

From: John Brabant <johnbvce@yahoo.com>
Sent: Wednesday, December 30, 2020 9:54 AM
To: Kehne, Melanie <Melanie.Kehne@vermont.gov>
Cc: Diamond, Joshua <Joshua.Diamond@vermont.gov>; Annette Smith <vce@vermontel.net>
Subject: Re: CSWD Settlement Agreement

EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.

Dear All (and particularly Deputy Attorney General Diamond):

Please accept my apologies for misstating the Deputy Attorney General Diamond's title in the above email correspondence and appeal.

Thank you for your immediate attention to this matter.

-John

John Brabant
Regulatory Affairs Director
Vermonters for a Clean Environment
802-498-5661

On Wednesday, December 30, 2020, 09:40:41 AM EST, John Brabant <johnbvce@yahoo.com> wrote:

Thank you Melanie.

As we discussed by phone yesterday, it would seem that the public records that your office withheld in your response to the Vermonters for a Clean Environment under the contention that they were related to ongoing settlement discussions (contract negotiation) is now moot, in that a settlement accord has been reached. VCE continues to request that the documents and references informing your settlement discussions and terms be provided. There is no valid public interest benefit or legal interest that can be argued at this point that these documents should be withheld. Additionally, VCE continues to request that a listing of all documents withheld thus far be individually identified in particularity together with the legal bases for the withholding them in whole or part. This listing or "redaction log" was not provided and the VT A.G.'s reply to the VCE public records request was not responsive under the Vermont Public Records Act which requires, in relevant part, that all documents be provided to the extent possible with only the specific language that is considered exempt from disclosure redacted while providing the balance of the document. This as you know was not what was done.

I write this email to you with some urgency now that the CSWD settlement agreement has been consummated as there is a clock ticking with regard to the public's ability provide comment on the settlement to the court. The VT A.G.'s lack of responsiveness

now seriously constrains my organization and the public's ability to evaluate the full record in order to provide fully informed and meaningful comment as to the appropriateness of the settlement agreement based upon the accumulated case record. For instance, as we discussed, there is no information as to the basis for the economic benefit recovery amount contained in the settlement agreement. This is a cornerstone issue for which the VT A.G. has provided no information. VCE requests that it be provided access to these records, which I was informed by you in our phone conversation, involve "numerous" examples of costs to recycle glass provided to you by CSWD and which your office relied upon in arriving at the settlement economic benefit figure.

Lastly, by copy of this email to Assistant Attorney General Josh Diamond, please consider this as an appeal of the decision of the Vermont Attorney General to deny to VCE an unspecified number of documents for non-specific reasons. In sum, VCE requests that the VT A. G. respond and that withheld documents be provided as soon as possible and well in advance of the 21 day deadline for comment on the SOV v. CSWD settlement agreement, which I understand to be at the close of business on January 19, 2021.

Thank you.

-John

John Brabant
Regulatory Affairs Director
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