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OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF DELAWARE

Attorney General Opinion No. 16-IB11

June 6, 2016

VIA EMAIL AND U.S. MAIL

Mr. David B. Carter, Conservation Chair
Delaware Audubon Society
56 W. Main Street, Suite 212A
Christiana, DE 19702

Re: Delaware Audubon Society Petition for Review Submitted March 22, 2015

Dear Mr. Carter:

We write in response to Delaware Audubon Society's ("Audubon") petition seeking a determination of whether the Department of Natural Resources and Environmental Control ("DNREC") violated Delaware's Freedom of Information Act, 29 *Del. C.* §§ 10001-10007 ("FOIA"), by denying certain of Audubon's requests for records submitted on December 11, 2014 (the "Petition").

DNREC has not persuaded us to recognize, for the first time in Delaware, a separate common law exemption for "settlement negotiations." DNREC also has not persuaded us that all documents withheld on the basis of an exemption for "working drafts" would, in fact, be covered by the narrow exemption that this office has recognized. However, because the records bearing these designations were also designated exempt on other bases that are generally valid, we need not order extensive remediation in connection with DNREC's FOIA violations. We do, however, identify a handful of entries on DNREC's document log that appear to designate multiple versions of the same record inconsistently and may reflect the improper application of one or more exemptions. We ask DNREC's counsel at the Delaware Department of Justice ("DOJ") to review these records. If the review reveals records that may not be withheld consistent with the guidance provided in this letter, those records should be provided to Audubon on or before June 20, 2016.

I. Background

On December 4, 2014, Delaware City Refining Company, LLC (“Delaware City Refinery”) and DNREC entered into a settlement agreement (the “Settlement Agreement”) “to resolve certain matters associated with [Delaware City Refinery’s] operations at its petroleum refinery located in Delaware City, Delaware.” Settlement Agreement at 1. The Settlement Agreement was released for public review in final form on December 5, 2014 and represents the parties’ attempts to (i) resolve various self-reported water permit violations by Delaware City Refinery, (ii) set out a process for renewal of Delaware City Refinery’s National Pollutant Discharge Elimination System (“NPDES”) permit, and (iii) establish procedures to guarantee Delaware City Refinery’s compliance with EPA Rule Section 316(b) of the Clean Water Act (governing water intakes).

After the Settlement Agreement was released, Audubon submitted a FOIA request (the “Request”) to Governor Jack Markell, then-Attorney General Beau Biden, and DNREC Cabinet Secretary David Small. The Request was sent by e-mail on December 11, 2014 and stated that Audubon sought to “inspect and obtain copies . . . [of] all public records in the possession of your Office or Department associated with the recent legal settlement and agreement between the Delaware City Refinery and DNREC.” Request at ¶ 2. The e-mail further clarified that the request included “the settlement agreement and DNREC decisions on any proposed NPDES permit” as well as “the signed agreement and all correspondence, intra- and inter-office memorandums, letters, e-mails, phone conversation notes, speaking and meeting notes, reports (internal and public), communications, consultations, and/or any other public records related to the development of this agreement and NPDES Permit process regarding” the following:

- The development of the signed agreement
- The NPDES Permit for the Delaware City Refinery
- Consideration of the implications of the EPA guidance on Section 316(b)
- The impact of waiving any penalty fees on DNREC and/or the State’s Budget Consideration of the inclusion of decision in a legal settlement to eliminate any involvement of Delaware’s General Assembly in the use of penalty funds
- Deliberation on the technology available to reduce fish impingement and entrainment associated with this permit
- Implications of decision making in a closed door legal settlement process versus the public process required under the Clean Water Act Permit Process
- Any discussion on whether this agreement is a “variance” under the Clean Water Act and, if so, all documentation on:
 - a. Costs of compliance are “significantly greater than” the costs considered by the agency in setting the standards, 40 CFR § 125.94(a)(5)(i), or
 - b. Costs of compliance “would be significantly greater than the benefits of complying with the applicable performance standards,” § 125.94(a)(5)(ii).

Id.

Between December 11, 2014 and February 24, 2015, DNREC communicated with Audubon three times, requesting extensions of time to assess costs and review documents. Audubon expressed no written objection. On February 24, Audubon asked DNREC for a status update and DNREC's FOIA Coordinator responded that the documents were being reviewed.

On February 27, 2015, DNREC's counsel sent a "letter in response" to Audubon's FOIA request (the "Response Letter"). The letter enclosed "a copy of the existing NPDES permit for the Delaware City Refinery and the draft Permit published on December 14, 2014." Response Letter at ¶ 1. The letter stated that DNREC was still reviewing documents. The letter also stated that any additional responsive documents would be exempt from production under one or more exemptions recognized under FOIA. *Id.* Nevertheless, DNREC stated that it was considering whether to waive applicable exemptions and produce some documents voluntarily. *Id.* at ¶ 2. DNREC stated: "We anticipate that this review will be completed, and that we will be able to produce at least an initial set of documents on or before March 6, 2015." *Id.*

Audubon filed the Petition on March 22, 2015. In it, Audubon challenged DNREC's "failure to provide" and "decision to withhold" the requested documents, and asked this office to determine "the applicability, or erroneous applicability of exemptions claimed by DNREC." Petition at ¶¶ 1-2. Audubon also suggested that suspicions of wrongdoing underlay its Petition. Audubon stated a broader concern relating to the proper scope of settlements and potential illegality of the permitting process:

We are concerned about this failure to provide what we claim to be public records because DNREC, the Delaware City Refinery, and other parties issued a settlement that went beyond the nature of environmental violations, and made decisions about a future permit. This NPDES permit was then noticed after the issuance of the settlement agreement, and is scheduled for a public hearing on Tuesday, March 24, 2015. The requested documents include important public information and public decisions which DNREC and the [Delaware City] Refinery are seeking to keep secret through what we allege to be erroneous claims of exemption under FOIA. If so, this is ***not only a violation of FOIA***, but may also undermine the legality of DNREC's ongoing permit process for the Delaware City Refinery's NPDES Permit.

Petition at ¶ 2 (emphasis added).

At the March 24, 2015 public hearing, several people spoke in support of and in opposition to the issuance of the NPDES permit. Audubon opposed the permit and stated that it was "submitting for the record [its] petition to the Attorney General and the accompanying documentation of DNREC's suppression of the public records pertinent to this permit that are critical for the public's ability to provide informed comments." Tr. 55:20-24 (Mar. 24, 2015).

DNREC then requested that the record be kept open for no less than 60 days after this office makes its determination regarding DNREC's alleged violation of the Freedom of Information Act. Tr. 57-60.

On April 9, 2015, DNREC, still in the process of reviewing the records requested by Audubon, submitted to this office and to Audubon arguments in support of the application of the FOIA exemptions listed in its February 27, 2015 letter.

On April 14, 2015, we wrote to Audubon in response to its March 22 Petition and explained that we would not be able to consider Audubon's Petition until DNREC completed its review of the materials Audubon had requested.

On or about April 30, 2015, DNREC notified us that it had completed its review of documents and submitted a document log listing the records it had provided to Audubon and the basis upon which any documents were withheld. The log identifies the sender(s), recipient(s), subject line, date and time of each communication DNREC reviewed and states whether the communication is a public record. Those documents not identified as public records received one or more of the following designations: "not responsive to FOIA request," "settlement negotiations," "draft," "potential litigation," and "attorney-client privilege."¹

II. Contentions of the Parties

DNREC contends that none of the records withheld from Audubon are "public records" within the meaning of FOIA because each is protected by one or more of the exemptions listed in Section 10002.

Audubon contends that none of DNREC's stated exemptions apply. Audubon affirmatively asserts against DNREC a charge of "misapplication of exemptions under FOIA for the specific purpose of withholding public records from the public." Petition at ¶ 4. Audubon also argues: "[S]ince DNREC chose to include negotiations related to a future public policy decision under the Federal Clean Water Act that had not yet been put on public notice, we have an elevated concern that this lack of disclosure may be a new mechanism for secret permit decision making under the cloak of judicial actions rather than under the open public process required...." *Id.* at ¶ 5.

¹ A handful of records bear designations that DNREC did not raise in its correspondence with Audubon or with this office. These designations do not appear to have any relevance to the matter before us. In all cases, DNREC asserted one or more of the exemptions that it communicated to Audubon as a basis for withholding the record, and it is those designations that we have considered.

There is one record for which no exemption was provided. This record appears on the log multiple times, and it is designated a public document in all other instances. We thus assume that a copy of this record has been provided to Audubon.

III. Relevant Authority

FOIA states that “[a]ll public records shall be open to inspection and copying during regular business hours by the custodian of the records for the appropriate public body.” 29 *Del. C.* § 10003(a). However, certain records are not “public records” for purposes of FOIA and are therefore exempt from disclosure. *See, e.g., 29 Del. C.* §10002(l)(1)-(19) (“For purposes of this chapter, the following records shall not be deemed public....”). The burden of proof respecting the applicability of an exemption applies falls to the public body. *See 29 Del. C.* § 10005(c). *See also Am. Civil Liberties Union of Delaware v. Danberg*, 2007 WL 901592, at *3 (Del. Super. March 15, 2007) (“*Danberg*”) (“[I]t is the public body’s burden, in the first instance, to establish the factual and legal bases for its refusal to provide information in response to a FOIA request.”); *Del. Op. Att’y. Gen.* 02-IB30, 2002 WL 31867904, at *3 (Dec. 2, 2002) (finding that the public body failed to meet its burden of proof that “any specific privilege might exempt the [records at issue] under FOIA”).

IV. Analysis

FOIA provides that if access to public records is to be denied, the public body must state the basis for the denial. 29 *Del. C.* § 10003(h)(2). The basis must be one recognized under Section 10002. DNREC, through counsel, cited several exemptions in support of its decision to withhold records. DNREC’s arguments respecting those exemptions are addressed below.

A. Settlement Negotiations

DNREC argues that some or all of the requested documents reflect “settlement negotiations” and are therefore “specifically exempted from public disclosure by statute or common law.” 29 *Del. C.* § 10002(l)(6). In particular, in its April 9, 2015 correspondence, DNREC cites Rule 408 of the Delaware Rules of Evidence, which DNREC contends codifies a common law privilege against disclosure of settlement negotiations or offers to compromise. DNREC argues that this privilege serves the compelling public interest of encouraging the negotiated resolution of legal disputes.

We have uncovered no Delaware case or Attorney General Opinion that addresses whether D.R.E. 408 is an exception to disclosure pursuant to 29 *Del. C.* § 10002(l)(6). Based on a review of case law from other jurisdictions, we do not believe that such an interpretation is proper. Rule 408 governs the admissibility of evidence at trial; it does not create a legal privilege that protects the confidentiality of settlement negotiations or offers to compromise. *Cf. Center for Auto Safety v. Dept. of Justice*, 576 F. Supp. 739, 749 (D.D.C.1983), *vacated in part on other grounds*, 1983 WL 1955 (D.D.C. July 7, 1983)) (F.R.E 408 does not create a “settlement negotiation privilege”); *see also NAACP Legal Def. Fund & Educ. Fund, Inc. v. U.S. Dep’t of Justice*, 612 F. Supp. 1143, 1146 (D.D.C. 1985) (“Although the intent of [Federal Rule of Evidence] 408 is to foster settlement negotiations, the sole means used to effectuate that end is a limitation on the admission of evidence produced during settlement negotiations for the purpose of proving liability at trial. It was never intended to be a broad discovery privilege.”).

We also have uncovered no authority in Delaware supporting a common law privilege for settlement negotiations or offers to compromise. DNREC relies on *Goodyear Tire & Rubber Co. v. Chiles Power Supply, Inc.*, 332 F.3d 976, 980 (6th Cir. 2003), in support of its argument. In *Goodyear*, however, the United States Court of Appeals for the Sixth Circuit recognized a new privilege for communications in settlement negotiations in discovery pursuant to Federal Rule of Evidence 501. *Goodyear*, 332 F.3d at 979 (“Rule 501 of the Federal Rules of Evidence authorizes the federal courts to determine new privileges by examining ‘common law principles . . . in the light of reason and experience.’”) (citing *Jaffe v. Redmond*, 518 U.S. 1 (1996)).

Based upon the foregoing, we are not persuaded that records of settlement negotiations or offers to compromise are exempt from disclosure pursuant to 29 *Del. C.* § 10002(1)(6). With the exception of two records, however, all records bearing this designation were also designated exempt pursuant to the “potential litigation” exemption or the attorney-client privilege, which we address in Sections IV.C. and IV.D. below.² The two documents that were not also designated “potential litigation” or “attorney-client privilege” are addressed in Section IV.B.

B. Working or Preliminary Drafts

DNREC argues that some of the requested documents “constitute or reflect working or preliminary drafts,” which are not public records and may be withheld. Response Letter at ¶ 1.

Delaware’s FOIA does not have an express exemption for “working drafts” or “preliminary drafts.” Nor have Delaware courts recognized a broad-based deliberative process privilege with respect to routine agency deliberations that might allow an agency to withhold draft records. *See, e.g., Department of Transportation v. Figg Bridge Engineers, Inc.*, 79 A.3d 259, 263-65 (Del. Super. 2013) (declining to “broaden the Governor’s executive privilege to include the deliberative process of State agencies and departments”); *Chemical Industry Council of Delaware, Inc. v. State Coastal Zone Indus. Control Bd.*, 1994 WL 274295, at *12 (Del. Ch. May 19, 1994) (holding that “no support exists in FOIA or in Delaware case law” for a public body required to hold open meetings to claim a deliberative process privilege and declining to adopt one because doing so “would upset the balance struck by the General Assembly between the goal of requiring a public body to conduct its public business in public, and the need to protect the public body’s internal deliberative process”). To the extent that a deliberative process privilege has been discussed by Delaware courts, the explanation of the privilege has been limited to constitutionally elected or appointed officials:

The privilege against disclosure of the decision-making process is a tripartite privilege because it exists for the legislative and judicial branches of government as well as the executive. It arises from two sources, one common law and one constitutional. As part of the common law of evidence, the privilege arises from the

² Although we did not perform an entry-by-entry inspection of DNREC’s document log, we did look at combinations of designations in order to understand whether remediation would be required.

common sense-common law principle that...public officials are entitled to the private advice of their subordinates and to confer among themselves freely and frankly, without fear of disclosure, otherwise the advice received and the exchange of views may not be as frank and honest as the public good requires.

Guy v. Judicial Nominating Commission, 659 A.2d 777, 782 (Del. Super. 1995) (internal citations and quotation marks omitted) (recognizing privileges for some communications with Attorney General and finding privilege for some communications with Governor).

In at least one matter, however, this office has determined that “a working draft which the author is still revising prior to presentation to a public body” is not a public record and need not be disclosed. *Del. Op. Att’y Gen.* 05-IB13, 2005 WL 1209243, at *3 (May 9, 2005). This “working draft” protection was, in part, based upon practical concerns:

Some working drafts may be discarded in the formative stages and never presented to a public body for consideration. Preliminary drafts might not be retained at all, or might be immediately discarded as when a word processor types over a previous draft. Literal application of the term “public record” to include working draft documents could lead to absurd results, such as requiring a public employee to print out copies of each draft of a document on a [word] processor to retain for archiving.

Del. Op. Att’y Gen. 05-IB13, 2005 WL 1209243, at *3. In addition, this office noted, the premature disclosure of a draft contract under negotiation could harm the state’s competitive position in those negotiations, which could be detrimental to the public interest. *See id.* (citing *Coalition to Save Horsebarn Hill v. Freedom of Information Coalition et al.*, 806 A.2d 1130, 1137 (Conn. App. 2002)).³

DNREC has not persuaded us that all of the records withheld as “drafts” satisfy the parameters of the narrow “working draft” exemption that this office has recognized as applicable to state agencies. It may be that some do, but we need not make such a determination here. In almost every case in which a record was withheld as a “draft,” the record was also withheld pursuant to the “potential litigation” exemption or the attorney-client privilege. We note that

³ In *Coalition to Save Horsebarn Hill*, the Appellate Court of Connecticut decided that a draft contract relating to a transaction that had been abandoned before completion could be withheld because, among other reasons, disclosure could harm the public body’s competitive position in *future* negotiations. The decision in *Del. Op. Att’y Gen.* 05-IB13 did not extend that far. We also note that, unlike Delaware’s FOIA, Connecticut’s Freedom of Information Act contains an express exemption for preliminary drafts of records when non-disclosure is in the public interest. *See Coalition to Save Horsebarn Hill*, 806 A.2d at 1132 (“This question must be resolved in accordance with General Statutes § 1-210(b)(1), which permits the nondisclosure of preliminary drafts only when nondisclosure is in the public interest.”) (citation omitted)).

there are two “draft” records on the log that do not bear any other valid designation; the only other designation provided is “settlement negotiation.” It appears, however, that duplicate copies of these records were designated inconsistently; both were also designated exempt under the “potential litigation” exemption in other instances. We address this exemption in Section IV.C., below. If these are, indeed, duplicate records, we do not know which set of designations is correct. In an abundance of caution, we ask that DNREC’s counsel at DOJ review these sets of records again. DNREC should confirm to Audubon on or before June 20, 2016 that all of the records may be withheld in accordance with the guidance provided in this letter. If any of the records may not be withheld in accordance with this letter, a copy of those records should be provided to Audubon on or before that date.

C. Potential Litigation

DNREC argues that many of the records requested by Audubon are not public records because they pertain to “pending or potential litigation which are not records of any court.” 29 *Del. C.* §10002(l)(9). According to DNREC’s April 9, 2015 correspondence, the “potential litigation” exemption applies because “litigation with the requestor [Audubon], is, if not likely, certainly foreseeable” and “there is a clear nexus between the documents requested concerning the settlement agreement/NPDES permit and the foreseeable statutory appeal of the NPDES permit when issued.” DNREC also points out that “[t]here is a realistic and tangible threat of an appeal based on the objective factors that the FOIA request reads like an appeal of the NPDES permit, and the requestor recently sued DNREC in Superior Court, unsuccessfully, over the timing of the issuance of this very NPDES permit.” We agree.

The purpose of the “pending or potential litigation” exemption is to help maintain a level playing field, as “Delaware courts will not allow litigants to use FOIA as a means to obtain discovery which is not available under the court’s rules of procedure.” *Del. Op. Att’y Gen.*, 06-IB21, 2006 WL 3313705, at *1 (Oct. 23, 2006) (citing *Mell v. New Castle County*, 835 A.2d 141, 147 (Del. Super. 2003)). As a result, the applicability of the exemption “turns on the identity of the requestor and the purpose of the request.” *Del. Op. Att’y Gen.* 03-IB21, 2003 WL 22669566, at *3 (Oct. 6, 2003).

Delaware courts have adopted a two-step test to determine whether the “potential litigation” exception justifies a refusal to provide records responsive to a FOIA request. *See Danberg*, 2007 WL 901592, at *4. First, “litigation must be likely or reasonably foreseeable.” *Id.* In addition, “there must be a ‘clear nexus’ between the requested documents and the subject matter of the litigation.” *Id.* In order to determine whether litigation is “likely or reasonably foreseeable”:

[T]he public body should look for objective signs that litigation is coming. For instance, a written demand letter in which a claim is asserted, or action is demanded, may give rise to a proper inference that litigation will soon follow. Other indicators of “potential litigation” might include “previous or preexisting litigation between the parties or proof of ongoing litigation concerning similar claims or [] proof that a party has both retained counsel

with respect to the claim at issue and has expressed an intent to sue.” In any event, whatever the indicator, the public body must be able to point to a ‘realistic and tangible threat of litigation ... characterized with reference to objective factors’ before it may avail itself of the “potential litigation” exception to FOIA.

Id. (internal citations omitted).

We are satisfied that litigation between DNREC and Audubon was reasonably foreseeable as early as February 27, 2015, when DNREC first cited the exemption to Audubon. *See Del. Op. Att’y Gen.* 07-IB21, 2007 WL 4732804, at *4 (Oct. 22, 2007) (“In reviewing a public body’s decision to withhold records, our Office ‘must of necessity limit the scope of [our] inquiry to an appropriate time frame’ and our ‘review properly focuses on the time the determination to withhold is made.’”) (quoting *Bonner v. U.S. Dep’t of State*, 928 F.2d 1148, 1152 (D.C. Cir. 1991)). For example, the Petition in this case specifically alleges that the settlement “went beyond the nature of environmental violations, and made a decision about a future permit” and that “DNREC and the [Delaware City] Refinery are seeking to keep [public information and public decisions] secret. If so, this is not only a violation of FOIA, but may also undermine the legality of DNREC’s ongoing permit process for the Delaware City Refinery’s NPDES Permit.” Petition at ¶ 2. These statements appear to constitute a legal claim that would be raised in an administrative appeal⁴ or other legal action by Audubon.⁵ The parties also have a litigation history concerning this NPDES permit.⁶

Likewise, there is a clear nexus between the records requested by Audubon and the subject matter of the potential litigation or administrative appeal, which would likely involve (i) the legality of the process undertaken by DNREC and Delaware City Refinery in reaching the settlement agreement, (ii) the sufficiency of the proposed NPDES permit for purposes of federal and State environmental laws and/or (iii) Delaware City Refinery’s compliance with the requirements of the Settlement Agreement and the NPDES permit.

⁴ The “pending or potential litigation” exemption applies where proceedings are or may be pending before an administrative body sitting in a quasi-judicial capacity. *See Del. Op. Att’y Gen.*, 03-IB10, 2003 WL 22931613 (May 6, 2003).

⁵ FOIA requires this office to determine whether a public body has violated the requirement to provide access to public records. It does not require or permit DOJ to investigate whether DNREC “issued a settlement that went beyond the nature of environmental violations,” acted “for the specific purpose of withholding public records from the public” or is engaging in “secret permit decision making.”

⁶ Before the draft NPDES permit was issued, Audubon, in conjunction with several environmental advocacy groups, sued DNREC in Delaware’s Superior Court to compel DNREC to issue a permit. *See Delaware Riverkeeper Network v. State of Delaware*, N13M-10-009.

It is our determination that DNREC did not violate FOIA by withholding records pursuant to the “potential litigation” exemption.

D. Attorney-Client Privilege

DNREC also withheld records on the basis of the attorney-client privilege. *See* 29 *Del. C.* § 10002(1)(6) (pertaining to “records specifically exempted by ... common law”). This is a well-established basis for withholding records requested under FOIA. *See, e.g., Mell*, 835 A.2d 141 (recognizing attorney-client privilege as valid FOIA exemption); *Del. Op. Att’y Gen.* 02-IB16, 2002 WL 31031225, at *1 (July 30, 2002) (same).

It is our determination that DNREC did not violate FOIA by withholding records pursuant to the attorney-client privilege. We nevertheless note one entry on the log for which the attorney-client privilege is the only valid basis for withholding the record, but which appears to be a communication with Delaware City Refinery’s counsel.⁷ It also appears, however, that this record was reviewed multiple times and labeled inconsistently. For example, in some instances, the “potential litigation” exemption has been invoked. We have also identified one record for which the attorney-client privilege is the only valid designation provided, but for which DNREC does not indicate the recipient(s). In an abundance of caution, we ask that DNREC’s counsel at DOJ review these sets of records again. DNREC should confirm to Audubon on or before June 20, 2016 that all of the records may be withheld in accordance with the guidance provided in this letter. If any may not be withheld consistent with the guidance in this letter, copies of those records should be provided to Audubon on or before that date.

V. Conclusion

DNREC has failed to persuade us that there is a common law exemption for “settlement negotiations.” We would require additional information in order to determine the extent to which documents designated by DNREC as “draft” would fit the exemption for “working drafts” that this office would recognize for routine state agency communications, but we decide that the analysis is not necessary in this case. That is because, in almost every instance, a record designated “settlement negotiations” or “draft” was also withheld on a basis that we find valid. Where that is not the case, we have asked that the documents be reviewed again, as set forth in Section IV.B.

In an abundance of caution, we also ask that a handful of documents bearing inconsistent or potentially incomplete designations of attorney-client privilege be reviewed again as set forth in Section IV.D.

Finally, we ask that, by June 20, 2016, DNREC either (1) confirm to Audubon that the records receiving additional review in accordance with this letter may properly be withheld on

⁷ As noted *supra*, note 2, we did not perform an entry-by-entry inspection of DNREC’s document log. We did, however, isolate records that would be exempt, if at all, solely on the basis of the attorney-client privilege and examine the parties to these communications.

the basis of the “potential litigation” exemption or the attorney-client privilege, or (2) provide to Audubon a copy of any record that may not be withheld consistent with this letter.

This letter is directed solely to the parties identified herein. It is based on the facts relevant to this matter and, as such, should not be cited as binding precedent by future parties.

Either party may appeal an adverse determination to the Superior Court within 60 days of the date of this letter.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Danielle Gibbs". The signature is fluid and cursive, with the first name being more prominent.

Danielle Gibbs
Chief Deputy Attorney General

cc: Jennifer M. Bothell, FOIA Coordinator (via e-mail)
Dirk Durstein, Counsel for DNREC (via e-mail)
Michelle E. Whalen, Deputy Attorney General (via e-mail)