determination in response to Sierra Club’s
12 September 24, 2018 request, or produce documents to the Sierra Club in response to its request,
13 by the October 22, 2018 deadline, is unlawful under FOIA.

14 July 2018 and January 2019 Sierra Club Requests for External
15 Communications of DOI Assistants and Schedulers

16 37. Based on its mission and concerns with DOI, described in more detail above,
17 Sierra Club submitted an initial FOIA request on July 1, 2018, and a supplemental request on
18 January 22, 2019, seeking the following, for the period January 20, 2017 through the date of the
19 agency’s search for responsive records, for a defined set of DOI Personnel:

- 20 1. All emails, text messages, faxes, voice mails, and other form of communications
21 from, or to, the DOI Personnel with any person outside of the U.S. government.
 - 22 2. All calendars, whether electronic or in paper format, of the DOI Personnel for the
23 above listed time period.
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1 3. All sign-in sheets or other records memorializing attendance at any meetings with the
2 DOI Personnel for the above-listed time period at which a person outside of DOI was
3 in attendance.

4 4. All emails, faxes, voicemails, text messages or other forms of communication that
5 have been deleted that fit the above specifications and have been deleted, but remain
6 recoverable in any way.

7 *See Exhibits B and C.*

8 38. The DOI Personnel covered by the January 22, 2019 request are Acting Secretary
9 of the Interior David Bernhardt, Special Assistant Caroline Boulton, Advance Representative
10 Wesley “Luke” Bullock, Special Assistant Natalie Davis, Special Assistant Nicholas Davis,
11 Special Assistant Matthew Dermody, Deputy Director of Scheduling and Advance Leila Getto,
12 former Special Assistant Nancy Guiden, Director of the Office of Scheduling and Advance
13 Samantha Hebert, Chief of Staff Scott Hommel, Special Assistant Ben Keel, Senior Advance
14 Representative Holly Lane, former Special Assistant Amy Mitchell, former Special Assistant
15 Brendan Quinn, former Director of Scheduling and Advance Russel “Rusty” Roddy, Special
16 Assistant Melissa Simpson, Special Assistant Lacey Smethers, Advance Representative Aaron
17 Thiele, Special Assistant Elinor Renner, and Special Assistant Wadi Yakhour.

18 39. Sierra Club’s July 1, 2018 request was intended to obtain communications
19 between DOI staff and industry entities, and to educate public about industry attempts to
20 influence Department of Interior policy, and the agency’s attempts to open national monuments,
21 wilderness areas, and other public lands to oil, gas, and coal exploration. The DOI Personnel
22 covered by the July 1 request are Advisor Thomas Baptiste as well as fifteen out of the twenty
23 DOI Personnel covered by the January 22 request: Special Assistant Caroline Boulton, Advance
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1 Representative Wesley “Luke” Bullock, Special Assistant Natalie Davis, Deputy Director of
2 Scheduling and Advance Leila Getto, former Special Assistant Nancy Guiden, Chief of Staff
3 Scott Hommel, Special Assistant Ben Keel, former Special Assistant Amy Mitchell, former
4 Special Assistant Brendon Quinn, former Director of Scheduling and Advance Russel “Rusty”
5 Roddy, Special Assistant Melissa Simpson, Special Assistant Lacey Smethers, Advance
6 Representative Aaron Thiele, Special Assistant Elinor Renner, and Special Assistant Wadi
7 Yakhour.

8 40. Sierra Club’s counsel communicated by phone with Clarice Julka, the FOIA
9 Officer assigned to the request, on or about July 20, 2018, regarding the request. Julka asked
10 Sierra Club to narrow its request, but Sierra Club’s counsel responded that Sierra Club would not
11 narrow its request and wanted to receive all responsive records. In response, Julka indicated that
12 the request would likely go into the agency’s “voluminous” track. On September 14, 2018,
13 however, DOI provided Sierra Club with a letter acknowledging the request, assigning the
14 request control number OS-2018-01370, and stating that DOI would consider the matter to be
15 administratively closed within twenty working days unless Sierra Club contacted DOI as
16 “quickly as possible” to clarify the request. *See* Exhibit D. The letter did not, however, indicate
17 whether DOI intended to comply with the request, or provide any reasons for refusing to produce
18 the requested documents.

19 41. On or about December 10, 2018, Counsel for Sierra Club contacted DOI
20 regarding the July 1, 2018 request, but was informed that DOI considered the request to be
21 administratively closed, and that the request would need to be resubmitted for response. The
22 FOIA officer for DOI stated that the July 1, 2018 request was closed under 43 C.F.R. § 2.51.
23 DOI, failed to produce any documents responsive to the July 1, 2018 request, and failed to
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1 provide Sierra Club with a final and complete determination, including an explanation of the
2 reasons for closing the request or an advisement of appeal rights, as required by 5 U.S.C. §
3 552(a)(6)(A)(i).

4 42. Sierra Club disputes the validity of the administrative closure, but attempted to
5 submit a supplemental request, including a request for records covering additional DOI
6 Personnel and providing a list of specific domain names, on December 31, 2018, as shown in
7 Exhibit E. Sierra Club received an automatic email response stating that DOI was not accepting
8 any FOIA requests due to the ongoing federal government shutdown. On January 22, 2019,
9 following news reports indicating that DOI was again processing FOIA requests, Sierra Club
10 resubmitted its supplemental request.

11 43. The January 22, 2019 request set forth certain definitions and exclusions. It
12 defined the term “person outside of the U.S. Federal Government” to mean “**any person** who is
13 **not** an employee of the U.S. Federal Government,” including “any person associated with the
14 entities and domain names” provided as an attachment. The request also stated: “You may also
15 specifically exclude from processing and release any records that are publicly available (e.g.,
16 through regulations.gov).”

17 44. Sierra Club submitted the January 22, 2019 request as part of its ongoing national
18 effort to protect our public lands and promote the transition from fossil fuels to clean energy
19 sources. Records of external communications and calendars for high-level DOI and their
20 assistants, schedulers, and advisors will shed light on the numerous industry entities that have
21 exerted significant and potentially improper influence on DOI policies. Sierra Club has
22 submitted numerous similar FOIA requests for communications of high-level staff at the U.S.
23 Environmental Protection Agency and their schedulers. Because the schedulers and assistants
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1 often serve as gatekeepers and control the meetings of high-level agency staff, their
2 communications may provide significant insight into operations at DOI.

3 45. FOIA required DOI to make a final determination upon Sierra Club's request
4 within 20 working days of the request, which was on or about February 20, 2019, and to produce
5 documents responsive to the request immediately thereafter. *See* 5 U.S.C. § 13552(a)(6)(A)(i).

6 46. Sierra Club's counsel communicated by phone with Clarice Julka, the FOIA
7 Officer assigned to the request, on January 24, 2019 about the request. On January 23, 2019,
8 DOI sent an email acknowledging the request, assigning the request tracking number OS-2019-
9 00376, stating that it had been classified under the "Complex" processing track, and notifying
10 Sierra Club that DOI would take "a 10-workday extension" under 43 C.F.R. § 2.19 because DOI
11 "will need to search for and collect requested records from field facilities or other establishments
12 that are separate from the office processing the request." DOI did not provide any further
13 information about whether documents would be produced, and when.

14 47. DOI's failure to make a final determination in response to Sierra Club's January
15 22, 2019 request, or to produce documents to the Sierra Club in response to its requests, by the
16 February 2019 deadline, is unlawful under FOIA.

17 48. DOI's recent activities are of significant public interest and concern, making
18 timely disclosure imperative here. In light of the many recent DOI decisions that appear to
19 privilege resource extraction and other narrow interests over that of the public as a whole, it is
20 critical that the public be able to understand how the agency was influenced in these matters.

FIRST CAUSE OF ACTION

VIOLATION OF FOIA, 5 U.S.C. § 552

Failure to Comply with Mandatory Determination Deadline

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49. Plaintiff re-alleges and incorporates by reference all the foregoing paragraphs in this Complaint as though fully set forth herein. On July 1, 2018, Plaintiff filed a Freedom of Information Act request properly requesting records within DOI's control.

50. Within twenty business days after receipt of a request, the Freedom of Information Act requires the agency make a determination as to whether it will comply with the records request, including providing a notice of rights and the reasons for the determination. 5 U.S.C. § 552(a)(6)(A)(i).

51. The Freedom of Information Act further requires the agency to provide a complete response and "promptly" release the requested agency records. 5 U.S.C. § 552(a)(3)(A).

52. More than twenty business days have passed since DOI received Plaintiff's July 1, 2018 request.

53. DOI has failed to provide Plaintiff with a final and complete determination in violation of the Freedom of Information Act, 5 U.S.C. § 552(a)(6)(A)(i).

54. DOI has failed to produce any documents responsive to Plaintiff's July 1, 2018 request in violation of FOIA, 5 U.S.C. § 552(a)(3)(A).

55. Sierra Club has exhausted the applicable administrative remedies.

56. Sierra Club is entitled to obtain the requested records immediately at no cost.

SECOND CAUSE OF ACTION

VIOLATION OF FOIA, 5 U.S.C. § 552

Failure to Comply with Mandatory Determination Deadline

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57. Plaintiff re-alleges and incorporates by reference all the foregoing paragraphs in this Complaint as though fully set forth herein.

58. On September 24, 2018, Plaintiff filed a Freedom of Information Act request properly requesting records within DOI's control.

59. Within twenty business days after receipt of a request, the Freedom of Information Act requires the agency make a determination as to whether it will comply with the records request, including providing a notice of rights and the reasons for the determination. 5 U.S.C. § 552(a)(6)(A)(i).

60. The Freedom of Information Act further requires the agency to provide a complete response and "promptly" release the requested agency records. 5 U.S.C. § 552(a)(3)(A).

61. More than twenty business days have passed since DOI received Plaintiff's September 24, 2018 request.

62. DOI has failed to provide Plaintiff with a final and complete determination in violation of the Freedom of Information Act, 5 U.S.C. § 552(a)(6)(A)(i).

63. DOI has failed to produce to any documents responsive to Plaintiff's July 1, 2018 request in violation of FOIA, 5 U.S.C. § 552(a)(3)(A).

64. Sierra Club has exhausted the applicable administrative remedies.

65. Sierra Club is entitled to obtain the requested records immediately at no cost.

THIRD CAUSE OF ACTION

VIOLATION OF FOIA, 5 U.S.C. § 552

Failure to Comply with Mandatory Determination Deadline

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66. Plaintiff re-alleges and incorporates by reference all the foregoing paragraphs in this Complaint as though fully set forth herein.

67. On January 22, 2019, Plaintiff filed a Freedom of Information Act request properly requesting records within DOI's control.

68. Within twenty business days after receipt of a request, the Freedom of Information Act requires the agency make a determination as to whether it will comply with the records request, including providing a notice of rights and the reasons for the determination. 5 U.S.C. § 552(a)(6)(A)(i).

69. The Freedom of Information Act further requires the agency to provide a complete response and "promptly" release the requested agency records. 5 U.S.C. § 552(a)(3)(A).

70. More than twenty business days have passed since DOI received Plaintiff's January 22, 2019 request.

71. DOI has failed to provide Plaintiff with a final and complete determination in violation of the Freedom of Information Act, 5 U.S.C. § 552(a)(6)(A)(i).

72. DOI has failed to produce to any documents responsive to Plaintiff's July 1, 2018 request in violation of FOIA, 5 U.S.C. § 552(a)(3)(A).

73. Sierra Club has exhausted the applicable administrative remedies.

74. Sierra Club is entitled to obtain the requested records immediately at no cost.

PRAYER FOR RELIEF

WHEREFORE, Sierra Club respectfully requests that this Court enter judgment against DOI as follows:

1. Declaring that DOI has violated FOIA by failing to make a final determination upon Sierra Club's FOIA requests and by failing to produce non-exempt records responsive to Sierra Club's FOIA requests by the statutory deadlines;
2. Ordering that DOI immediately produce the requested records to Sierra Club;
3. Retaining jurisdiction over this matter to rule on any assertions by DOI that certain records are exempt from disclosure;
4. Ordering DOI to produce an index identifying any documents or parts thereof that it withholds and the basis for the withholdings, in the event that DOI determines that certain records are exempt from disclosure;
5. Awarding Sierra Club its costs and reasonable attorneys' fees; and
6. Granting such other and further relief as the Court deems just and proper.

Dated: March 22, 2019

By:

/s/ Louisa Eberle

Louisa Eberle (SBN 320803)
Sierra Club Environmental Law Program
2101 Webster Street, Suite 1300
Oakland, CA 94612
louisa.eberle@sierraclub.org
Telephone: (415) 977-5753
Fax: (510) 208-3140

Joshua Smith (*pro hac vice* admission pending)
Sierra Club Environmental Law Program
2101 Webster Street, Suite 1300
Oakland, CA 94612
joshua.smith@sierraclub.org
Telephone: (415) 977-5560
Fax: (510) 208-3140

Exhibit A



September 24, 2018

Department of Interior
Office of the Secretary
FOIA Officer Clarice Julka
MS-7328, MIB
1849 C Street, NW
Washington, DC 20240
osfoia@ios.doi.gov

SUBMITTED BY E-MAIL AND U.S. MAIL

Re: Freedom of Information Act request for DOI Records of Travel Expenditures for Assistant Secretary Balash and accompanying DOI Staff, from December 7, 2017 through the present, and for Communications and Calendars; Request for Fee Waiver, “other requester” category

Dear FOIA Officer:

On behalf of the Sierra Club, I am writing to request that the Department of Interior (“DOI”) provide copies of the records described below pursuant to the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), and the DOI regulations at 43 C.F.R. § 2.1, *et seq.* This request is sent to you because you were identified as the proper person to receive such requests. If this request should be directed at another person, please forward this request to that person.

Sierra Club is the nation’s oldest grassroots organization. It has over 780,000 members nationwide, and millions of supporters. Sierra Club is dedicated to the protection and preservation of the natural and human environment. Sierra Club’s purpose is to explore, enjoy and protect the wild places of the earth; to practice and promote the responsible use of the earth’s ecosystems and resources; and to educate and enlist humanity to protect and restore the quality of the natural and human environments.

Sierra Club is a leading non-governmental organization seeking to educate and mobilize the public on issues of industrial discharges of air and water pollutants, development of natural resources, the use of fossil fuels, and the protection of public lands. It has been conducting multiple public campaigns around these issues. This request is made on behalf of those education campaigns, as well as the organization’s long-standing interest in government accountability and transparency.

Records Requested

- Records of expenditures for all travel to or within Alaska by Assistant Secretary of Interior for Land and Minerals Management Joseph “Joe” Balash, as well as any DOI staff that accompanied Assistant Secretary Balash, from December 7, 2017 through the date that the search for records is conducted. The request includes travel vouchers, or any other records of travel expenditures that are not included in travel vouchers, for the period in question.
- All emails, text messages, faxes, voice mails, and other forms of communications from, or to Joseph “Joe” Balash with any person outside of DOI from December 7, 2017 through the date that the search for records is conducted.
- All calendars, whether electronic or in paper format, of Joseph “Joe” Balash for the above listed time period from December 7, 2017 through the date that the search for records is conducted.

“Records” means information of any kind, including writings (handwritten, typed, electronic or otherwise produced, reproduced or stored), letters, memoranda, correspondence, notes, applications, completed forms, studies, reports, reviews, guidance documents, policies, telephone conversations, telefaxes, emails, documents, databases, drawings, graphs, charts, photographs, minutes of meetings, electronic and magnetic recordings of meetings, and any other compilation of data from which information can be obtained. Without limitation, the records requested include records relating to the topics described below at any stage of development, whether proposed, draft, pending, interim, final or otherwise. All of the foregoing are included in this request if they are in the possession of or otherwise under the control of DOI, National Headquarters and all of its Offices, Regions and other subdivisions.

For purposes of this request, the term “person outside of DOI” means **any person** who is **not** an employee within the DOI. You may specifically exclude from processing and release any records that are already publicly available (e.g., through regulations.gov).

This request includes communication related to DOI that is or was on any system or device, computer, phone, smartphone, tablet, email account, cloud, server or other communication system either **personal or business** that is or was owned **or** operated by the DOI Personnel or otherwise established for the purposes of communicating with the DOI Personnel. This request includes all emails or other communications from any **personal** account operated by the DOI Personnel which have been forwarded into a DOI government email account.

This request applies to all email accounts assigned to or operated by the DOI Personnel, whether on an official DOI email address or server or not, that relate to official business of DOI. This request applies to so-called “alias” email accounts that may or may not include the name(s) of the DOI Personnel in the email address.

Format and Delivery of Records

We request that DOI, in responding to this request, comply with all relevant deadlines and other obligations set forth in FOIA. 5 U.S.C. § 552, (a)(6)(A)(i). Please produce the requested records on a rolling basis as they become available to the FOIA officer; at no point should the search for—or deliberation concerning—certain records delay the production of others that the agency has already retrieved and elected to produce.

The Sierra Club prefers electronic copies of all responsive documents. Please send electronic responses to karimah.schoenhut@sierraclub.org.

Fees

As detailed below, Sierra Club requests a waiver of fees. However, please provide the records above irrespective of the status and outcome of your evaluation of Requesters' fee category assertion and fee waiver request. In order to prevent delay in DOI's provision of the requested records, Requesters state that they will, if necessary and under protest, pay fees in accordance with Department of Interior's FOIA regulations. Please consult with us, however, before undertaking any action that would cause the fees to exceed \$250. Such payment will not constitute any waiver of Requesters' right to seek administrative or judicial review of any denial of its fee waiver request and/or rejection of its fee category assertion.

Withheld Documents

If you regard any documents as exempt from required disclosure under FOIA, please exercise your discretion to disclose them nevertheless, keeping in mind that FOIA "is the most prominent expression of a profound national commitment to ensuring an open Government" and that "[a]ll agencies should adopt a presumption in favor of disclosure." President Barack Obama, Memorandum For the Heads of Executive Departments and Agencies: Freedom of Information Act, 74 Fed. Reg. 4, 863 (Jan. 26, 2009).

Should you decide to invoke a FOIA exemption with regard to any of the requested records, please include in your full or partial denial letter sufficient information for the Sierra Club to appeal the denial. To comply with legal requirements, the agency must include the following information:

1. Basic factual material about each withheld item, including the originator, date, length, general subject matter, and location of each item; and
2. Explanations and justifications for denial, including the identification of the category within the governing statutory provision under which the document (or portion thereof) was withheld and a full explanation of how each exemption fits the withheld material.

If you determine that portions of a record requested are exempt from disclosure, please redact the exempt portions and provide the remainder of the record to the Sierra Club.

Request for Waiver of Fees

I respectfully request that you waive all fees in connection with this request as provided by 5 U.S.C. § 552(a)(4)(A)(iii) and 43 C.F.R. §§ 2.45(a), 2.48. Sierra Club is the nation's oldest grassroots organization with more than 3 million members and supporters nationwide. Sierra Club is a leading non-governmental organization seeking to educate and mobilize the public on issues of environmental protection including climate change, fossil fuel energy, clean energy and clean water. Sierra Club has spent years promoting the public interest through the development of policies that protect human health and the environment, and has routinely received fee waivers under FOIA.

FOIA was designed to provide citizens a broad right to access government records. FOIA's basic purpose is to "open agency action to the light of public scrutiny," with a focus on the public's "right to be informed about what their government is up to." *U.S. Dep't of Justice v. Reporters Comm. For Freedom of Press*, 489 U.S. 749, 773-74 (1989) (internal quotation and citations omitted). In order to provide public access to this information, FOIA's fee waiver provision requires that "[d]ocuments shall be furnished without any charge or at a [reduced] charge," if the request satisfies the standard. 5 U.S.C. § 552(a)(4)(A)(iii). The 1986 fee waiver amendments were designed specifically to provide non-profit organizations such as Sierra Club access to government records without the payment of fees. *Ettlinger v. FBI*, 596 F. Supp. 867, 872 (D. Mass. 1984) (fee waiver provision intended "to prevent government agencies from using high fees to discourage certain types of requesters and requests," which are "consistently associated with requests from journalists, scholars, and non-profit public interest groups.").

As explained below, this FOIA request satisfies the factors listed in DOI's governing regulations for waiver or reduction of fees, as well as the requirements of fee waiver under the FOIA statute – that "disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." 5 U.S.C. § 552(a)(4)(A)(iii), *see also* 43 C.F.R. § 2.45.

1. The subject matter of the requested records specifically concerns identifiable "operations and activities of the government."

The requested records relate to the communications, schedules, meetings, and travel expenditure of DOI Personnel, which reflect the activities and work of these personnel on behalf of the agency. By their very definition, the documents concern "identifiable operations or activities of the government."

2. The disclosure of the requested documents would be meaningfully informative and "likely to contribute to an understanding of Federal government operations or activities."

Disclosure of the requested records will allow Sierra Club to convey information to the public about the communications, schedules, and travel expenditure of DOI officials and

personnel, which will reflect their actions, objectives, and priorities, and specifically how outside parties may be influencing them.

Once the requested documents are made available, Sierra Club will analyze them and present its findings to its members and online activists and the general public in a manner that will meaningfully enhance the public's understanding of how the identified DOI official and his staff have been acting and operating. The documents requested will thus be "meaningfully informative" and "likely to contribute" to an understanding of DOI's operations.

The requested records are not otherwise in the public domain and are not accessible other than through a FOIA request. Indeed, the request explicitly excludes those documents already publicly available. Thus, the requested documents provide information that is not already in the public domain and are accordingly likely to meaningfully contribute to public understanding of governmental operations. As discussed further below, the requested records relate to the activities of a DOI official who has long promoted oil and gas development on lands in Alaska. Now that this DOI official is working within the federal agency charged with protecting public lands and the environment, including federal lands in Alaska, his external communications and activities are of significant public concern.

3. The disclosure would contribute to the understanding of the public at large, as opposed to the individual understanding of the requester or a narrow segment of interested persons.

Sierra Club has long-standing experience and expertise in the subject area of the FOIA requests, including issues related to government accountability and transparency, the Clean Air Act, Clean Water Act, climate policy, the protection of the natural environment, public lands, and the development and use of energy resources.

Sierra Club disseminates the information it receives through FOIA requests in a variety of ways, such as: analysis and distribution to the media, distribution through publication and mailing, posting on its website, emailing and list serve distribution to our members across the U.S., and via public meetings and events. Every year the Sierra Club website receives 26,298,200 unique visits and over 30 million page views; on average, the site gets 72,049 visits per day. Sierra Magazine is a bi-monthly magazine with a printed circulation of approximately 650,000 copies. Sierra Club Insider, an electronic newsletter, is sent to nearly 3 million people twice a month. In addition, Sierra Club disseminates information obtained by FOIA requests through comments to administrative agencies, and where necessary, through the judicial system. In the past, Sierra Club has published, posted, or disseminated numerous stories on health, the environment, alternative energy, and the conduct of government officials.¹

¹ For example, Sierra Club recently publicized results of its FOIA requests regarding outside influence on foreign travel at EPA, a story that was picked by the New York Times. Lisa Friedman, Eric Lipton and Kenneth P. Vogel, *Ex-Lobbyist for Foreign Governments Helped Plan Pruitt Trip to Australia*, The New York Times, <https://www.nytimes.com/2018/05/02/climate/DOI-pruitt-australia-travel.html>. Sierra Club also recently publicized the results of its FOIA requests regarding agency job freezes, a story that was picked up by the Washington Post. Alexander Rony, *Trump Admin Policy Leaves 700 CDC*

Sierra Club intends to share the information received from this FOIA request with the public at large, our members, the media and our allies who share a common interest in the operations of the DOI.

Sierra Club unquestionably has the “specialized knowledge” and “ability and intention” to disseminate the information requested in the broad manner outlined above, and to do so in a manner that contributes to the understanding of the “public-at-large.”

4. The disclosure would contribute “significantly” to public understanding of government operations or activities.

As discussed in section (2) above, the records requested will significantly contribute to the public understanding of governmental operations, and activities. Disclosure of the identified DOI official’s travel expenditures, and communications and other interactions with outside parties will significantly enhance the public’s understanding of whether the DOI official in question (Joseph Balash) is advancing the stated mission of the DOI to conserve and manage the nation’s resources, or whether he is advancing another agenda. Joseph Balash has a history of promoting oil and gas interests in his home state of Alaska.² In 2013, Mr. Balash was referred to as one of the “key players on Gov. Sean Parnell’s bill to lower oil taxes.”³ In 2014, while commissioner of the Alaska Department of Natural Resources, Mr. Balash used his position to claim nearly 20,000 acres of the Arctic National Wildlife Refuge to be offered for oil and gas leasing.⁴ He then approved lowering royalty rates on several leases operated by the oil company

Jobs Vacant, The Planet, <http://www.sierraclub.org/planet/2017/05/trump-admin-policies-leave-700-cdc-jobs-vacant>; Lena H. Sun, *Nearly 700 vacancies at CDC because of Trump administration’s hiring freeze*, The Washington Post, https://www.washingtonpost.com/news/to-your-health/wp/2017/05/19/nearly-700-vacancies-at-cdc-because-of-trump-administration-hiring-freeze/?utm_term=.6c2e70d8581e.

² See Jayson O’Neill, “Zinke’s latest industry-friendly pick to join DOI,” Western Values Project Website (Dec. 7, 2017), <https://westernvaluesproject.org/zinkes-latest-industry-friendly-pick-to-join-doi/> (last accessed Sept. 20, 2018).

³ *Id.* (quoting Alexandra Gutierrez, “Parnell Administration Shifts Focus From Oil To Natural Gas,” Alaska Public Radio (May 2, 2013), <https://www.alaskapublic.org/2013/05/02/parnell-administration-shifts-focus-from-oil-to-natural-gas/>); see also Alexandra Gutierrez, “Latest Oil Tax Bill Expected To Cost State Over \$1 Billion,” Alaska Public Radio (Mar. 13, 2013) <https://www.alaskapublic.org/2013/03/13/latest-oil-tax-bill-expected-to-cost-state-over-1-billion/>.

⁴ *Id.* See also Tim Bradner, “State claims 20,000 acres on edge of ANWR,” Alaska Journal of Commerce (Oct. 22, 2014), http://www.alaskajournal.com/business-and-finance/2014-10-22/state-claims-20000-acres-edge-anwr#.W6Pc_U3QbIU (“Alaska is laying claim to a sliver of what the U.S. Fish and Wildlife Service thinks is the Arctic National Wildlife Refuge... A letter sent by the Department of Natural Resources to the U.S. Bureau of Land Management... asks BLM to give a priority conveyance of the lands to the state ... ‘Our hope is that BLM will move

Caelus Energy.⁵ Because of Mr. Balash’s history of favoring oil and gas interests in Alaska over environmental concerns and the general public, his activities—and communications with former employers, oil and gas interests, and other political allies—now that he is operating within DOI, are of great concern to Sierra Club and its members, particularly with regard to public lands in Alaska. The external communications of this DOI official, and his travel expenditures related to Alaska, will significantly contribute to public understanding of his activities.

5. The requester has no commercial interest that would be furthered by the requested disclosure.⁶

Sierra Club has no commercial interest in the requested records. Nor does it have any intention to use these records in any manner that “furthers a commercial, trade, or profit interest” as those terms are commonly understood. Sierra Club is a nonprofit, tax-exempt organization under sections 501(c)(3) and 501(c)(4) of the Internal Revenue Code, and as such has no commercial interest. The requested records will be used for the furtherance of Sierra Club’s mission to inform the public on matters of vital importance to the environment and public health. Sierra Club respectfully requests that DOI waive processing and copying fees pursuant to 5 U.S.C. § 552(a)(4)(A) because the public will be the primary beneficiary of this requested information. In the event that your agency denies a fee waiver, please send a written explanation for the denial. In the event that fees are ultimately assessed, please do not incur expenses beyond \$250 without first contacting our office for explicit authorization.

Opportunity to Provide Clarification

If you require clarification of any aspect of this FOIA records request and fee waiver request, please contact me at karimah.schoenhut@sierraclub.org or 202-548-4584.

Sincerely,



Karimah Schoenhut

quickly to convey the lands so we can offer them for leasing,’ state Natural Resources Commissioner Joe Balash said.”).

⁵ *Id.* See also Elwood Brehmer, “Caelus’ Nuna plan to advance with lower royalty rates,” Alaska Journal of Commerce (Nov. 25, 2014), <http://www.alaskajournal.com/business-and-finance/2014-11-25/caelus-nuna-plan-advance-lower-royalty-rates#.W6PcIU3QbIU>.

⁶ Because Sierra Club has no commercial interest, it is not necessary to consider the final factor for a fee waiver, which compares the magnitude of an identified commercial interest to the public interest in disclosure.

Staff Attorney
Sierra Club
Environmental Law Program
50 F St NW, Eighth Floor
Washington, DC 20001
202-548-4584
karimah.schoenhut@sierraclub.org

Exhibit B



January 22, 2019

VIA EMAIL

Department of the Interior
Office of the Secretary, FOIA Office
1849 C Street, NW, MS-7328
Washington, D.C. 20240
os_foia@ios.doi.gov
(202) 513-0765 - phone
(202) 219-2374 - fax

Re: Freedom of Information Act Request: Office of the Secretary Personnel External Communications

Dear FOIA Officer:

On behalf of the Sierra Club, this is a **supplemental** request for information under the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), and the Department of Interior (“DOI”) regulations at 43 C.F.R. § 2.1, *et seq.* On July 1, 2018, Sierra Club submitted a FOIA request seeking many of the same documents listed below.¹ Sierra Club is **not** withdrawing its July 1, 2018 request.

REQUESTED RECORDS²

Sierra Club requests Records of the following type in the possession, custody, or control of the U.S. Department of Interior (“DOI”) for the time period starting from **January 20, 2017 up through and including the date that you conduct your search for documents:**

¹ See FOIA Request OS-2018-01370 (July 1, 2018).

² “Records” means information of any kind, including writings (handwritten, typed, electronic or otherwise produced, reproduced or stored), letters, memoranda, correspondence, notes, applications, completed forms, studies, reports, reviews, guidance documents, policies, telephone conversations, telefaxes, emails, documents, databases, drawings, graphs, charts, photographs, minutes of meetings, electronic and magnetic recordings of meetings, and any other compilation of data from which information can be obtained. Without limitation, the records requested include records relating to the topics described below at any stage of development, whether proposed, draft, pending, interim, final or otherwise. All of the foregoing are included in this request if they are in the possession of or otherwise under the control of DOI, National Headquarters and all of its Offices, Regions and other subdivisions.

1. All emails, text messages, faxes, voice mails, and other forms of communications from, or to the following individuals in the Office of the Secretary (hereinafter “DOI Personnel”) with **any person outside of the U.S. Federal Government**:
 - a. David Bernhardt
 - b. Caroline Boulton
 - c. Wesley “Luke” Bullock
 - d. Natalie Davis
 - e. Nicholas Davis
 - f. Matthew Dermody
 - g. Leila Getto
 - h. Nancy Guiden
 - i. Samantha Hebert
 - j. Scott Hommel
 - k. Ben Keel
 - l. Holly Lane
 - m. Amy Mitchell
 - n. Brendon Quinn
 - o. Russel “Rusty” Roddy
 - p. Melissa Simpson
 - q. Lacey Smethers
 - r. Aaron Thiele
 - s. Elinor Werner
 - t. Wadi Yakhour
2. All calendars, whether electronic or in paper format, of the DOI Personnel for the above listed time period.
3. All sign-in sheets or other records memorializing attendance at any meetings with the DOI Personnel for the above-listed time period at which a person outside of DOI was in attendance.
4. All emails, faxes, voicemails, texts or other forms of communication that have been deleted which fit the above specifications and which remain recoverable in any way. If fulfilling this specification requires additional time, we would ask that production of documents meeting specifications 1-3 be given priority and processed separately from any potential responsive records to this specification.

For purposes of this request, the term “person outside of the U.S. Federal Government” means **any person** who is **not** an employee of the U.S. Federal Government, including, but not limited to any person associated with the entities and domain names listed in **Attachment A** to this request. You may exclude from processing and release any records that are publicly available (*e.g.*, through regulations.gov).

This request includes communication related to DOI that is or was on any system or device, computer, phone, smartphone, tablet, email account, cloud, server or other communication system either **personal or business** that is or was owned or operated by the DOI Personnel or otherwise established for the purposes of communicating with the DOI Personnel. This request includes all emails or other communications from any **personal** account operated by the DOI Personnel which have been forwarded into a DOI government email account.

This request applies to all email accounts assigned to or operated by the DOI Personnel, whether on an official DOI email address or server or not, that relate to official business of DOI. This request applies to so-called "alias" email accounts that may or may not include the name(s) of the DOI Personnel in the email address.

DUTY TO PRESERVE RECORDS

DOI must preserve all the records requested herein while this FOIA is pending or under appeal. 43 C.F.R. § 2.51; *see also Chambers v. U.S. Dep't of Interior*, 568 F.3d 998, 1004 (D.C. Cir. 2009) ("an agency is not shielded from liability if it intentionally transfers or destroys a document after it has been requested under FOIA or the Privacy Act"). Accordingly, please immediately advise custodians of potentially responsive records that the above records have been requested under FOIA and therefore may not be destroyed.

If any of the requested records are destroyed, the agency and responsible officials are subject to attorney fee awards and sanctions, including fines and disciplinary action. Courts have held federal agencies in contempt for "contumacious conduct" and ordered them to pay plaintiff's costs and fees for destroying "potentially responsive material contained on hard drives and email backup tapes." *Landmark Legal Found. v. DOI*, 272 F.Supp.2d 59, 62 (D.D.C. 2003); *see also Judicial Watch, Inc. v. Dep't of Commerce*, 384 F. Supp. 2d 163, 169 (D.D.C. 2005) (awarding attorneys' fees and costs because, among other factors, agency's "initial search was unlawful and egregiously mishandled and ...likely responsive documents were destroyed and removed"), *aff'd in relevant part*, 470 F.3d 363, 375 (D.C. Cir. 2006) (remanding in part to recalculate attorney fees assessed). In another case, in addition to imposing a \$10,000 fine and awarding attorneys' fees and costs, the court found that an Assistant United States Attorney prematurely "destroyed records responsive to [the] FOIA request while [the FOIA] litigation was pending" and referred him to the Department of Justice's Office of Professional Responsibility. *Jefferson v. Reno*, 123 F. Supp. 2d 1, 6 (D.D.C. 2000).

EXEMPT RECORDS

Should you decide to invoke a FOIA exemption with regard to any of the requested records, please include in your full or partial denial letter sufficient information for the Sierra Club to appeal the denial. To comply with legal requirements, the following information must be included:

1. Basic factual material about each withheld item, including the originator, date, length,

general subject matter, and location of each item; and

2. Explanations and justifications for denial, including the identification of the category within the governing statutory provision under which the document (or portion thereof) was withheld and a full explanation of how each exemption fits the withheld material.

If you determine that portions of the records requested are exempt from disclosure, we request that you segregate the exempt portions and deliver the non-exempt portions of such records to my attention at the address below within the statutory time limit. 5 U.S.C. § 552(b).

FORMAT OF REQUESTED RECORDS

Under FOIA, you are obligated to provide records in the format requested if the record is readily reproducible by the agency in that format. *See, e.g.*, 5 U.S.C. § 552(a)(3)(B). We request that you provide electronic documents individually, and not as batched files. Specifically, for any document stored as Electronically Stored Information (ESI), we request that the document be produced in the native file type. This includes e-mail (whether sent, received or drafted), word-processing files, tables, charts, graphs and database files, electronic calendars, proprietary software files, and spreadsheets. ESI can also be provided in the form of a load file that includes a common file type (TIFF, HTML, PDF) while maintaining access to the native file and its source data, including the ability to keyword search documents.

RECORD DELIVERY

We appreciate a prompt determination on the requested records. As mandated in FOIA, we anticipate a reply within 20 working days. 5 U.S.C. § 552(a)(6)(A)(i). Failure to comply within the statutory timeframe may result in Sierra Club filing an action before the relevant U.S. District Court to ensure timely receipt of the requested materials. You may email or mail copies of the requested records to:

David Abell
david.abell@sierraclub.org
Sierra Club - Environmental Law Program
2101 Webster Street, Suite 1300
Oakland, CA 94612

Please send documents on a rolling basis. DOI's search for—or deliberations concerning—certain records should not delay the production of others that DOI has already retrieved and elected to produce. *See generally* 43 C.F.R. § 2.12 (describing response deadlines).

FEE WAIVER REQUEST

I respectfully request that you waive all fees in connection with this request as provided

by 5 U.S.C. § 552(a)(4)(A)(iii) and 43 C.F.R. §§ 2.45(a), 2.48. Sierra Club is the nation's oldest grassroots organization with more than 3 million members and supporters nationwide. Sierra Club is a leading non-governmental organization seeking to educate and mobilize the public on issues of environmental protection including climate change, fossil fuel energy, clean energy and clean water. Sierra Club has spent years promoting the public interest through the development of policies that protect human health and the environment, and has routinely received fee waivers under FOIA.³

FOIA was designed to provide citizens a broad right to access government records. FOIA's basic purpose is to "open agency action to the light of public scrutiny," with a focus on the public's "right to be informed about what their government is up to." *U.S. Dep't of Justice v. Reporters Comm. For Freedom of Press*, 489 U.S. 749, 773-74 (1989) (internal quotation and citations omitted). In order to provide public access to this information, FOIA's fee waiver provision requires that "[d]ocuments shall be furnished without any charge or at a [reduced] charge," if the request satisfies the standard. 5 U.S.C. § 552(a)(4)(A)(iii). The 1986 fee waiver amendments were designed specifically to provide non-profit organizations such as Sierra Club access to government records without the payment of fees. *Ettlinger v. FBI*, 596 F. Supp. 867, 872 (D. Mass. 1984) (fee waiver provision intended "to prevent government agencies from using high fees to discourage certain types of requesters and requests," which are "consistently associated with requests from journalists, scholars, and non-profit public interest groups.").

As explained below, this FOIA request satisfies the factors listed in DOI's governing regulations for waiver or reduction of fees, as well as the requirements of fee waiver under the FOIA statute – that "disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." 5 U.S.C. § 552(a)(4)(A)(iii), *see also* 43 C.F.R. § 2.45.

1. The subject matter of the requested records specifically concerns identifiable "operations and activities of the government."

The requested records relate to the communications, schedules, and meetings of DOI Personnel, which reflect the activities and work of these personnel on behalf of the agency. By their very definition, the documents concern "identifiable operations or activities of the government."

³ For recent examples, *see* FOIA Request Reference No. DOI-HQ-2017-2172 (fee letter waiver received Jan. 9, 2017); FOIA Request Reference No. DOI-HQ-2017-008402 (fee letter waiver received June 26, 2007); FOIA Request Reference No. DOI-HQ-2017-008571 & DOI-HQ-2017-008581 (fee letter waiver received June 27, 2017); FOIA Request Reference No. DOI-HQ-2017-008568 (fee letter waiver received June 28, 2017).

2. The disclosure of the requested documents would be meaningfully informative and “likely to contribute to an understanding of Federal government operations or activities.”

Disclosure of the requested records will allow Sierra Club to convey information to the public about the communications and schedules of the DOI Personnel, which will reflect their actions, objectives, and priorities, and specifically how outside parties may be influencing them.

Once the requested documents are made available, Sierra Club will analyze them and present its findings to its members and online activists and the general public in a manner that will meaningfully enhance the public’s understanding of how these DOI Personnel have been acting and operating. The documents requested will thus be “meaningfully informative” and “likely to contribute” to an understanding of DOI’s operations.

The requested records are not otherwise in the public domain and are not accessible other than through a FOIA request. Indeed, the request explicitly excludes those documents already publicly available. Thus, the requested documents provide information that is not already in the public domain and are accordingly likely to meaningfully contribute to public understanding of governmental operations. As discussed further below, the requested records relate to the activities of a number of DOI staff who have either long opposed environmental and public health protections, or have been employed by energy industry lobbying organizations that oppose environmental safeguards for public lands. Now that these DOI staff are working within the federal agency charged with protecting public lands and the environment, their external communications and activities are of significant public concern.

3. The disclosure would contribute to the understanding of the public at large, as opposed to the individual understanding of the requester or a narrow segment of interested persons.

Sierra Club has long-standing experience and expertise in the subject area of the FOIA requests, including issues related to government accountability and transparency, the Clean Air Act, Clean Water Act, climate policy, the protection of the natural environment, and the development and use of energy resources.

Sierra Club disseminates the information it receives through FOIA requests in a variety of ways, such as: analysis and distribution to the media, distribution through publication and mailing, posting on its website, emailing and list serve distribution to our members across the U.S., and via public meetings and events. Every year the Sierra Club website receives 26,298,200 unique visits and over 30 million page views; on average, the site gets 72,049 visits per day. Sierra Magazine is a bi-monthly magazine with a printed circulation of approximately 650,000 copies. Sierra Club Insider, an electronic newsletter, is sent to nearly 3 million people twice a month. In addition, Sierra Club disseminates information obtained by FOIA requests through comments to administrative agencies, and where necessary, through the judicial system.

In the past, Sierra Club has published, posted, or disseminated numerous stories health, the environment and alternative energy.⁴

Sierra Club intends to share the information received from this FOIA request with the public at large, our members, the media and our allies who share a common interest in the operations of the DOI.

Sierra Club unquestionably has the “specialized knowledge” and “ability and intention” to disseminate the information requested in the broad manner outlined above, and to do so in a manner that contributes to the understanding of the “public-at-large.”

4. The disclosure would contribute “significantly” to public understanding of government operations or activities.

As discussed in section (2) above, the records requested will significantly contribute to the public understanding of governmental operations, and activities. Disclosure of these DOI Personnel’ communications and other interactions with outside parties will significantly enhance the public’s understanding of whether these DOI Personnel are advancing the stated mission of the DOI to protect public health and the environment, or whether they are advancing another agenda. The majority of these DOI Personnel have a history of vigorously opposing environmental protections, and thus their activities – and communications with their former employers, clients, and other political allies – now that they are operating within the agency, are of great concern to Sierra Club and its members. Moreover, many of these same DOI Personnel also have histories of working and advocating for energy industry interests, and have publicly advocated for the rolling back of public and environmental safeguards associated energy exploration and production, including lobbying against regulations to protect the environment and combat climate change. The external communications of all of these DOI officials will significantly contribute to public understanding of their activities.

5. The requester has no commercial interest that would be furthered by the requested disclosure.⁵

⁴ For example, Sierra Club recently publicized results of its FOIA requests regarding outside influence on foreign travel at EPA, a story that was picked by the New York Times. Lisa Friedman, Eric Lipton and Kenneth P. Vogel, *Ex-Lobbyist for Foreign Governments Helped Plan Pruitt Trip to Australia*, The New York Times, <https://www.nytimes.com/2018/05/02/climate/DOI-pruitt-australia-travel.html>. Sierra Club also recently publicized the results of its FOIA requests regarding agency job freezes, a story that was picked up by the Washington Post. Alexander Rony, *Trump Admin Policy Leaves 700 CDC Jobs Vacant*, The Planet, <http://www.sierraclub.org/planet/2017/05/trump-admin-policies-leave-700-cdc-jobs-vacant>; Lena H. Sun, *Nearly 700 vacancies at CDC because of Trump administration’s hiring freeze*, The Washington Post, https://www.washingtonpost.com/news/to-your-health/wp/2017/05/19/nearly-700-vacancies-at-cdc-because-of-trump-administration-hiring-freeze/?utm_term=.6c2e70d8581e.

Sierra Club has no commercial interest in the requested records. Nor does it have any intention to use these records in any manner that “furthers a commercial, trade, or profit interest” as those terms are commonly understood. Sierra Club is a nonprofit, tax-exempt organization under sections 501(c)(3) and 501(c)(4) of the Internal Revenue Code, and as such has no commercial interest. The requested records will be used for the furtherance of Sierra Club’s mission to inform the public on matters of vital importance to the environment and public health.

Sierra Club respectfully requests that DOI waive processing and copying fees pursuant to 5 U.S.C. § 552(a)(4)(A) because the public will be the primary beneficiary of this requested information. In the event that your agency denies a fee waiver, please send a written explanation for the denial. In the event that fees are ultimately assessed, please do not incur expenses beyond \$250 without first contacting our office for explicit authorization.

Thank you for your cooperation. If you find that this request is unclear in any way please do not hesitate to call me to see if I can clarify the request or otherwise expedite and simplify your efforts to comply. I can be reached at (415) 977-5560 or by email at joshua.smith@sierraclub.org.



Joshua Smith
Senior Attorney
Sierra Club Environmental Law Program
2101 Webster Street, Suite 1300
Oakland, CA 94602
(415) 977-5560
joshua.smith@sierraclub.org

⁵ Because Sierra Club has no commercial interest, it is not necessary to consider the final factor for a fee waiver, which compares the magnitude of an identified commercial interest to the public interest in disclosure.

ATTACHMENT A

ORGANIZATION / INDIVIDUAL	DOMAIN
Advanced Energy Economy	Aee.net
AEP Energy	Aepenergy.com
Ag America Caucus Leadership	ouragfuture.com
AGC Leadership Conference	agc.org
Alabama Coal Association	alcoal.com
Alabama Farm Federation	alfafarmers.org
Alabama Power	alabamapower.com
Alaska Miners Association	alaskaminers.org
Alliance Coal, LLC	arlp.com
Alliance to Restore Our Waterways	
America Rising	americarisingpac.org ; arsquared.org
American Association of Railroads	aar.org/
American Coal Council	americancoalcouncil.org
American Coalition for Clean Coal Electricity	americaspower.org
American Electric Power (AEP)	aep.com
American Energy Alliance	Americanenergyalliance.org
American Exploration & Mining Association	miningamerica.org
American Exploration & Production Council (AXPC)	axpc.us
American Farm Bureau Federation	fb.org
American Forest & Paper Association	afandpa.org
American Foundry Association	afsinc.org
American Foundry Society	afsinc.org
American Fuel & Petrochemical Manufacturers	afpm.org
American Gas Association	aga.org
American Iron and Steel Institute (AISI)	steel.org
American Legislative Exchange Council	Alec.org
American Opportunity Alliance	
American Petroleum Institute	api.org
American Public Power Association	
American Road and Transportation Builders Association (ARTBA)	artba.org
American Wood Council	awc.org
Americans for Prosperity	Americansforprosperity.org
Americans for Tax Reform	atr.org
Andrew Wheeler (pre-EPA)	
Arch Coal, Inc.	archcoal.com
Ardagh	ardaghgroup.com
Arizona Mining Association	azcu.org
Associated Electric Cooperative Inc.	aeci.org
Aurora Cooperative	auroracoop.com
BakerHostetler	bakerlaw.com
Balch Bingham	balch.com
BCIU	bciu.org
Beet Sugar Development Foundation	bsdf-assbt.org
BG Products, Inc.	bgprod.com
Biodiesel Fuels Board	
Biofuels Coalition	governorsbiofuelscoalition.org
BNSF Railway Company	bnsf.com
Boston Herald	bostonherald.com
Bowie Resource Partners	bowieresources.com
BP America	bp.com
Bracewell, LLP	bracewelllaw.com ; bracewell.com
Breitbart News	breitbart.com
Brownstein, Hyatt, Farber, Schreck	

Business Council of New York State	bcnys.org
Caesar Rodney Institute	caesarrodney.org
Canadian Association of Petroleum Producers	capp.ca
Canyon Consolidated Resources	consolidatedresources.com
CEMEX	cemexusa.com
CGCN Group	Cqcn.com
Chemours	chemours.com
Chesapeake Bay Commission	chesbay.us
Ciner Wyoming LLC	ciner.us.com
Cloud Peak Energy, Inc.	cloudpeakenergy.com
CNX Coal Resources	cnxlp.com
Colorado Livestock Association (CLA)	coloradolivestock.org
Colorado Mining Association	coloradomining.org
Commerce Lexington	commercelexington.com
Commonwealth Agri-Energy, LLC	commonwealthagrienergy.com
Competitive Enterprise Institute	cei.org
Congressional Coal Caucus	
Congressional Western Caucus	westerncaucus.house.gov
Conservative Action Project	conservativeactionproject.com
CONSOL Energy Inc.	consolenergy.com
Continental Resources, Inc.	contres.com
Contura Energy	conturaenergy.com
Cooperative Generation and Transmission	
Corn Refiners Association	corn.org
Count on Coal	Countoncoal.org
CountryMark	countrymark.com
Crowell & Moring, LLP	crowell.com
Cummins	cummins.com
David Ross	
Domestic Energy Producers Alliance (DEPA)	depausa.org
Dow Chemical	dow.com
Duke Energy	duke-energy.com
Dupont	dupont.com
Dynegy Inc.	dynegy.com
Eastman Chemical Company	eastman.com
ECOS	ecos.com
Edison Electric Institute	Eei.org
El Dorado Holdings	eldoradoholdings.net
Electric Power Research Institute	epri.com
Enbridge, Inc.	enbridge.com/
Environmental Policy American Public Power Association	publicpower.org
Exxon Mobil Chemical Company	exxonmobilchemical.com
Family Research Council	frc.org
First Energy	firstenergycorp.com
Florida Cattlemen's Association (FCA)	floridacattlemen.org
Florida Municipal Electric Association	publicpower.com
Florida Sugar Industry (FSI)	sugarcaneleague.org
Fox News	foxnews.com
Free Beacon	freebeacon.com
Frontier Water Systems	frontierwater.com
Fuels America Coalition	fuelsamerica.org
General Electric	ge.com
General Motors	gm.com
George Mason University	Gmu.edu
Georgia Mining Association	georgiamining.org
Grain Processing Corporation	grainprocessing.com
Green Sports Alliance	greensportsalliance.org
Growth Energy	growthenergy.org

Gully Branch Tree Farm	
Harvey Mine	
Healthy Partners Group	healthpartners.com
Heartland Institute	heartland.org
Hino Motors Manufacturing USA, Inc	hmmusa.com
Holland and Hart	hollandhart.com
HollyFrontier Corporation (HFC)	hollyfrontier.com
Honeywell	honeywell.com
Hunton & Williams LLP	hunton.com
Idaho Cattle Association (ICA)	idahocattle.org
Idaho Mining Association	idahomining.org
Illinois Beef Association (IBA)	illinoisbeef.com
Illinois Coal Association	ilcoalassn.com
Independent Petroleum Association of America	ipaa.org
Independent Power Producers of New York	ipny.org
Indiana Coal Council, Inc.	indianacoal.com
Industrial Energy Consumers of America	ieca-us.com
Industry of Southeast Texas	http://isetx.org/
Infowars	Infowars.com
Institute for Energy Research	instituteforenergyresearch.org
International Association of Drilling Contractors	iadc.org
International Dairy Foods Association	idfa.org
International Paper	internationalpaper.com
Interstate Oil and Gas Compact Commission	iogcc.ok.gov
Intrexon	dna.com
Iowa Association of Business and Industry	iowaabi.org
IPC	ipc.org
Jackson Kelly, LLC	jacksonkelly.com
Jackson Lewis LLP	jacksonlewis.com
Jackson Walker, LLP	Jw.com
Jamestown Associates	jamestownassociates.com
Kansas Farm Bureau	kfb.org
Kansas Livestock Association (KLA)	kla.org
Kentucky Association of Electric Cooperatives	kaec.org
Kentucky Coal Association	kentuckycoal.org
Kern Oil and Refining Co.	kernoil.com
Koch Industries, Inc.	kochind.com
Large Public Power Council	lppc.org
Liberty Mine	nacoal.com
Lignite Energy Council	lignite.com
Little Sioux Corn Processors (LSCP, LLLP)	littlesiouxcornprocessors.com
Louisiana Chemical Association	lca.org
Lower 48, ConocoPhillips Company	conocophillipsuslower48.com
Luminant Energy Co., LLC	Luminant.com
Luminant Mining	luminant.com
Made In America	
Magellan Midstream Partners	magellanlp.com
Manhattan Institute	manhattan-institute.org
Marathon Petroleum Corporation	marathonpetroleum.com
Matthew Leopold	
Maxim Pasik	water-gen.com
Mayer Brown, LLP	mayerbrown.com
Michael Dourson	
Michigan Cattleman's Association (MCA)	micattlemen.org
Midstream Group	midstreamenergygroup.com
Minnesota AgriGrowth Council	agrigrwth.org
Mississippi Cattlemen's Association	mscattlemen.org
Monsanto	monsanto.com

Mosaic Fertilizer, LLC	mosaicco.com
Murray Energy Corporation	ohiovalleycoal.com
National Alliance of Forest Owners (NAFO)	nafoalliance.org
National Association of Home Builders	nahb.org
National Association of Manufacturers	nam.org
National Association of Royalty Owners	naro-us.org
National Biodiesel Board	biodiesel.org
National Carbon Capture Center	nationalcarboncapturecenter.com
National Cattleman's Beef Association (NCBA)	beefusa.org
National Environmental Development Association	nedacap.org
National Lime Association	lime.org
National Mining Association	nma.org
National Rural Electric Cooperative Association	nreca.org
National Rural Water Association	nrwa.org
National Sorghum Producers	sorghumgrowers.com
National Stone, Sand & Gravel Association	nssga.org
National Turfgrass Association	turfresearch.org
National Turkey Federation	eatturkey.com
Nebraska Public Power District	nppd.com
NEC Infrastructure Principals	new.com
NEC Principals	nec.edu
Need to Know Network	ntknetwork.com
Nevada Mining Association	nevadamining.org
New England Power Generators Association	nepga.org
New Mexico Cattle Growers' Association (NMCGA)	nmagriculture.org
New Mexico Federal Lands Council (NMFLC)	nmfederallands.0catch.com
New Mexico Mining Association	nmmining.org
New Mexico Wood Growers Inc. (NMWGI)	manta.com
Newtrient	newtrient.com
Noble Research Institute	noble.org
North American Coal Corp.	nacoal.com
North Carolina Division of Air Quality (DAQ)	deq.nc.gov
North Dakota Association of Rural Electric Cooperatives	ndarec.com
North Dakota Farm Bureau	ndfb.org
Northern Texas Water District	ntmwd.com
NRG Energy	nrq.com
Nuclear Energy Institute	Nei.org
Oglethorpe Power Corporation	opc.com
Ohio Cattlemen's Association (OCA)	ohiocattle.org
Ohio Coal Association	ohiocoal.com
Oklahoma State University	okstate.edu
Oklahoma Association of Electric Cooperatives	oaec.coop
Oklahoma Legislature	oklegislature.gov
Oklahoma Republican Party	okgop.com
Oklahoma State Chamber	okstatechamber.com
Omaha Public Power District (OPPD)	oppd.com
Oregon Cattlemen's Association (OCA)	orcattle.com
Peabody Energy Corporation (Peabody)	peabodyenergy.com
Pebble Limited Partnership	pebblepartnership.com
Pennsylvania Chamber of Business and Industry	pachamber.org
Pennsylvania Coal Alliance	betterwithcoal.com
Perkins Coie, LLC	perkinscoie.com
Phillips 66	phillips66.com
Plains All American Pipeline	plainsallamerican.com
Plant Gaston	
Portland Cement Association	cement.org
Power South	
Prairie State Generating Company, LLC	prairiestateenergycampus.com

Public Lands Council (PLC)	publiclandscouncil.org
Reliable One Resources	reliableoneresources.com
Renewable Fuels Association	ethanolrfa.org
Renewal Energy Group	regi.com
Republican Attorney Generals Association	republicanags.com
RMB Consulting & Research, Inc.	rmb-consulting.com
Rosebud Mining	rosebudmining.com
Rubber Manufacturers Association	ustires.org
Rubicon Global	rubiconglobal.com
Scott McInnis	
Shell	shell.com
Sidley Austin, LLP	sidley.com
Siemens	siemens.com
Small Business Environmental Assistance Program	nationalsbeap.org
Smithfield's Foundation	smithfieldfoods.com
Society of Chemical Manufacturers & Affiliates	socma.com
Southeastern Lumber Manufacturers Association, Inc.	slma.org
Southern Company	southerncompany.com
Southern Crop Production Association	southcrop.org
SSAB Enterprises	ssab.us
State Policy Network	Spn.org
Statoil	statoil.com
Steel Manufacturers Association	steelnet.org
Steptoe & Johnson LLC	steptoe-johnson.com
Sunrise Coal, LLC	Sunrisecoal.com
Syngenta	syngenta.com
Talen Energy	talenergy.com
Tea Party Patriots	teapartypatriots.org
Tennessee Valley Authority	tva.gov
Toxicology Excellence for Risk Assessment	tera.org
Texas Mining and Reclamation Association	tmra.com
Texas Oil and Gas Association	txoga.org
Texas Pipeline Association (TPA)	texaspipelines.com
The American Forest Foundation	forestfoundation.org
The Andersons, Inc.	andersonsinc.com
The Cato Institute	cato.org
The Clean Energy Group	cleanegroup.org
The Coalition for Renewable Natural Gas	rngcoalition.com
The Fertilizer Institute	ffi.org
The Greater Oklahoma City Chamber	okcchamber.com
The Heritage Foundation	Heritage.org
The Livingston Group, LLC	Livingstongroupdc.com
The Washington Times	washingtontimes.com
The Williams Companies	williams.com
Thomas Hill	
TransCanada	transcanada.com/en/
Treated Wood Council	treated-wood.org
Tri-State Generation & Transmission Association	tristategt.org
Trout Unlimited	tu.org
Troutman Sanders, LLP	troutmansanders.com
U.S. Chamber of Commerce	uschamber.com
U.S. Oil & Gas Association	usoga.org
Union Electric Company d/b/a Ameren Missouri	www.ameren.com
Union Pacific	up.com
United Egg Producers	unitedegg.org
Utility Solid Waste Activities Group	uswaq.org
United States Congress	mail.senate.gov; mail.house.gov
United States Steel Corporation	ussteel.com

Uranium Producers	theupa.org
Utah Mining Association	utahmining.org
Utility Air Regulatory Group (UARG)	n/a
Utility Trailer Manufacturing Company	utilitytrailer.com
Valero	valero.com
Venable LLP	venable.com
Veolia	
Virginia Coal & Energy Alliance	virginiacoalenergy.com
Vistra Energy	Vistraenergy.com
VNG.co Inc	vng.co
Walmart	walmart.com
Washington Cattle Feeders Association (WCFA)	wafeeders.org
West Virginia Coal Association	wvcoal.com
Western Growers	wga.com
Whirlpool Corporation	whirlpoolcorp.com
White Stallion Energy	whitestallionenergycenter.com
William Wehrum; Bill Wehrum (pre-EPA)	
Wyoming Mining Association	wyomingmining.org
Xcoal Energy & Resources	xcoal.com

Exhibit C



July 1, 2018

VIA EMAIL

Department of the Interior
Office of the Secretary, FOIA Office
1849 C Street, NW, MS-7328
Washington, D.C. 20240
os_foia@ios.doi.gov
(202) 513-0765 - phone
(202) 219-2374 - fax

Re: Freedom of Information Act Request: Office of the Secretary Personnel External Communications

Dear FOIA Officer:

On behalf of the Sierra Club, I am writing to request that the Department of Interior (“DOI”) provide copies of the records described below pursuant to the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), and the Department of Interior (“DOI”) regulations at 43 C.F.R. § 2.1, *et seq.* This request is sent to you because you were identified as the proper person to receive such requests. If this request should be directed at another person, please forward this request to that person.

Sierra Club is the nation’s oldest grassroots organization. It has 822,000 members and 3 million supporters nationwide. Sierra Club is dedicated to the protection and preservation of the natural and human environment. Sierra Club’s purpose is to explore, enjoy and protect the wild places of the earth; to practice and promote the responsible use of the earth’s ecosystems and resources; and to educate and enlist humanity to protect and restore the quality of the natural and human environments.

Sierra Club is a leading non-governmental organization seeking to educate and mobilize the public on issues of industrial discharges of air and water pollutants, development of natural resources, and the use of fossil fuels. It has been conducting multiple public campaigns around these issues, including educating the public about deep-water drilling and the transportation of fossil fuels. This request is made on behalf of those education campaigns, as well as the organization’s long-standing interest in government accountability and transparency.

REQUESTED RECORDS¹

Sierra Club requests Records of the following type in the possession, custody, or control of the U.S. Department of Interior (“DOI”) for the time period starting from **January 20, 2017 up through and including the date that you conduct your search for documents:**

1. All emails, text messages, faxes, voice mails, and other forms of communications from, or to the following individuals in the Office of the Secretary (hereinafter “DOI Personnel”) with **any person outside of DOI:**
 - a. Scott Hommel
 - b. Caroline Boulton
 - c. Natalie Davis
 - d. Wadi Yakhour
 - e. Amy Mitchell
 - f. Brendon Quinn
 - g. Leila Getto
 - h. Elinor Renner
 - i. Lacey Smethers
 - j. Thomas Baptiste
 - k. Aaron Thiele
 - l. Ben Keel
 - m. Nancy Guiden
 - n. Melissa Simpson
 - o. Russel “Rusty” Roddy
 - p. Wesley “Luke” Bullock
2. All calendars, whether electronic or in paper format, of the DOI Personnel for the above listed time period.
3. All sign-in sheets or other records memorializing attendance at any meetings with the DOI Personnel for the above-listed time period at which a person outside of DOI was in attendance.

¹ “Records” means information of any kind, including writings (handwritten, typed, electronic or otherwise produced, reproduced or stored), letters, memoranda, correspondence, notes, applications, completed forms, studies, reports, reviews, guidance documents, policies, telephone conversations, telefaxes, emails, documents, databases, drawings, graphs, charts, photographs, minutes of meetings, electronic and magnetic recordings of meetings, and any other compilation of data from which information can be obtained. Without limitation, the records requested include records relating to the topics described below at any stage of development, whether proposed, draft, pending, interim, final or otherwise. All of the foregoing are included in this request if they are in the possession of or otherwise under the control of DOI, National Headquarters and all of its Offices, Regions and other subdivisions.

4. All emails, faxes, voicemails, texts or other forms of communication that have been deleted which fit the above specifications and which remain recoverable in any way. If fulfilling this specification requires additional time, we would ask that production of documents meeting specifications 1-3 be given priority and processed separately from any potential responsive records to this specification.

For purposes of this request, the term “person outside of DOI” means **any person** who is **not** an employee within the DOI. You may specifically exclude from processing and release any records that are publicly available (e.g., through regulations.gov).

This request includes communication related to DOI that is or was on any system or device, computer, phone, smartphone, tablet, email account, cloud, server or other communication system either **personal or business** that is or was owned **or** operated by the DOI Personnel or otherwise established for the purposes of communicating with the DOI Personnel. This request includes all emails or other communications from any **personal** account operated by the DOI Personnel which have been forwarded into a DOI government email account.

This request applies to all email accounts assigned to or operated by the DOI Personnel, whether on an official DOI email address or server or not, that relate to official business of DOI. This request applies to so-called “alias” email accounts that may or may not include the name(s) of the DOI Personnel in the email address.

DUTY TO PRESERVE RECORDS

DOI must preserve all the records requested herein while this FOIA is pending or under appeal. 43 C.F.R. § 2.51; *see also Chambers v. U.S. Dep't of Interior*, 568 F.3d 998, 1004 (D.C. Cir. 2009) (“an agency is not shielded from liability if it intentionally transfers or destroys a document after it has been requested under FOIA or the Privacy Act”). Accordingly, please immediately advise custodians of potentially responsive records that the above records have been requested under FOIA and therefore may not be destroyed.

If any of the requested records are destroyed, the agency and responsible officials are subject to attorney fee awards and sanctions, including fines and disciplinary action. Courts have held federal agencies in contempt for “contumacious conduct” and ordered them to pay plaintiff’s costs and fees for destroying “potentially responsive material contained on hard drives and email backup tapes.” *Landmark Legal Found. v. DOI*, 272 F.Supp.2d 59, 62 (D.D.C. 2003); *see also Judicial Watch, Inc. v. Dep't of Commerce*, 384 F. Supp. 2d 163, 169 (D.D.C. 2005) (awarding attorneys’ fees and costs because, among other factors, agency’s “initial search was unlawful and egregiously mishandled and ...likely responsive documents were destroyed and removed”), *aff'd in relevant part*, 470 F.3d 363, 375 (D.C. Cir. 2006) (remanding in part to recalculate attorney fees assessed). In another case, in addition to imposing a \$10,000 fine and awarding attorneys’ fees and costs, the court found that an Assistant United States Attorney prematurely “destroyed records responsive to [the] FOIA request while [the FOIA] litigation was pending” and referred him to the Department of Justice’s Office of Professional Responsibility. *Jefferson v. Reno*, 123 F. Supp. 2d 1, 6 (D.D.C. 2000).

EXEMPT RECORDS

Should you decide to invoke a FOIA exemption with regard to any of the requested records, please include in your full or partial denial letter sufficient information for the Sierra Club to appeal the denial. To comply with legal requirements, the following information must be included:

1. Basic factual material about each withheld item, including the originator, date, length, general subject matter, and location of each item; and
2. Explanations and justifications for denial, including the identification of the category within the governing statutory provision under which the document (or portion thereof) was withheld and a full explanation of how each exemption fits the withheld material.

If you determine that portions of the records requested are exempt from disclosure, we request that you segregate the exempt portions and deliver the non-exempt portions of such records to my attention at the address below within the statutory time limit. 5 U.S.C. § 552(b).

FORMAT OF REQUESTED RECORDS

Under FOIA, you are obligated to provide records in the format requested if the record is readily reproducible by the agency in that format. *See, e.g.*, 5 U.S.C. § 552(a)(3)(B). We request that you provide electronic documents individually, and not as batched files. Specifically, for any document stored as Electronically Stored Information (ESI), we request that the document be produced in the native file type. This includes e-mail (whether sent, received or drafted), word-processing files, tables, charts, graphs and database files, electronic calendars, proprietary software files, and spreadsheets. ESI can also be provided in the form of a load file that includes a common file type (TIFF, HTML, PDF) while maintaining access to the native file and its source data, including the ability to keyword search documents.

RECORD DELIVERY

We appreciate a prompt determination on the requested records. As mandated in FOIA, we anticipate a reply within 20 working days. 5 U.S.C. § 552(a)(6)(A)(i). Failure to comply within the statutory timeframe may result in Sierra Club filing an action before the relevant U.S. District Court to ensure timely receipt of the requested materials. You may email or mail copies of the requested records to:

David Abell
david.abell@sierraclub.org
Sierra Club - Environmental Law Program
2101 Webster Street, Suite 1300
Oakland, CA 94612

Please send documents on a rolling basis. DOI's search for—or deliberations concerning—certain records should not delay the production of others that DOI has already retrieved and elected to produce. *See generally* 43 C.F.R. § 2.12 (describing response deadlines).

FEE WAIVER REQUEST

I respectfully request that you waive all fees in connection with this request as provided by 5 U.S.C. § 552(a)(4)(A)(iii) and 43 C.F.R. §§ 2.45(a), 2.48. Sierra Club is the nation's oldest grassroots organization with more than 3 million members and supporters nationwide. Sierra Club is a leading non-governmental organization seeking to educate and mobilize the public on issues of environmental protection including climate change, fossil fuel energy, clean energy and clean water. Sierra Club has spent years promoting the public interest through the development of policies that protect human health and the environment, and has routinely received fee waivers under FOIA.²

FOIA was designed to provide citizens a broad right to access government records. FOIA's basic purpose is to “open agency action to the light of public scrutiny,” with a focus on the public's “right to be informed about what their government is up to.” *U.S. Dep't of Justice v. Reporters Comm. For Freedom of Press*, 489 U.S. 749, 773-74 (1989) (internal quotation and citations omitted). In order to provide public access to this information, FOIA's fee waiver provision requires that “[d]ocuments shall be furnished without any charge or at a [reduced] charge,” if the request satisfies the standard. 5 U.S.C. § 552(a)(4)(A)(iii). The 1986 fee waiver amendments were designed specifically to provide non-profit organizations such as Sierra Club access to government records without the payment of fees. *Ettlinger v. FBI*, 596 F. Supp. 867, 872 (D. Mass. 1984) (fee waiver provision intended “to prevent government agencies from using high fees to discourage certain types of requesters and requests,” which are “consistently associated with requests from journalists, scholars, and non-profit public interest groups.”).

As explained below, this FOIA request satisfies the factors listed in DOI's governing regulations for waiver or reduction of fees, as well as the requirements of fee waiver under the FOIA statute – that “disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii), *see also* 43 C.F.R. § 2.45.

1. The subject matter of the requested records specifically concerns identifiable “operations and activities of the government.”

² For recent examples, *see* FOIA Request Reference No. DOI-HQ-2017-2172 (fee letter waiver received Jan. 9, 2017); FOIA Request Reference No. DOI-HQ-2017-008402 (fee letter waiver received June 26, 2007); FOIA Request Reference No. DOI-HQ-2017-008571 & DOI-HQ-2017-008581 (fee letter waiver received June 27, 2017); FOIA Request Reference No. DOI-HQ-2017-008568 (fee letter waiver received June 28, 2017).

The requested records relate to the communications, schedules, and meetings of DOI Personnel, which reflect the activities and work of these personnel on behalf of the agency. By their very definition, the documents concern “identifiable operations or activities of the government.”

2. The disclosure of the requested documents would be meaningfully informative and “likely to contribute to an understanding of Federal government operations or activities.”

Disclosure of the requested records will allow Sierra Club to convey information to the public about the communications and schedules of the DOI Personnel, which will reflect their actions, objectives, and priorities, and specifically how outside parties may be influencing them.

Once the requested documents are made available, Sierra Club will analyze them and present its findings to its members and online activists and the general public in a manner that will meaningfully enhance the public’s understanding of how these DOI Personnel have been acting and operating. The documents requested will thus be “meaningfully informative” and “likely to contribute” to an understanding of DOI’s operations.

The requested records are not otherwise in the public domain and are not accessible other than through a FOIA request. Indeed, the request explicitly excludes those documents already publicly available. Thus, the requested documents provide information that is not already in the public domain and are accordingly likely to meaningfully contribute to public understanding of governmental operations. As discussed further below, the requested records relate to the activities of a number of DOI staff who have either long opposed environmental and public health protections, or have been employed by energy industry lobbying organizations that oppose environmental safeguards for public lands. Now that these DOI staff are working within the federal agency charged with protecting public lands and the environment, their external communications and activities are of significant public concern.

3. The disclosure would contribute to the understanding of the public at large, as opposed to the individual understanding of the requester or a narrow segment of interested persons.

Sierra Club has long-standing experience and expertise in the subject area of the FOIA requests, including issues related to government accountability and transparency, the Clean Air Act, Clean Water Act, climate policy, the protection of the natural environment, and the development and use of energy resources.

Sierra Club disseminates the information it receives through FOIA requests in a variety of ways, such as: analysis and distribution to the media, distribution through publication and mailing, posting on its website, emailing and list serve distribution to our members across the

U.S., and via public meetings and events. Every year the Sierra Club website receives 26,298,200 unique visits and over 30 million page views; on average, the site gets 72,049 visits per day. Sierra Magazine is a bi-monthly magazine with a printed circulation of approximately 650,000 copies. Sierra Club Insider, an electronic newsletter, is sent to nearly 3 million people twice a month. In addition, Sierra Club disseminates information obtained by FOIA requests through comments to administrative agencies, and where necessary, through the judicial system. In the past, Sierra Club has published, posted, or disseminated numerous stories health, the environment and alternative energy.³

Sierra Club intends to share the information received from this FOIA request with the public at large, our members, the media and our allies who share a common interest in the operations of the DOI.

Sierra Club unquestionably has the “specialized knowledge” and “ability and intention” to disseminate the information requested in the broad manner outlined above, and to do so in a manner that contributes to the understanding of the “public-at-large.”

4. The disclosure would contribute “significantly” to public understanding of government operations or activities.

As discussed in section (2) above, the records requested will significantly contribute to the public understanding of governmental operations, and activities. Disclosure of these DOI Personnel’ communications and other interactions with outside parties will significantly enhance the public’s understanding of whether these DOI Personnel are advancing the stated mission of the DOI to protect public health and the environment, or whether they are advancing another agenda. The majority of these DOI Personnel have a history of vigorously opposing environmental protections, and thus their activities – and communications with their former employers, clients, and other political allies – now that they are operating within the agency, are of great concern to Sierra Club and its members. Moreover, many of these same DOI Personnel also have histories of working and advocating for energy industry interests, and have publicly advocated for the rolling back of public and environmental safeguards associated energy

³ For example, Sierra Club recently publicized results of its FOIA requests regarding outside influence on foreign travel at EPA, a story that was picked by the New York Times. Lisa Friedman, Eric Lipton and Kenneth P. Vogel, *Ex-Lobbyist for Foreign Governments Helped Plan Pruitt Trip to Australia*, The New York Times, <https://www.nytimes.com/2018/05/02/climate/DOI-pruitt-australia-travel.html>. Sierra Club also recently publicized the results of its FOIA requests regarding agency job freezes, a story that was picked up by the Washington Post. Alexander Rony, *Trump Admin Policy Leaves 700 CDC Jobs Vacant*, The Planet, <http://www.sierraclub.org/planet/2017/05/trump-admin-policies-leave-700-cdc-jobs-vacant>; Lena H. Sun, *Nearly 700 vacancies at CDC because of Trump administration’s hiring freeze*, The Washington Post, https://www.washingtonpost.com/news/to-your-health/wp/2017/05/19/nearly-700-vacancies-at-cdc-because-of-trump-administration-hiring-freeze/?utm_term=.6c2e70d8581e.

exploration and production, including lobbying against regulations to protect the environment and combat climate change. The external communications of all of these DOI officials will significantly contribute to public understanding of their activities.

5. The requester has no commercial interest that would be furthered by the requested disclosure.⁴

Sierra Club has no commercial interest in the requested records. Nor does it have any intention to use these records in any manner that “furthers a commercial, trade, or profit interest” as those terms are commonly understood. Sierra Club is a nonprofit, tax-exempt organization under sections 501(c)(3) and 501(c)(4) of the Internal Revenue Code, and as such has no commercial interest. The requested records will be used for the furtherance of Sierra Club’s mission to inform the public on matters of vital importance to the environment and public health.

Sierra Club respectfully requests that DOI waive processing and copying fees pursuant to 5 U.S.C. § 552(a)(4)(A) because the public will be the primary beneficiary of this requested information. In the event that your agency denies a fee waiver, please send a written explanation for the denial. In the event that fees are ultimately assessed, please do not incur expenses beyond \$250 without first contacting our office for explicit authorization.

Thank you for your cooperation. If you find that this request is unclear in any way please do not hesitate to call me to see if I can clarify the request or otherwise expedite and simplify your efforts to comply. I can be reached at (415) 977-5560 or by email at joshua.smith@sierraclub.org.



Joshua Smith
Senior Attorney
Sierra Club Environmental Law Program
2101 Webster Street, Suite 1300
Oakland, CA 94602
(415) 977-5560
joshua.smith@sierraclub.org

⁴ Because Sierra Club has no commercial interest, it is not necessary to consider the final factor for a fee waiver, which compares the magnitude of an identified commercial interest to the public interest in disclosure.

Exhibit D



United States Department of the Interior

OFFICE OF THE SECRETARY

Washington, DC 20240

IN REPLY REFER TO:
7202.4-OS-2018-01370

September 14, 2018

Via email: joshua.smith@sierraclub.org

Joshua Smith
Senior Attorney
Sierra Club Environmental Law Program
2101 Webster Street, Suite 1300
Oakland, CA 94602

Dear Mr. Smith:

On July 1, 2018, you filed a Freedom of Information Act (FOIA) request seeking the following:

Sierra Club requests Records of the following type in the possession, custody, or control of the U.S. Department of Interior (“DOI”) for the time period starting from January 20, 2017 up through and including the date that you conduct your search for documents:

1. All emails, text messages, faxes, voice mails, and other forms of communications from, or to the following individuals in the Office of the Secretary (hereinafter “DOI Personnel”) with any person outside of DOI:
 - Scott Hommel
 - Caroline Boulton
 - Natalie Davis
 - Wadi Yakhour
 - Amy Mitchell
 - Brendon Quinn
 - Leila Getto
 - Elinor Renner
 - Lacey Smethers
 - Thomas Baptiste
 - Aaron Thiele
 - Ben Keel
 - Nancy Guiden
 - Melissa Simpson

Mr. Joshua Smith

2

- Russel “Rusty” Roddy
 - Wesley “Luke” Bullock
2. All calendars, whether electronic or in paper format, of the DOI Personnel for the above listed time period.
 3. All sign-in sheets or other records memorializing attendance at any meetings with the DOI Personnel for the above-listed time period at which a person outside of DOI was in attendance.
 4. All emails, faxes, voicemails, texts or other forms of communication that have been deleted which fit the above specifications and which remain recoverable in any way. If fulfilling this specification requires additional time, we would ask that production of documents meeting specifications 1-3 be given priority and processed separately from any potential responsive records to this specification.

Your request was received in the Office of the Secretary FOIA office on July 1, 2018, and assigned control number **OS-2018-01370**. Please cite this number in any future communications with our office regarding your request. Please contact us clarifying your request quickly as possible. We are seeking clarification on your request.

According to our regulations, if we do not receive clarification **within 20 workdays** from the date of this letter, we will presume that you are no longer interested in pursuing your request, we will not be able to comply with your request, and we will close our file on it. *See 43 C.F.R. § 2.51(c)*.

The 2007 FOIA amendments created the Office of Government Information Services (OGIS) to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. You may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road - OGIS
College Park, MD 20740-6001
E-mail: ogis@nara.gov
Web: <https://ogis.archives.gov>
Telephone: 202-741-5770
Fax: 202-741-5769
Toll-free: 1-877-684-6448

Please note that using OGIS services does not affect the timing of filing an appeal with the Department’s FOIA & Privacy Act Appeals Officer.

Mr. Joshua Smith

2

In the interim, if you have any questions regarding the status of your request, or any of the issues discussed in this letter, you may contact Cindy Sweeney by phone at 202-513-0765, by fax at 202-219-2374, by e-mail at os_foia@ios.doi.gov or by mail at U.S. Department of the Interior, 1849 C St, N.W., MS-7328 MIB, Washington, D.C. 20240.

You also may seek dispute resolution services from our FOIA Public Liaison, Clarice Julka.

Sincerely,

CLARICE JULKA

Digitally signed by CLARICE
JULKA
Date: 2018.09.14 14:15:16
-04'00'

Clarice Julka
Office of the Secretary
FOIA Officer

Exhibit E



December 31, 2018

VIA EMAIL

Department of the Interior
Office of the Secretary, FOIA Office
1849 C Street, NW, MS-7328
Washington, D.C. 20240
os_foia@ios.doi.gov
(202) 513-0765 - phone
(202) 219-2374 - fax

Re: Freedom of Information Act Request: Office of the Secretary Personnel External Communications

Dear FOIA Officer:

On behalf of the Sierra Club, this is a **supplemental** request for information under the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), and the Department of Interior (“DOI”) regulations at 43 C.F.R. § 2.1, *et seq.* On July 1, 2018, Sierra Club submitted a FOIA request seeking many of the same documents listed below.¹ Sierra Club is **not** withdrawing its July 1, 2018 request.

REQUESTED RECORDS²

Sierra Club requests Records of the following type in the possession, custody, or control of the U.S. Department of Interior (“DOI”) for the time period starting from **January 20, 2017 up through and including the date that you conduct your search for documents:**

¹ See FOIA Request OS-2018-01370 (July 1, 2018).

² “Records” means information of any kind, including writings (handwritten, typed, electronic or otherwise produced, reproduced or stored), letters, memoranda, correspondence, notes, applications, completed forms, studies, reports, reviews, guidance documents, policies, telephone conversations, telefaxes, emails, documents, databases, drawings, graphs, charts, photographs, minutes of meetings, electronic and magnetic recordings of meetings, and any other compilation of data from which information can be obtained. Without limitation, the records requested include records relating to the topics described below at any stage of development, whether proposed, draft, pending, interim, final or otherwise. All of the foregoing are included in this request if they are in the possession of or otherwise under the control of DOI, National Headquarters and all of its Offices, Regions and other subdivisions.

1. All emails, text messages, faxes, voice mails, and other forms of communications from, or to the following individuals in the Office of the Secretary (hereinafter “DOI Personnel”) with **any person outside of the U.S. Federal Government**:
 - a. David Bernhardt
 - b. Caroline Boulton
 - c. Wesley “Luke” Bullock
 - d. Natalie Davis
 - e. Nicholas Davis
 - f. Matthew Dermody
 - g. Leila Getto
 - h. Nancy Guiden
 - i. Samantha Hebert
 - j. Scott Hommel
 - k. Ben Keel
 - l. Holly Lane
 - m. Amy Mitchell
 - n. Brendon Quinn
 - o. Russel “Rusty” Roddy
 - p. Melissa Simpson
 - q. Lacey Smethers
 - r. Aaron Thiele
 - s. Elinor Werner
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2. All calendars, whether electronic or in paper format, of the DOI Personnel for the above listed time period.
3. All sign-in sheets or other records memorializing attendance at any meetings with the DOI Personnel for the above-listed time period at which a person outside of DOI was in attendance.
4. All emails, faxes, voicemails, texts or other forms of communication that have been deleted which fit the above specifications and which remain recoverable in any way. If fulfilling this specification requires additional time, we would ask that production of documents meeting specifications 1-3 be given priority and processed separately from any potential responsive records to this specification.

For purposes of this request, the term “person outside of the U.S. Federal Government” means **any person** who is **not** an employee of the U.S. Federal Government, including, but not limited to any person associated with the entities and domain names listed in **Attachment A** to this request. You may exclude from processing and release any records that are publicly available (*e.g.*, through regulations.gov).

This request includes communication related to DOI that is or was on any system or device, computer, phone, smartphone, tablet, email account, cloud, server or other communication system either **personal or business** that is or was owned or operated by the DOI Personnel or otherwise established for the purposes of communicating with the DOI Personnel. This request includes all emails or other communications from any **personal** account operated by the DOI Personnel which have been forwarded into a DOI government email account.

This request applies to all email accounts assigned to or operated by the DOI Personnel, whether on an official DOI email address or server or not, that relate to official business of DOI. This request applies to so-called "alias" email accounts that may or may not include the name(s) of the DOI Personnel in the email address.

DUTY TO PRESERVE RECORDS

DOI must preserve all the records requested herein while this FOIA is pending or under appeal. 43 C.F.R. § 2.51; *see also Chambers v. U.S. Dep't of Interior*, 568 F.3d 998, 1004 (D.C. Cir. 2009) ("an agency is not shielded from liability if it intentionally transfers or destroys a document after it has been requested under FOIA or the Privacy Act"). Accordingly, please immediately advise custodians of potentially responsive records that the above records have been requested under FOIA and therefore may not be destroyed.

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general subject matter, and location of each item; and

2. Explanations and justifications for denial, including the identification of the category within the governing statutory provision under which the document (or portion thereof) was withheld and a full explanation of how each exemption fits the withheld material.

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Sierra Club unquestionably has the “specialized knowledge” and “ability and intention” to disseminate the information requested in the broad manner outlined above, and to do so in a manner that contributes to the understanding of the “public-at-large.”

4. The disclosure would contribute “significantly” to public understanding of government operations or activities.

As discussed in section (2) above, the records requested will significantly contribute to the public understanding of governmental operations, and activities. Disclosure of these DOI Personnel’ communications and other interactions with outside parties will significantly enhance the public’s understanding of whether these DOI Personnel are advancing the stated mission of the DOI to protect public health and the environment, or whether they are advancing another agenda. The majority of these DOI Personnel have a history of vigorously opposing environmental protections, and thus their activities – and communications with their former employers, clients, and other political allies – now that they are operating within the agency, are of great concern to Sierra Club and its members. Moreover, many of these same DOI Personnel also have histories of working and advocating for energy industry interests, and have publicly advocated for the rolling back of public and environmental safeguards associated energy exploration and production, including lobbying against regulations to protect the environment and combat climate change. The external communications of all of these DOI officials will significantly contribute to public understanding of their activities.

5. The requester has no commercial interest that would be furthered by the requested disclosure.⁵

⁴ For example, Sierra Club recently publicized results of its FOIA requests regarding outside influence on foreign travel at EPA, a story that was picked by the New York Times. Lisa Friedman, Eric Lipton and Kenneth P. Vogel, *Ex-Lobbyist for Foreign Governments Helped Plan Pruitt Trip to Australia*, The New York Times, <https://www.nytimes.com/2018/05/02/climate/DOI-pruitt-australia-travel.html>. Sierra Club also recently publicized the results of its FOIA requests regarding agency job freezes, a story that was picked up by the Washington Post. Alexander Rony, *Trump Admin Policy Leaves 700 CDC Jobs Vacant*, The Planet, <http://www.sierraclub.org/planet/2017/05/trump-admin-policies-leave-700-cdc-jobs-vacant>; Lena H. Sun, *Nearly 700 vacancies at CDC because of Trump administration’s hiring freeze*, The Washington Post, https://www.washingtonpost.com/news/to-your-health/wp/2017/05/19/nearly-700-vacancies-at-cdc-because-of-trump-administration-hiring-freeze/?utm_term=.6c2e70d8581e.

Sierra Club has no commercial interest in the requested records. Nor does it have any intention to use these records in any manner that “furthers a commercial, trade, or profit interest” as those terms are commonly understood. Sierra Club is a nonprofit, tax-exempt organization under sections 501(c)(3) and 501(c)(4) of the Internal Revenue Code, and as such has no commercial interest. The requested records will be used for the furtherance of Sierra Club’s mission to inform the public on matters of vital importance to the environment and public health.

Sierra Club respectfully requests that DOI waive processing and copying fees pursuant to 5 U.S.C. § 552(a)(4)(A) because the public will be the primary beneficiary of this requested information. In the event that your agency denies a fee waiver, please send a written explanation for the denial. In the event that fees are ultimately assessed, please do not incur expenses beyond \$250 without first contacting our office for explicit authorization.

Thank you for your cooperation. If you find that this request is unclear in any way please do not hesitate to call me to see if I can clarify the request or otherwise expedite and simplify your efforts to comply. I can be reached at (415) 977-5560 or by email at joshua.smith@sierraclub.org.



Joshua Smith
Senior Attorney
Sierra Club Environmental Law Program
2101 Webster Street, Suite 1300
Oakland, CA 94602
(415) 977-5560
joshua.smith@sierraclub.org

⁵ Because Sierra Club has no commercial interest, it is not necessary to consider the final factor for a fee waiver, which compares the magnitude of an identified commercial interest to the public interest in disclosure.

ATTACHMENT A

ORGANIZATION / INDIVIDUAL	DOMAIN
Advanced Energy Economy	Aee.net
AEP Energy	Aepenergy.com
Ag America Caucus Leadership	ouragfuture.com
AGC Leadership Conference	agc.org
Alabama Coal Association	alcoal.com
Alabama Farm Federation	alfafarmers.org
Alabama Power	alabamapower.com
Alaska Miners Association	alaskaminers.org
Alliance Coal, LLC	arlp.com
Alliance to Restore Our Waterways	
America Rising	americarisingpac.org ; arsquared.org
American Association of Railroads	aar.org/
American Coal Council	americancoalcouncil.org
American Coalition for Clean Coal Electricity	americaspower.org
American Electric Power (AEP)	aep.com
American Energy Alliance	Americanenergyalliance.org
American Exploration & Mining Association	miningamerica.org
American Exploration & Production Council (AXPC)	axpc.us
American Farm Bureau Federation	fb.org
American Forest & Paper Association	afandpa.org
American Foundry Association	afsinc.org
American Foundry Society	afsinc.org
American Fuel & Petrochemical Manufacturers	afpm.org
American Gas Association	aga.org
American Iron and Steel Institute (AISI)	steel.org
American Legislative Exchange Council	Alec.org
American Opportunity Alliance	
American Petroleum Institute	api.org
American Public Power Association	
American Road and Transportation Builders Association (ARTBA)	artba.org
American Wood Council	awc.org
Americans for Prosperity	Americansforprosperity.org
Americans for Tax Reform	atr.org
Andrew Wheeler (pre-EPA)	
Arch Coal, Inc.	archcoal.com
Ardagh	ardaghgroup.com
Arizona Mining Association	azcu.org
Associated Electric Cooperative Inc.	aeci.org
Aurora Cooperative	auroracoop.com
BakerHostetler	bakerlaw.com
Balch Bingham	balch.com
BCIU	bciu.org
Beet Sugar Development Foundation	bsdf-assbt.org
BG Products, Inc.	bgprod.com
Biodiesel Fuels Board	
Biofuels Coalition	governorsbiofuelscoalition.org
BNSF Railway Company	bnsf.com
Boston Herald	bostonherald.com
Bowie Resource Partners	bowieresources.com
BP America	bp.com
Bracewell, LLP	bracewelllaw.com ; bracewell.com
Breitbart News	breitbart.com
Brownstein, Hyatt, Farber, Schreck	

Business Council of New York State	bcnys.org
Caesar Rodney Institute	caesarrodney.org
Canadian Association of Petroleum Producers	capp.ca
Canyon Consolidated Resources	consolidatedresources.com
CEMEX	cemexusa.com
CGCN Group	Cqcn.com
Chemours	chemours.com
Chesapeake Bay Commission	chesbay.us
Ciner Wyoming LLC	ciner.us.com
Cloud Peak Energy, Inc.	cloudpeakenergy.com
CNX Coal Resources	cnxlp.com
Colorado Livestock Association (CLA)	coloradolivestock.org
Colorado Mining Association	coloradomining.org
Commerce Lexington	commercelexington.com
Commonwealth Agri-Energy, LLC	commonwealthagrienergy.com
Competitive Enterprise Institute	cei.org
Congressional Coal Caucus	
Congressional Western Caucus	westerncaucus.house.gov
Conservative Action Project	conservativeactionproject.com
CONSOL Energy Inc.	consolenergy.com
Continental Resources, Inc.	contres.com
Contura Energy	conturaenergy.com
Cooperative Generation and Transmission	
Corn Refiners Association	corn.org
Count on Coal	Countoncoal.org
CountryMark	countrymark.com
Crowell & Moring, LLP	crowell.com
Cummins	cummins.com
David Ross	
Domestic Energy Producers Alliance (DEPA)	depausa.org
Dow Chemical	dow.com
Duke Energy	duke-energy.com
Dupont	dupont.com
Dynegy Inc.	dynegy.com
Eastman Chemical Company	eastman.com
ECOS	ecos.com
Edison Electric Institute	Eei.org
El Dorado Holdings	eldoradoholdings.net
Electric Power Research Institute	epri.com
Enbridge, Inc.	enbridge.com/
Environmental Policy American Public Power Association	publicpower.org
Exxon Mobil Chemical Company	exxonmobilchemical.com
Family Research Council	frc.org
First Energy	firstenergycorp.com
Florida Cattlemen's Association (FCA)	floridacattlemen.org
Florida Municipal Electric Association	publicpower.com
Florida Sugar Industry (FSI)	sugarcaneleague.org
Fox News	foxnews.com
Free Beacon	freebeacon.com
Frontier Water Systems	frontierwater.com
Fuels America Coalition	fuelsamerica.org
General Electric	ge.com
General Motors	gm.com
George Mason University	Gmu.edu
Georgia Mining Association	georgiamining.org
Grain Processing Corporation	grainprocessing.com
Green Sports Alliance	greensportsalliance.org
Growth Energy	growthenergy.org

Gully Branch Tree Farm	
Harvey Mine	
Healthy Partners Group	healthpartners.com
Heartland Institute	heartland.org
Hino Motors Manufacturing USA, Inc	hmmusa.com
Holland and Hart	hollandhart.com
HollyFrontier Corporation (HFC)	hollyfrontier.com
Honeywell	honeywell.com
Hunton & Williams LLP	hunton.com
Idaho Cattle Association (ICA)	idahocattle.org
Idaho Mining Association	idahomining.org
Illinois Beef Association (IBA)	illinoisbeef.com
Illinois Coal Association	ilcoalassn.com
Independent Petroleum Association of America	ipaa.org
Independent Power Producers of New York	ipny.org
Indiana Coal Council, Inc.	indianacoal.com
Industrial Energy Consumers of America	ieca-us.com
Industry of Southeast Texas	http://isetx.org/
Infowars	Infowars.com
Institute for Energy Research	instituteforenergyresearch.org
International Association of Drilling Contractors	iadc.org
International Dairy Foods Association	idfa.org
International Paper	internationalpaper.com
Interstate Oil and Gas Compact Commission	iogcc.ok.gov
Intrexon	dna.com
Iowa Association of Business and Industry	iowaabi.org
IPC	ipc.org
Jackson Kelly, LLC	jacksonkelly.com
Jackson Lewis LLP	jacksonlewis.com
Jackson Walker, LLP	Jw.com
Jamestown Associates	jamestownassociates.com
Kansas Farm Bureau	kfb.org
Kansas Livestock Association (KLA)	kla.org
Kentucky Association of Electric Cooperatives	kaec.org
Kentucky Coal Association	kentuckycoal.org
Kern Oil and Refining Co.	kernoil.com
Koch Industries, Inc.	kochind.com
Large Public Power Council	lppc.org
Liberty Mine	nacoal.com
Lignite Energy Council	lignite.com
Little Sioux Corn Processors (LSCP, LLLP)	littlesiouxcornprocessors.com
Louisiana Chemical Association	lca.org
Lower 48, ConocoPhillips Company	conocophillipsuslower48.com
Luminant Energy Co., LLC	Luminant.com
Luminant Mining	luminant.com
Made In America	
Magellan Midstream Partners	magellanlp.com
Manhattan Institute	manhattan-institute.org
Marathon Petroleum Corporation	marathonpetroleum.com
Matthew Leopold	
Maxim Pasik	water-gen.com
Mayer Brown, LLP	mayerbrown.com
Michael Dourson	
Michigan Cattleman's Association (MCA)	micattlemen.org
Midstream Group	midstreamenergygroup.com
Minnesota AgriGrowth Council	agrigrwth.org
Mississippi Cattlemen's Association	mscattlemen.org
Monsanto	monsanto.com

Mosaic Fertilizer, LLC	mosaicco.com
Murray Energy Corporation	ohiovalleycoal.com
National Alliance of Forest Owners (NAFO)	nafoalliance.org
National Association of Home Builders	nahb.org
National Association of Manufacturers	nam.org
National Association of Royalty Owners	naro-us.org
National Biodiesel Board	biodiesel.org
National Carbon Capture Center	nationalcarboncapturecenter.com
National Cattleman's Beef Association (NCBA)	beefusa.org
National Environmental Development Association	nedacap.org
National Lime Association	lime.org
National Mining Association	nma.org
National Rural Electric Cooperative Association	nreca.org
National Rural Water Association	nrwa.org
National Sorghum Producers	sorghumgrowers.com
National Stone, Sand & Gravel Association	nssga.org
National Turfgrass Association	turfresearch.org
National Turkey Federation	eatturkey.com
Nebraska Public Power District	nppd.com
NEC Infrastructure Principals	new.com
NEC Principals	nec.edu
Need to Know Network	ntknetwork.com
Nevada Mining Association	nevadamining.org
New England Power Generators Association	nepga.org
New Mexico Cattle Growers' Association (NMCGA)	nmagriculture.org
New Mexico Federal Lands Council (NMFLC)	nmfederallands.0catch.com
New Mexico Mining Association	nmmining.org
New Mexico Wood Growers Inc. (NMWGI)	manta.com
Newtrient	newtrient.com
Noble Research Institute	noble.org
North American Coal Corp.	nacoal.com
North Carolina Division of Air Quality (DAQ)	deq.nc.gov
North Dakota Association of Rural Electric Cooperatives	ndarec.com
North Dakota Farm Bureau	ndfb.org
Northern Texas Water District	ntmwd.com
NRG Energy	nrq.com
Nuclear Energy Institute	Nei.org
Oglethorpe Power Corporation	opc.com
Ohio Cattlemen's Association (OCA)	ohiocattle.org
Ohio Coal Association	ohiocoal.com
Oklahoma State University	okstate.edu
Oklahoma Association of Electric Cooperatives	oaec.coop
Oklahoma Legislature	oklegislature.gov
Oklahoma Republican Party	okgop.com
Oklahoma State Chamber	okstatechamber.com
Omaha Public Power District (OPPD)	oppd.com
Oregon Cattlemen's Association (OCA)	orcattle.com
Peabody Energy Corporation (Peabody)	peabodyenergy.com
Pebble Limited Partnership	pebblepartnership.com
Pennsylvania Chamber of Business and Industry	pachamber.org
Pennsylvania Coal Alliance	betterwithcoal.com
Perkins Coie, LLC	perkinscoie.com
Phillips 66	phillips66.com
Plains All American Pipeline	plainsallamerican.com
Plant Gaston	
Portland Cement Association	cement.org
Power South	
Prairie State Generating Company, LLC	prairiestateenergycampus.com

Public Lands Council (PLC)	publiclandscouncil.org
Reliable One Resources	reliableoneresources.com
Renewable Fuels Association	ethanolrfa.org
Renewal Energy Group	regi.com
Republican Attorney Generals Association	republicanags.com
RMB Consulting & Research, Inc.	rmb-consulting.com
Rosebud Mining	rosebudmining.com
Rubber Manufacturers Association	ustires.org
Rubicon Global	rubiconglobal.com
Scott McInnis	
Shell	shell.com
Sidley Austin, LLP	sidley.com
Siemens	siemens.com
Small Business Environmental Assistance Program	nationalsbeap.org
Smithfield's Foundation	smithfieldfoods.com
Society of Chemical Manufacturers & Affiliates	socma.com
Southeastern Lumber Manufacturers Association, Inc.	slma.org
Southern Company	southerncompany.com
Southern Crop Production Association	southcrop.org
SSAB Enterprises	ssab.us
State Policy Network	Spn.org
Statoil	statoil.com
Steel Manufacturers Association	steelnet.org
Steptoe & Johnson LLC	steptoe-johnson.com
Sunrise Coal, LLC	Sunrisecoal.com
Syngenta	syngenta.com
Talen Energy	talenergy.com
Tea Party Patriots	teapartypatriots.org
Tennessee Valley Authority	tva.gov
Toxicology Excellence for Risk Assessment	tera.org
Texas Mining and Reclamation Association	tmra.com
Texas Oil and Gas Association	txoga.org
Texas Pipeline Association (TPA)	texaspipelines.com
The American Forest Foundation	forestfoundation.org
The Andersons, Inc.	andersonsinc.com
The Cato Institute	cato.org
The Clean Energy Group	cleanegroup.org
The Coalition for Renewable Natural Gas	rngcoalition.com
The Fertilizer Institute	ffi.org
The Greater Oklahoma City Chamber	okcchamber.com
The Heritage Foundation	Heritage.org
The Livingston Group, LLC	Livingstongroupdc.com
The Washington Times	washingtontimes.com
The Williams Companies	williams.com
Thomas Hill	
TransCanada	transcanada.com/en/
Treated Wood Council	treated-wood.org
Tri-State Generation & Transmission Association	tristategt.org
Trout Unlimited	tu.org
Troutman Sanders, LLP	troutmansanders.com
U.S. Chamber of Commerce	uschamber.com
U.S. Oil & Gas Association	usoga.org
Union Electric Company d/b/a Ameren Missouri	www.ameren.com
Union Pacific	up.com
United Egg Producers	unitedegg.org
Utility Solid Waste Activities Group	uswaq.org
United States Congress	mail.senate.gov; mail.house.gov
United States Steel Corporation	ussteel.com

Uranium Producers	theupa.org
Utah Mining Association	utahmining.org
Utility Air Regulatory Group (UARG)	n/a
Utility Trailer Manufacturing Company	utilitytrailer.com
Valero	valero.com
Venable LLP	venable.com
Veolia	
Virginia Coal & Energy Alliance	virginiacoalenergy.com
Vistra Energy	Vistraenergy.com
VNG.co Inc	vng.co
Walmart	walmart.com
Washington Cattle Feeders Association (WCFA)	wafeeders.org
West Virginia Coal Association	wvcoal.com
Western Growers	wga.com
Whirlpool Corporation	whirlpoolcorp.com
White Stallion Energy	whitestallionenergycenter.com
William Wehrum; Bill Wehrum (pre-EPA)	
Wyoming Mining Association	wyomingmining.org
Xcoal Energy & Resources	xcoal.com