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October 28, 2020

Neal Cornett
Attorney at Law

By e-mail to: ncornettlaw@gmail.com

Re: Vermont Public Records Act Request

Dear Attorney Cornett:

I write in response to your Vermont Access to Public Records Act request dated October 13, 2020, which this office received on October 14, 2020. In that request, on behalf of Energy Policy Advocates, you sought:

all electronic correspondence, and any accompanying information (see discussion of SEC Data Delivery Standards, *infra*), including also any attachments, a) sent to or from or which copies (whether as cc: or bcc:) i) Nick Persampieri, ii) Laura Murphy, and/or iii) Alison Stone that, b) includes, *anywhere*, whether in an email address, in the sent, to, from, cc, bcc fields, or the subject fields or body of an email or email "thread", including also in any attachments,

1. i) @kelleydrye.com, ii) @baronbudd.com, iii) @weitzlux.com, and/or iv) @cohenmilstein.com, and
2. i) @ewg.org, ii) @nrdc.org, iii) greensciencepolicy.org, iv) @waterkeeper.org, and/or v) @toxicfreefuture.org,

and (c) is dated from November 1, 2019 through the date you process this request, inclusive.

By letter dated October 19, 2020 this office extended the time limit for its response, and advised that it would further respond on or before October 28.

In response to Request No. 1, please be advised that we are producing one record, a November 26, 2019 email and attached letter. This document is contained in the attached PDF titled Request 1 Record Produced. We have withheld 102 records responsive to Request No. 1 because they are exempt from disclosure pursuant to 1 V.S.A. § 317(c)(4) and/or 1 V.S.A. § 317(c)(14). The withheld records include internal Office of the Attorney General communications which contain work product and/or were made in furtherance of the rendition of professional legal services to the State, communications between the Attorney General's Office and the Attorney General's Offices of other states and other parties with whom the Attorney General's Office has a common interest in pending or anticipated litigation and/or regulatory proceedings, and records which are relevant to litigation to which the State is a party.

In response to Request No. 2, please be advised that we are producing 11 records. These records consist of emails dated March 2, 2020, March 13, 2020, March 31, 2020, April 17, 2020, May 15, 2020, June 23, 2020, July 15, 2020, August 25, 2020, September 25, 2020, October 6, 2020, and October 15, 2020, and attachments. The records are contained in the attached PDF titled Request 2 Records Produced. We have withheld 143 records responsive to Request No. 2 because they are exempt from disclosure pursuant to 1 V.S.A. § 317(c)(3), 1 V.S.A. § 317(c)(4), 1 V.S.A. § 317(c)(14), and/or 1 V.S.A. § 317(c)(15). The withheld records include internal Office of the Attorney General communications and communications between the Office of the Attorney General and an agency of the State of Vermont which contain work product and/or were made in furtherance of the rendition of professional legal services to the State, communications between the Attorney General's Office and the Attorney General's Offices of other states and other parties with whom the Attorney General's Office has a common interest in pending or anticipated litigation and/or regulatory proceedings, records which are relevant to litigation to which the State is a party, and settlement communications between the Attorney General's Office, the Attorney General's Offices of other states, the United States, and a regulated entity concerning a consent decree.

In addition to the records described above, we have also withheld attorney-client, attorney work-product communications related to your public records request.

In conducting our search, a technical issue prevented us from accessing any documents including @nrdc dated prior to December 6, 2019. We continue to seek to resolve this issue, and will update this response if responsive documents dated from November 1, 2019 through December 5, 2019 are identified.

If you feel any information or records have been withheld in error, you may appeal to Deputy Attorney General Joshua Diamond at the following email address: Joshua.Diamond@vermont.gov.

Sincerely,

/s/Nicholas F. Persampieri

Nicholas F. Persampieri
Assistant Attorney General

From:
To:

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george.burbidge@chrisjen.com; fullerlawyer@aol.com; mholt@rumberger.com; AEdelstein@mayerbrown.com; jnadolenco@mayerbrown.com; nsoltman@mayerbrown.com; tein@lewistein.com; adlowell@chadbourne.com; radkins@winston.com; msullivan@ctsclaw.com; sduke@rumberger.com; mlackner@mcguirewoods.com; mark@bkbh.com; bsweat@crowleyfleck.com; kkliebhard@morganlewis.com; gfouts@morganlewis.com; theintz@morganlewis.com; echeverriaj@sullcrom.com; thomas.kelly@dentons.com; kenneth.pfaehler@dentons.com; jdeangel@mcneelaw.com; efleming@bcattorneys.com; kas@sandsattorneys.com; bspann@tcspllc.com; dthomas@tcspllc.com; alicia.stefanski@dinsmore.com; ellie@semmlaw.com; madison.miller@deq.ok.gov; valerie.edge@state.de.us; ricke@cfjustice.org; ghesse@pinetoplayers.com; sjgunn37@gmail.com; sfortier@fortiermikko.com; wilson.buntin@ag.tn.gov; cuzlaw@yourlemon.com; SVahidi@goldbergsegalla.com; david.godwin@squirepb.com; iberg@aftlaw.com; tkellar@aftlaw.com; stevec@davislaw.com; mportlock@stathisleonardis.com; dgallucci@nastlaw.com; jmatusko@nastlaw.com; Steven.Weinmann@capstonelawyers.com; Spencer.Bowman@la.gov; jdeline@kerr-russell.com; cnakahara@agutah.gov; craiganderson@agutah.gov; Annette.Kovar@nebraska.gov; Lisa.C.Jones@ky.gov; victor.danhi@arentfox.com; mgooch@oag.state.va.us; afoster@az.gov; william.pearson@ag.iowa.gov; paul.garrahan@doj.state.or.us; lisa.carlson@deq.idaho.gov; daldonado@justicia.pr.gov; ttownsend@ncdoj.gov; bzagon@vnf.com; chad-harsha@cherokee.org; sarahill@cherokee.org; michael@askmanlaw.com; mross@reedsmith.com; walter@healthlaw.com; rdm@sonosky.net; dsasse@crowell.com; gmcgriff@doj.sc.gov; stacy.a.jacques@wv.gov; kmeisner@moheganmail.com; mgray@sbtribes.com; gavin@hughesdealerlaw.com; mayville@hughesdealerlaw.com; george.wright@potawatomi.org; jbioff@kawerak.org; jckress@thekresslawfirm.com; jef@fortmanlaw.com; sampc01@gmail.com; info@monzionelawoffices.com; rteich@juno.com; annastjohn@gmail.com; tfrank@gmail.com; ctucker@tuckerpollard.com; mattkurilich@gmail.com; tom@crosleylaw.com; steve@field-law.com; mtw@mtwlawyer.com; douglas.winthrop@aporter.com; david@lalawfirm.net; rpost@beckredder.com; anthony.benedict@oag.texas.gov; scott.koschwitz@ct.gov; gordonn1@michigan.gov; kate.gleeson@ks.gov; kay.shirey@atg.wa.gov; Gregg.J.Kinkley@hawaii.gov; brian.bjorkquist@alaska.gov; bsuwe@ag.nv.gov; wildemanaj@doj.state.wi.us; david.terry@oag.texas.gov; maiolson@nd.gov; aaron.love@law.njoag.gov; steven.blair@state.sd.us; Michael.Weiss@dep.state.fl.us; Naomi.Bebo@gric.nsn.us; niccole.king@srpmic-nsn.gov; mhickey@sanmanuel-nsn.gov; general.counsel@isletapueblo.com; jbegay@southernute-nsn.gov; jpeebles@ndnlaw.com; rdickes@gmail.com; sagnolucci@willkie.com; charissa.eichman.ora@colvilletribes.com; bdownes@elk-valley.com; ccacciola@bcfaklaw.com; sara.drescher@fcpotawatomi-nsn.gov; sle@khe.com; johanne.sullivan@srmt-nsn.gov; mpoffenbarger@yuroktribe-nsn.us; juliek@nezperce.org; jb@feinman.com

Subject: 2019.11.26 Rule 1.11 Notice Letter (J. Panuccio - Volkswagen Litigation)
Date: Wednesday, November 27, 2019 3:18:02 PM
Attachments: 2019.11.26 Rule 1.11 Notice Letter (J. Panuccio - Volkswagen Litigation) final.pdf

All –

Please see attached.

Best,

Ilana

Ilana V. Stark

Legal Assistant/Paralegal

BOIES SCHILLER FLEXNER LLP

1401 New York Avenue, N.W.

Washington, DC 20005

(t) +1 202 895 5226

istark@bsflp.com

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Cc: [AEP0005017 USA vs AEPSC Clean Air Act External Email Notices and Reports](#)
Subject: Attached Letter [IMAN-IMANDB.FID755525]
Date: Monday, March 2, 2020 3:51:59 PM
Attachments: [image001.png](#)
[2020-03-02 Notice of Deviation.pdf](#)

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Dear Counsel –

Please see the attached letter. If you have any questions please contact me using the information below.

Best regards,



JANET J HENRY | DEPUTY GENERAL COUNSEL
JJHENRY@AEP.COM | D:614.716.1612
1 RIVERSIDE PLAZA, COLUMBUS, OH 43215

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Cc: *beth.quirk.hendry@kindle-energy.com; *karl.karg@lw.com
Subject: Attached Letter from Gavin Power, LLC
Date: Friday, March 13, 2020 3:01:39 PM
Attachments: [2020-03-13 Notice to EPA re Acid Rail Program Allowances \(67347588 6\).pdf](#)

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Dear Counsel –

Please see the attached letter from Gavin Power, LLC. If you have any questions, please contact me using the information below.

Regards,
Alex

Alexandra N. Farmer

KIRKLAND & ELLIS LLP

609 Main Street, Houston, Texas 77002
T +1 713 836 3368

1301 Pennsylvania Avenue, N.W., Washington, D.C., 20004
T +1 202 389 5185
M +1 202 679 1011

alexandra.farmer@kirkland.com

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Cc: [Flint, Myles \(ENRD\)](#); ["argentieri.sabrina@epa.gov"](mailto:argentieri.sabrina@epa.gov); [Scott Weaver](#); [Holly M Charles](#); [Kathy M Milenkovski](#); [Caitlin Schiebel \(CSchiebel@ohioec.org\)](#); [AEP0005017 USA vs AEPSC Clean Air Act 2018 2019 Email](#)
Subject: 2019 Annual Report [IMAN-IMANDB.FID1031918]
Date: Tuesday, March 31, 2020 4:57:08 PM
Attachments: [image001.png](#)
[2019 Final NSR Annual Report\(1828066.1\).pdf](#)

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Dear counsel and colleagues –

Hoping this finds you all well and working from home to stay safe.

Attached is the Annual Report required by the Consent Decree for 2019.

Please call my cell phone if you have any questions.



JANET J HENRY | DEPUTY GENERAL COUNSEL
JJHENRY@AEP.COM | D:614.716.1612 | C:614.432.1487
1 RIVERSIDE PLAZA, COLUMBUS, OH 43215

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To: [Alexandra Farmer](#); allen.brooks@doj.nh.gov; Brooks.Phillip@epa.gov; [Carol Amend](#); [Courchesne Christophe](#) (Christophe.Courchesne@state.ma.us) (Christophe.Courchesne@state.ma.us); [David M Feinberg](#); [DOJ Case Mgmt Unit](#); [EPA Region 3](#); [EPA Region 5](#); fcourtright@mde.state.md.us; [Gary O Spitznogle](#); [Gregory S. Schultz](#); [Janet J Henry](#); Jason.Dunn@usdoj.gov; [Karl Karg](#); [Kristin Henry](#); [Lisa Morelli](#); lori.dibella@ct.gov; [Margrethe Kearney](#); [Marks, Nancy](#); Michael.Myers@ag.ny.gov; Myles.Flint@usdoj.gov; mzimmerman@mde.state.md.us; [Persampieri, Nick](#); [Sara Breneman](#); [Scott Weaver](#); [Shannon Fisk](#)
Cc: [AEP0005017 USA vs AEPSC Clean Air Act 2018 2019 Email](#)
Subject: Notice of Force Majeure Event [IMAN-IMANDB.FID1031918]
Date: Friday, April 17, 2020 2:57:41 PM
Attachments: [image001.png](#)
[2020-04-17 Notice of Force Majeure Event - Final\(1836981.1\).pdf](#)

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Dear Counsel –

Please see the attached letter giving notice of a force majeure event affecting certain consent decree obligations. If you have any questions, please give me a call or send an email. I am working from home, so my cell number is the best way to reach me.

Best regards,



JANET J HENRY | DEPUTY GENERAL COUNSEL
JJHENRY@AEP.COM | D:614.716.1612 | C:614.432.1487
1 RIVERSIDE PLAZA, COLUMBUS, OH 43215

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To: gospitznogle@aep.com
Cc: Myles.Flint@usdoj.gov; [Bending, Padmavati](#); [Argentieri, Sabrina](#); eescdcopy.enrd@usdoj.gov; jjhenry@aep.com; lori.dibella@ct.gov; fcourtright@mde.state.md.us; mzimmerman@mde.state.md.us; Christophe.courchesne@state.ma.us; Allen.brooks@doj.nh.gov; Lisa.morelli@dol.lps.state.nj.us; Michael.Myers@ag.ny.gov; gschultz@riag.ri.gov; [Persampieri, Nick](#); nmarks@nrdc.org; kristin.henry@sierraclub.org; MKearney@elpc.org; sfisk@earthjustice.org
Subject: United States et al. v. American Electric Power Corporation; US Response to April 17, 2020 Notice of Potential Force Majeure Event
Date: Friday, May 15, 2020 11:07:53 AM
Attachments: [US Response to AEP FM Notice - Rockport - signed 5-15-20.pdf](#)

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Dear Mr. Spitznogle,

I hope this email finds you well. Please find attached the United States response to AEP's April 17, 2020 notice of potential force majeure event at the Rockport Plant.

Thank you,

Sabrina Argentieri
Attorney-Advisor
Office of Enforcement and Compliance Assurance
U.S. Environmental Protect Agency
(202) 564-8953

From: [Janet J Henry](#)
To: denton.loren@epa.gov; [Alexandra Farmer](#); allen.brooks@doj.nh.gov; Brooks.Phillip@epa.gov; [Carol Amend](#); [Courchesne Christophe \(Christophe.Courchesne@state.ma.us\) \(Christophe.Courchesne@state.ma.us\)](mailto:Courchesne.Christophe(Cristophe.Courchesne@state.ma.us)(Christophe.Courchesne@state.ma.us)); [David M Feinberg](#); [DOJ Case Mgmt Unit](#); [EPA Region 3](#); [EPA Region 5](#); fcourtright@mde.state.md.us; [Gary O Spitznogle](#); [Gregory S. Schultz](#); [Janet J Henry](#); Jason.Dunn@usdoj.gov; [Karl Karg](#); [Kristin Henry](#); [Lisa Morelli](#); lori.dibella@ct.gov; [Margrethe Kearney](#); [Marks, Nancy](#); Michael.Myers@ag.ny.gov; [Myles Flint \(Myles.Flnt@usdoj.gov\)](#); mzimmerman@mde.state.md.us; [Persampieri, Nick](#); [Sara Breneman](#); [Scott Weaver](#); [Shannon Fisk](#)
Cc: [Scott Weaver](#); [Tim Kerns](#); [AEP0005017 USA vs AEPSC Clean Air Act 2018 2019 Email](#)
Subject: Attached Letter [IMAN-IMANDB.FID1031918]
Date: Tuesday, June 23, 2020 1:45:05 PM
Attachments: [image001.png](#)
[2020-06-23 Final Letter re Rockport Control Installations\(1877788.1\) \(002\)\(1878149.1\).pdf](#)

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Dear Counsel –

I hope this finds you well, and practicing necessary measures to stay healthy.

Please see the attached letter regarding the completion of the Rockport controls. If you have any questions, please contact Scott Weaver.

Best regards,



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Cc: Denton.Loren@epa.gov; ["argentieri.sabrina@epa.gov"](mailto:argentieri.sabrina@epa.gov); [David J Long](#); [AEP0005017 USA vs AEPSC Clean Air Act 2018 2019 Email](#)
Subject: Attached Letter and NOx Information [IMAN-IMANDB.FID1031918]
Date: Wednesday, July 15, 2020 4:04:54 PM
Attachments: [image001.png](#)
[2020-07-15 Rockport NOx Information Reporting.pdf](#)

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Dear Colleagues,

Please see the attached letter and NOx information for Rockport Plant.

Best regards,



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To: [Courchesne Christophe \(Christophe.Courchesne@state.ma.us\)](#); [Myers, Michael](#); [Persampieri, Nick](#); [DiBella, Lori](#); [mzimmerman@mde.state.md.us](#); [Brooks, Allen](#); [Morelli Lisa - NJ Dept. of Law and Public Safety Division of Law \(lisa.morelli@law.njoag.gov\)](#); [Gregory Schultz](#); [Marks, Nancy](#); [Kristin Henry](#); [Margrethe Kearney](#)
Cc: [Argentieri, Sabrina](#); [Bending, Padmavati](#); [Snyder, Doug](#)
Subject: AEP - 6th Modification
Date: Tuesday, August 25, 2020 5:15:20 PM
Attachments: [ENV ENFORCEMENT-#2925515-v1-AEP_6th Modification with Signatures.PDF](#)

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All,

Wanted to let you know that we have received final approval to file the attached Sixth Joint Modification of the CD. It will be filed as a non-material modification that does not require court approval. I've advised AEP of this and will be filing the document tomorrow morning.

Hope you are all staying safe and healthy.

Best,

Myles

Myles E. Flint, II

Senior Counsel

Environmental Enforcement Section

Environment & Natural Resources Division

U.S. Department of Justice

(o) (202) 307-1859

(c) (202) 532-3377

From: [Janet J Henry](#)
To: allen.brooks@doj.nh.gov; [Carol Amend](#); [Courchesne Christophe \(Christophe.Courchesne@state.ma.us\)](mailto:Courchesne.Christophe@state.ma.us) (Christophe.Courchesne@state.ma.us); fcourtright@mde.state.md.us; [Gregory S. Schultz](#); [Kristin Henry](#); [Lisa Morelli](#); lori.dibella@ct.gov; [Margrethe Kearney](#); Michael.Myers@ag.ny.gov; [Myles Flint \(Myles.Flint@usdoj.gov\)](mailto:Myles.Flint@usdoj.gov); mzimmerman@mde.state.md.us; [Nancy S. Marks \(nmarks@nrdc.org\)](mailto:Nancy.S.Marks@nrdc.org); [Persampieri, Nick](#); [Phillip Brooks \(Brooks.Phillip@epa.gov\)](mailto:Phillip.Brooks@epa.gov); [Sara Breneman](#); [Shannon Fisk](#)
Cc: [Scott Weaver](#); [Jeffrey W Lehman](mailto:Jeffrey.W.Lehman); [Kathy M Milenkovski](#)
Subject: Mobile Source Mitigation Project Plan [IMAN-IMANDB.FID1130108]
Date: Friday, September 25, 2020 5:19:56 PM
Attachments: [image001.png](#)
[2020-09-25 Transit and School Bus Plan Cover letter\(1923871.1\).pdf](#)
[September 2020 Plan - Federal Mitigation Projects - Bus Replacement Plan\(1924693.1\).pdf](#)

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Attached is an initial plan to expend federal mitigation funds to replace school and transit buses, as authorized by the Sixth Joint Modification to the Consent Decree. Please contact Scott Weaver with any questions regarding the plan.

We appreciate the cooperation and assistance of the federal parties and the citizen plaintiffs in promptly reviewing the plan, so we can begin implementation in early 2021.

Best regards,



JANET J HENRY | DEPUTY GENERAL COUNSEL
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Cc: [Bending, Padmavati](#); [Snyder, Doug](#); Myles.Flint@usdoj.gov
Subject: Notification for United States, et al. v. American Electric Power Service Corp., et al. (Consolidated Cases: Civil Action No. C2-99-1250, Civil Action No. C2-99-1182)
Date: Tuesday, October 6, 2020 9:48:17 AM

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Hi All,

I'm not sure if you've heard, but Phill Brooks has moved on and is no longer working for USEPA. We have yet to hire a permanent director of the Air Enforcement Division. In the meantime, please send me all communications and notifications related to this case.

I hope everyone is healthy, safe, and sane!

Sabrina

From: [Janet J Henry](#)
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Subject: NOx Informational Reporting
Date: Thursday, October 15, 2020 10:50:27 AM
Attachments: [image001.png](#)
[2020-10-15 NOx Informational Reporting Cover letter\(1941184.1\).pdf](#)
[RP Unit 1 3Q NOx Data.pdf](#)

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Dear Colleagues –

Attached please find the cover letter and data required for Rockport Unit 1 ozone season emissions under the Consent Decree.

Best regards,



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