

# COMMONWEALTH of VIRGINIA

Office of the Attorney General

Mark R. Herring  
Attorney General

202 North Ninth Street  
Richmond, Virginia 23219  
804-786-2071  
Fax 804-786-1991  
Virginia Relay Services  
800-828-1120  
7-1-1

September 21, 2016

## VIA UNITED PARCEL SERVICE

David W. Schnare, Esq.  
Free Market Environmental Law Clinic  
9033 Brook Ford Road  
Burke, Virginia 22015  
[schnarefme@gmail.com](mailto:schnarefme@gmail.com)

Craig E. Richardson  
Energy & Environmental Legal Institute  
1610 Walden Drive  
McLean, Virginia 22101  
[richardson@eelegal.org](mailto:richardson@eelegal.org)

**Re: Freedom of Information Act request – received September 2, 2016**

Dear Messrs. Schnare and Richardson:

The Office of the Attorney General for the Commonwealth of Virginia (hereinafter, "Office") acknowledges receipt of the above-referenced request in which you seek certain records pursuant to the Virginia Freedom of Information Act, Virginia Code Section 2.2-3700, *et seq.* (hereinafter, "FOIA"). Specifically, your request states:

On May 9, 2016, Rhodes B. Ritenour and John W. Daniel of your office signed a document titled "Climate Change Coalition Common Interest Agreement" ("Agreement"), pursuant to a recruitment effort to form, or more precisely "renew" an "informal coalition of Attorneys General" whose work on a broad spectrum of policy advocacy "has been an important part of the

national effort to ensure adoption of stronger federal climate and energy policies", this time with the political and policy agenda of "ensuring that the promises made in Paris become reality" (referring to the December 2015 climate treaty negotiations). March 7, 2016 Letter from Attorneys General Schneiderman and Sorrell.

We hereby request copies of *all email or text correspondence, attachments, and any other records which are a) related to or reference the purported Common Interest Agreement described above, and b) which were sent to or were received from any person working outside your office, or which were sent to any person in your office by a person in another State Attorney General's office, c) which are dated on or after April 29, 2016.*

Please find enclosed documents responsive to your request. Kindly note that this Office identified two documents containing both responsive and non-responsive material. Accordingly, the non-responsive portions of those documents have been redacted.

Thank you for your attention.

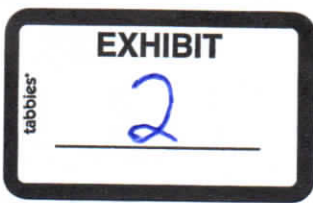
With kind regards, I am

Very truly yours,



Meaghan O'Brien  
FOIA Administrator

Enclosures



017-284890-16

refer to the ExxonMobil Foundation, formerly known as the Esso Education Foundation, and/or the Exxon Education Foundation.

#### **RELEVANT TIME PERIOD**

The relevant time period, unless otherwise indicated in a specific request, is from January 1, 1977 to the present. The time limits should not be construed as date limits; for example, if a policy, contract, or other document in effect during the relevant time period was created before the relevant time period, then such document must be produced.

#### **DOCUMENTS AND INFORMATION TO BE PROVIDED**

1. All Documents or Communications reflecting or concerning studies, research, or other reviews You conducted or funded (in whole or in part) regarding the certainty, uncertainty, causes, or impacts of Climate Change and models to assess or predict Climate Change or its impacts, as well as all Documents or Communications reflecting or concerning steps You took to address the potential impact of Climate Change on Your operations.
2. All Documents or Communications reflecting or concerning studies, research or other reviews You conducted or funded (in whole or in part) regarding whether and how Your products or activities impact Climate Change at a regional or global level.
3. All public statements You made, including but not limited to advertisements, op-eds, letters to the editor, speeches, and corporate publications, concerning Climate Change, including all drafts of such statements and internal Communications regarding such statements.

4. All minutes of meetings of Your Board and any Board committees reflecting discussions concerning Climate Change and any memoranda to the Board or from Board members concerning Climate Change.
  
5. All Documents or Communications concerning any potential impacts on Your sales, revenue, or business caused by Climate Change itself, by public policies responding to Climate Change (including any legislation or regulation concerning Climate Change), or by public perceptions of Climate Change.
  
6. All Documents or Communications concerning research, advocacy, strategy, reports, studies, reviews, or public opinions regarding Climate Change sent to or received from: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]; [REDACTED]; [REDACTED]; [REDACTED];  
[REDACTED]; [REDACTED]; [REDACTED];  
[REDACTED]; [REDACTED];  
[REDACTED]; [REDACTED]; [REDACTED]; and any other organizations engaged in research or advocacy concerning Climate Change or public policies, including legislation, relating to Climate Change. In Your Response to this Request, include all Communications concerning the role of each of these organizations in conducting research, studies, or reviews of Climate Change or in attempting to affect public opinions regarding Climate Change. In Your Response to this Request, include all records of payments to entities covered by this Request.

7. All Documents or Communications concerning research, advocacy, strategy, reports, studies, reviews, or public opinions regarding Climate Change sent to, received from, or about: [REDACTED]  
[REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED];  
[REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED];  
[REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED];  
[REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED];  
[REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED];  
[REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED];  
[REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED];  
[REDACTED]; and any other persons conducting research or advocacy concerning Climate Change. In Your Response to this Request, include all Communications regarding the role of each of these individuals in conducting research, studies or reviews of Climate Change or in attempting

to affect public opinions regarding Climate Change. In Your Response to this Request, include all records of payments to individuals covered by this Request.

8. All Documents or Communications concerning research, advocacy, strategy, reports, studies, reviews, or public opinions regarding Climate Change sent to or received from: [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; and any other current or former employees or contractors conducting research or advocacy concerning Climate Change. In Your Response to this Request, include all Communications regarding the role of each of these individuals in conducting research, studies or reviews of Climate Change or in attempting to affect public opinions regarding Climate Change. In Your Response to this Request, include all records of payments to individuals covered by this Request.
9. All Documents or Communications concerning Your efforts to employ, fund, associate with, collaborate with, or work with any organizations, entities, associations, individuals, or groups of persons to influence public views regarding the likelihood that or extent to which carbon dioxide, methane, oil and gas extraction or use, or any of Exxon Mobil Corporation's products or activities directly or indirectly impact Climate Change. Include Documents or Communications evidencing such employment, funding, association, collaboration, or work.
10. All Documents concerning the "CO<sub>2</sub> Greenhouse" research project or any other project researching the greenhouse effects of carbon dioxide or other greenhouse gases.
11. All Documents (including drafts) sent to or received by, and all Communications with or about, public relations firms regarding Your statements concerning or strategies for addressing

Climate Change. Include in your response a list, or Documents sufficient to identify, all public relations firms that have been retained or consulted by You or made proposals to You concerning Climate Change.

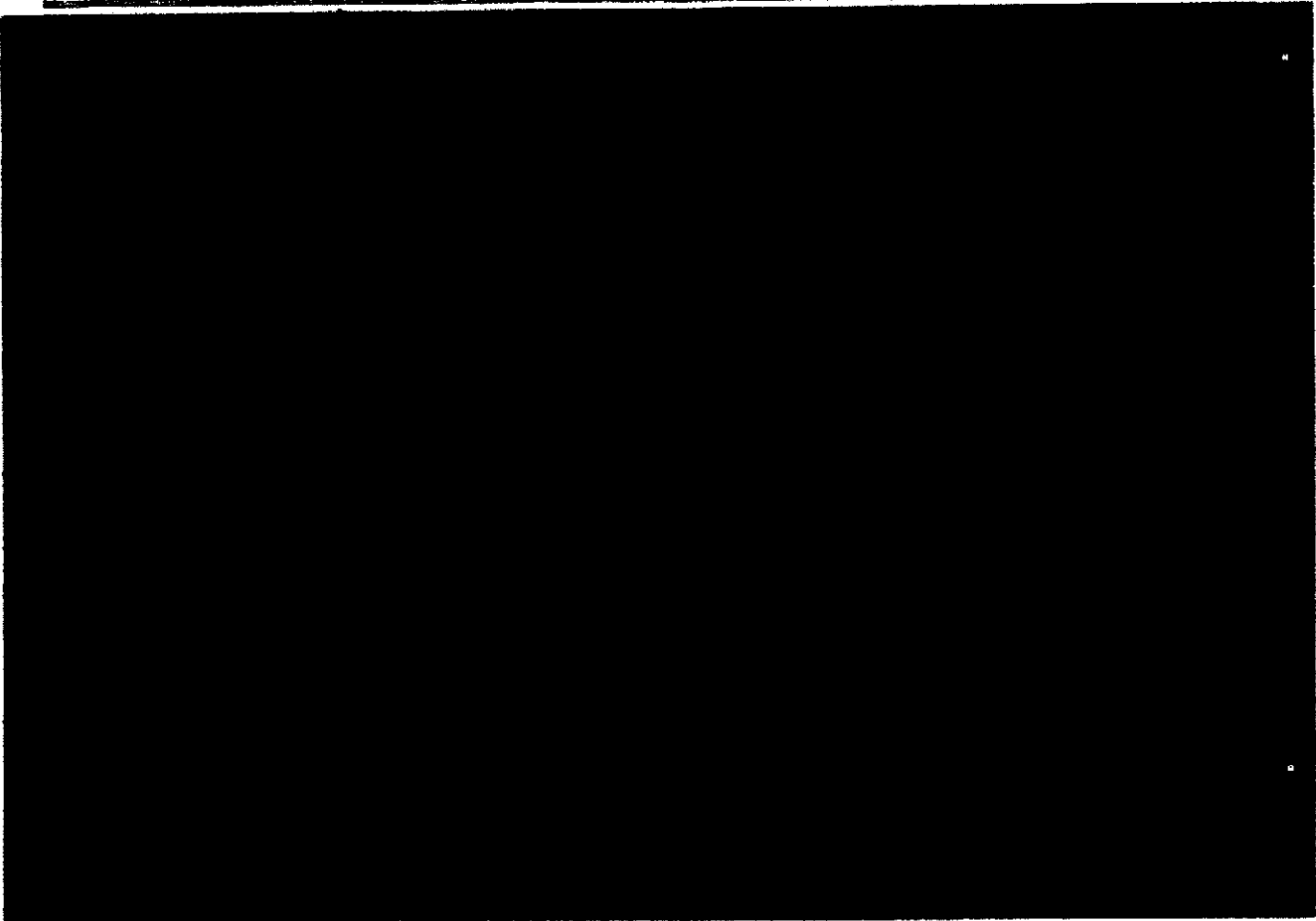
12. All Documents and Communications concerning your strategies for publicly discussing Climate Change, including but not limited to Communications to employees and spokespersons about how to discuss Climate Change.
13. All Documents and Communications concerning the following articles, their authors, their content, or their impact:
  - (a) All articles in the series "Exxon: The Road Not Taken," published by *InsideClimate News* since September 1, 2015.
  - (b) Articles published in the *Los Angeles Times* since September 1, 2015 concerning You and Climate Change
14. All Documents and Communications concerning investigations of your statements regarding Climate Change by any state attorney general, other enforcement agency, or environmental or other organization.
15. All Communications since June 1, 2015 with or about the [REDACTED]  
[REDACTED].
16. All Documents concerning Your budget, spending, or plans for public relations, advertising, or other advocacy relating to Climate Change.

**NOTE:** This subpoena does not require that you travel to the United States Virgin Islands or to the Department of Justice. You may comply with this Subpoena Duces Tecum by forwarding a true and correct copy of any document or other item requested, postmarked prior to the date for which production has been designated, with a signed and notarized copy of the attached



Smith, Ruth Ann.

---



**From:** Monica Wagner [mailto:Monica.Wagner@ag.ny.gov]  
**Sent:** Friday, May 06, 2016 2:03 PM  
**To:** Ritenour, Rhodes B.  
**Cc:** Daniel, John W.; John Oleske  
**Subject:** RE: Common interest agreement

Rhodes,

Thanks for letting us know your office's understanding of your obligations under VA's FOI Act. That does not present a problem for NY and we're comfortable with VA signing the common interests agreement. If you'd like to raise it with the other states, do you want to do that on next Tuesday's call?

Would you have time to talk to John Oleske and me about the coalition more generally before next Tuesday's call?

Thanks,

Monica

**From:** Ritenour, Rhodes B. [mailto:RRitenour@oag.state.va.us]  
**Sent:** Tuesday, May 03, 2016 5:18 PM  
**To:** Monica Wagner  
**Cc:** Daniel, John W.  
**Subject:** RE: Common interest agreement

Monica:

I hope this finds all well.

Thank you for your patience with our signing on to the Common Interest Agreement.

Before signing on to the Agreement, I wanted to make certain we were clear on our Office's understanding of the CIA and how it impacts (or doesn't) our duty to comply with Virginia's Freedom Of Information Act.

Virginia's public records law is interpreted with an eye toward transparency and its 144 exemptions are rarely applied broadly. Unlike the federal FOIA scheme, Virginia's FOIA law reflects years of specific modifications and carve-outs unique to Commonwealth agencies, not broad based categories of information which are applicable over various state and local public entities. While there are general discretionary exemptions for attorney-client privileged material and work product (which may be applicable under common interest once an agreement is signed and litigation is contemplated or reasonably anticipated), it is our view that such exemptions may not cover the full scope of cooperative material exchanged in furtherance of the investigation objectives expressed in the CIA.

Additionally, while our FOIA law has a "catch-all" provision requiring disclosure except as "otherwise prohibited by law," many of the discretionary provisions for investigative action assume that Virginia is actively participating in or conducting the investigation. While Virginia may possess a specific exemption for prosecutorial privilege related to a criminal investigation or in furtherance of a civil investigative demand under the antitrust provisions, the ability to assert a joint investigative privilege would hinge on Virginia's substantive involvement in the investigation and a clear nexus to an express statutory exemption.

Accordingly, we believe if there is information shared with Virginia under the common interest agreement which has no legitimate exception to disclosure expressed in Virginia law, we would have no choice but to produce it when requested. We would certainly work with the state participants to notify them of the disclosure, and be receptive to their comments and concerns regarding the production, but we would still be obligated by law to produce it. It is our view that the common interest agreement does not inoculate us from production of information or documents not clearly exempted from mandatory disclosure by our public records statute.

We wanted to be clear at the outset that our office is taking this position, before signing on to the CIA and asserting this position after the fact. Please let me know if this is a problem for you or the group, and we can proceed accordingly.

Best,

Rhodes B. Ritenour  
Deputy Attorney General  
Civil Litigation Division  
Office of the Attorney General  
900 East Main Street  
Richmond, VA 23219  
Office: (804) 786-6731  
Mobile: (804) 517-2931  
E-mail: RRitenour@oag.state.va.us  
<http://www.ag.virginia.gov/>

**Kibe, Jennifer S.**

---

**From:** Garrahan Paul <Paul.Garrahan@doj.state.or.us>  
**Sent:** Monday, May 02, 2016 6:31 PM  
**To:** 'Monica Wagner'; 'Allen Brooks'; 'Amy Winn'; 'Christopher Courchesne'; 'Dennis Ragen'; 'Elizabeth Wilkins'; 'Greg Schultz'; 'Heather Leslie'; 'James Gignac'; 'Jerry Reid'; Daniel, John W.; John Oleske; 'Josh Auerbach'; 'Karen Olson'; 'Laura Watson'; Lemuel Srolovic; 'Leslie Seffern'; Mandy DeRoche; 'Matthew Levine'; 'Melissa Hoffer'; Michael J. Myers; 'Michele Van Gelderen'; 'Nick Persampieri'; Flanagan Patrick A; Peter Washburn; 'Ralph Durstein'; 'Renee Gumbs'; Ritenour, Rhodes B.; 'Robert Snook'; 'Sally Magnani'; 'Scot Kline'; 'Tania Maestas'; 'Tannis Fox'; Nord Tim D; 'Wendy Morgan'; 'William Grantham'  
**Cc:** Kron Michael C; Ellenberg Noah  
**Subject:** RE: Common interest agreement  
**Attachments:** Oregon\_AG\_April29request.pdf

All: Under paragraph 6 of the CIA, this email is to notify you that Oregon just received the attached public records request. Please let me know if you have any questions regarding this request.

**Paul Garrahan**  
Oregon Department of Justice  
971.673.1943 (Tue, Thu, Fri) (Portland)  
503.947.4593 (Mon, Wed) (Salem)  
503.929.7553 (Mobile)

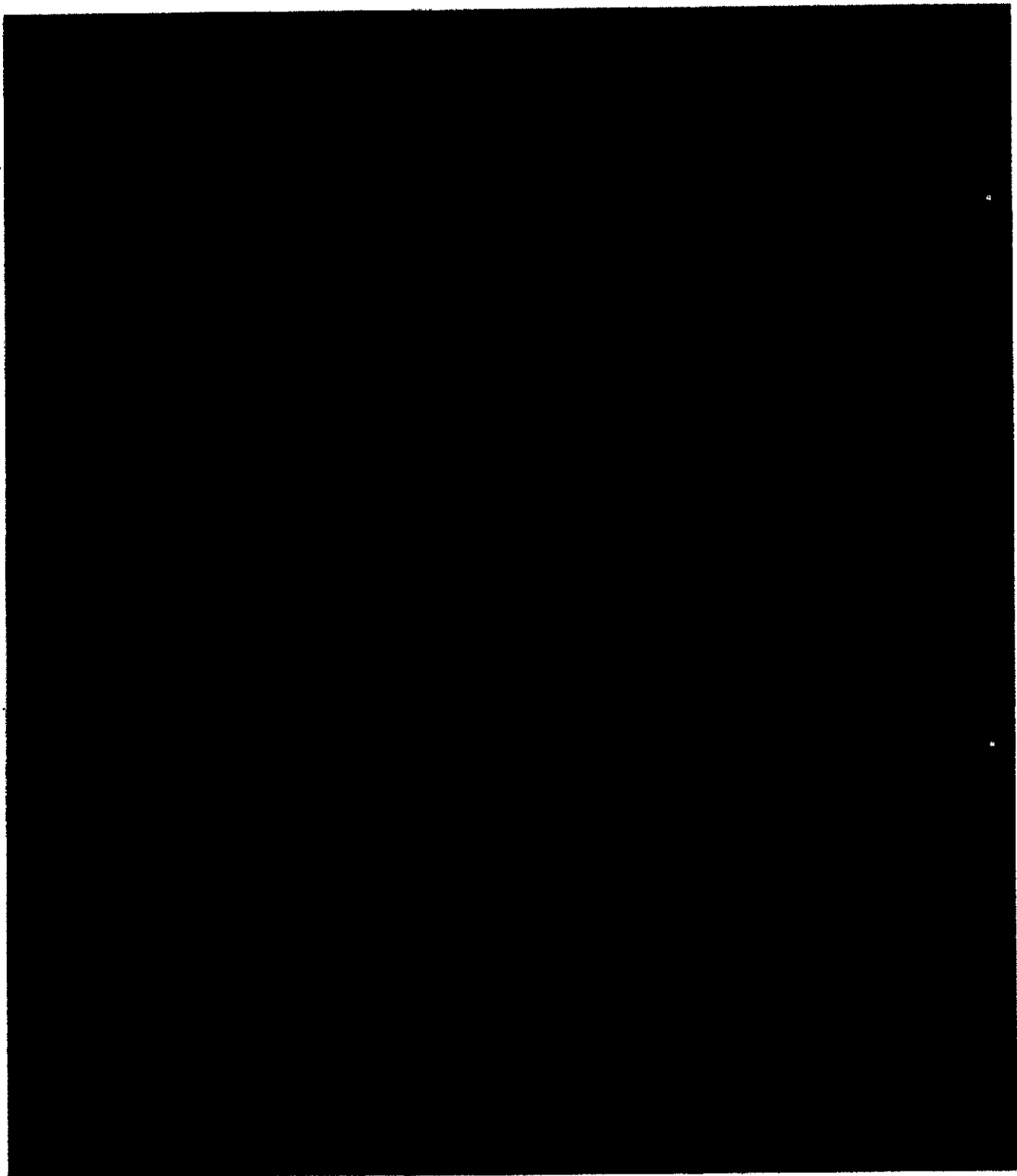
**From:** Monica Wagner [mailto:Monica.Wagner@ag.ny.gov]  
**Sent:** Thursday, April 28, 2016 2:57 PM  
**To:** 'Allen Brooks'; 'Amy Winn'; 'Christopher Courchesne'; 'Dennis Ragen'; 'Elizabeth Wilkins'; 'Greg Schultz'; 'Heather Leslie'; 'James Gignac'; 'Jerry Reid'; 'John Daniel'; John Oleske; 'Josh Auerbach'; 'Karen Olson'; 'Laura Watson'; Lemuel Srolovic; 'Leslie Seffern'; Mandy DeRoche; 'Matthew Levine'; 'Melissa Hoffer'; Michael J. Myers; 'Michele Van Gelderen'; 'Nick Persampieri'; Flanagan Patrick A; Garrahan Paul; Peter Washburn; 'Ralph Durstein'; 'Renee Gumbs'; 'Rhodes Ritenour'; 'Robert Snook'; 'Sally Magnani'; 'Scot Kline'; 'Tania Maestas'; 'Tannis Fox'; Nord Tim D; 'Wendy Morgan'; 'William Grantham'  
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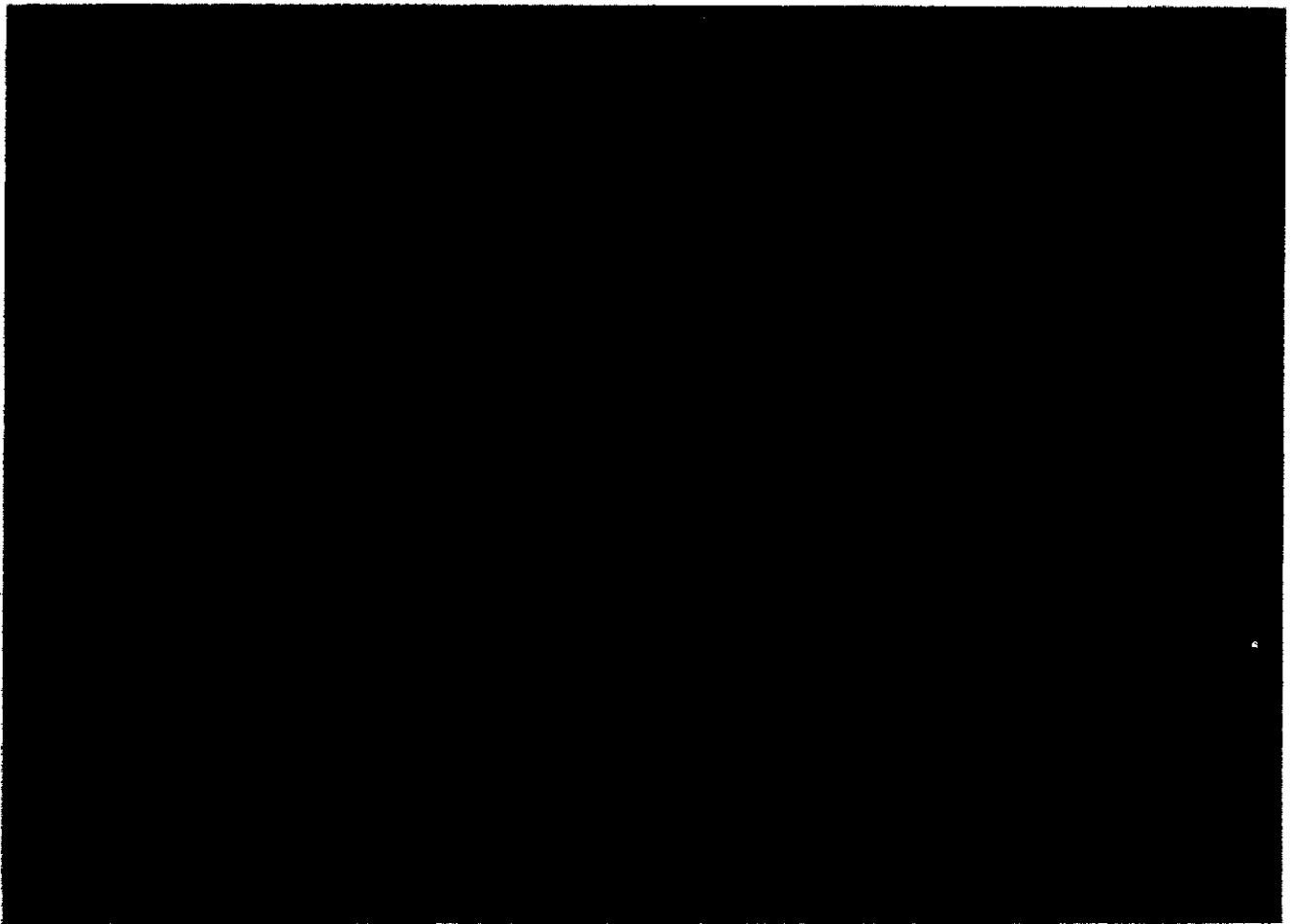
We have approvals and signature blocks for almost every state, so I've asked my paralegal, Amanda Moody, to send out the agreement for signatures tomorrow. If you haven't approved and/or sent a signature block, I'll send you a separate email.

Thanks,

Monica

Monica Wagner  
Deputy Chief  
Environmental Protection Bureau  
Office of the Attorney General of New York  
120 Broadway, 26th Floor  
New York, NY 10271  
(212) 416-6351







**Smith, Ruth Ann.**

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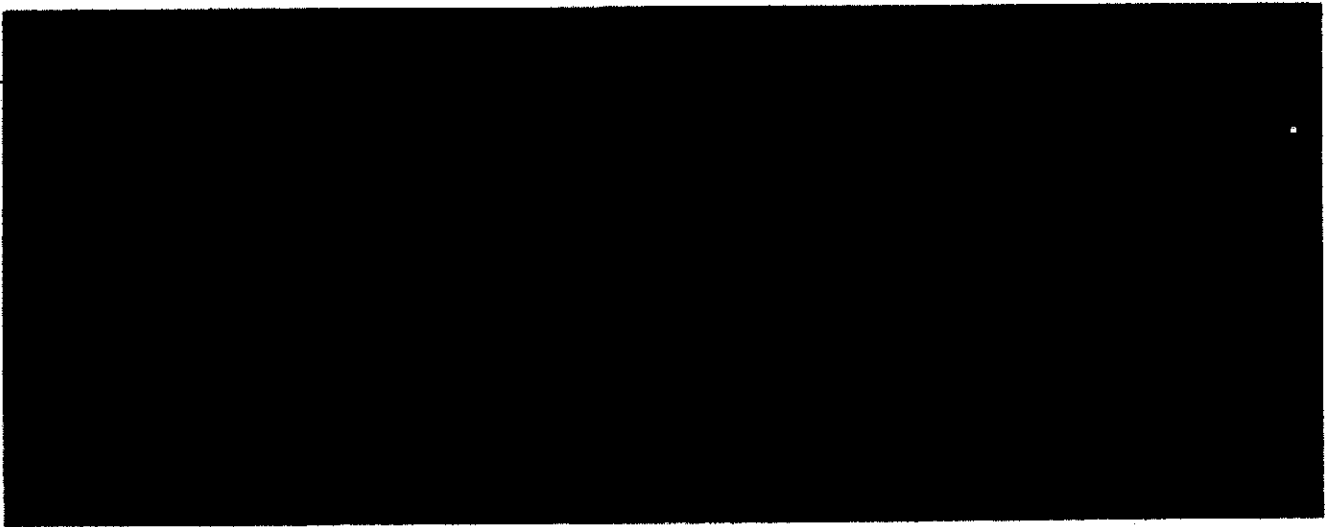
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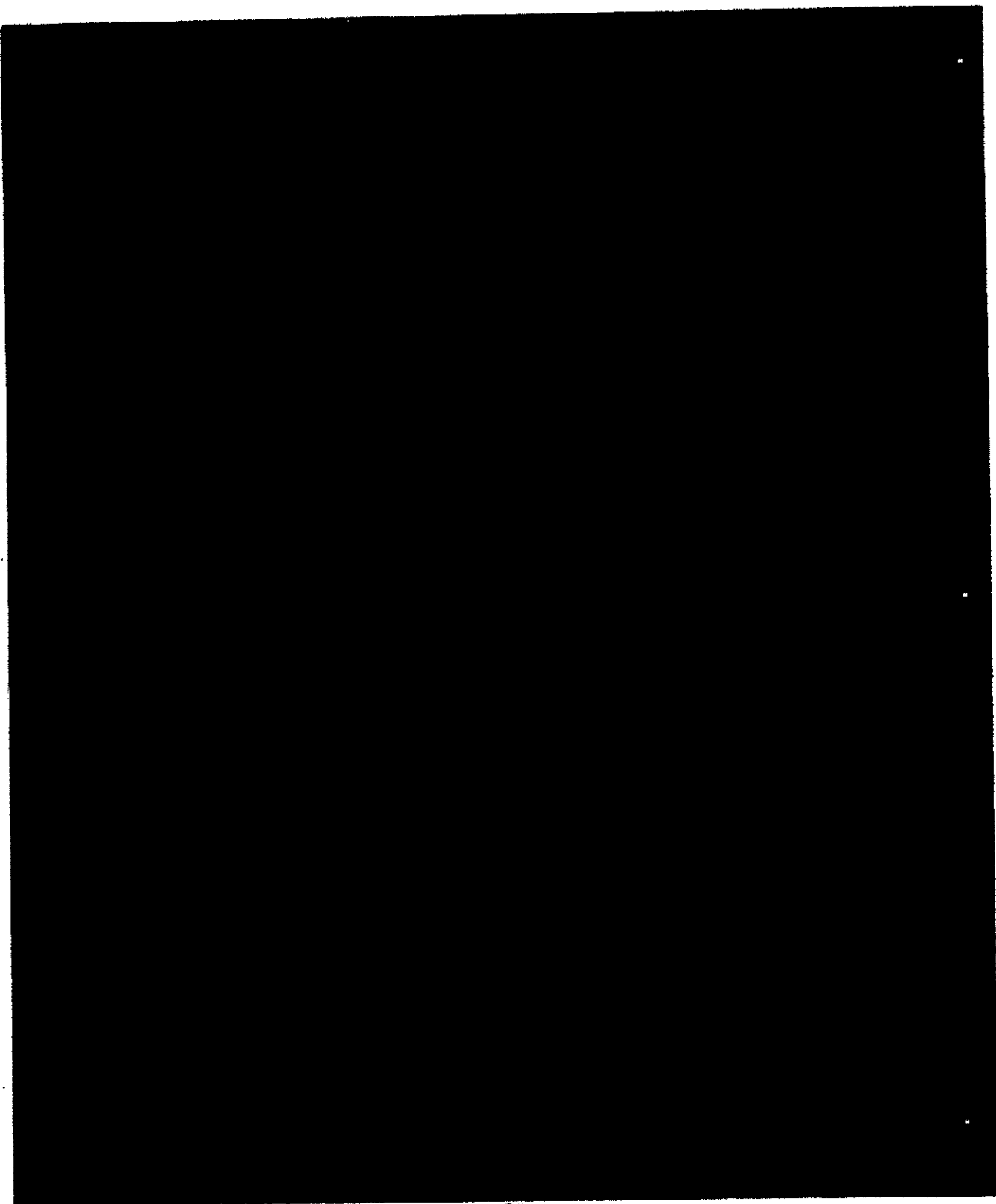
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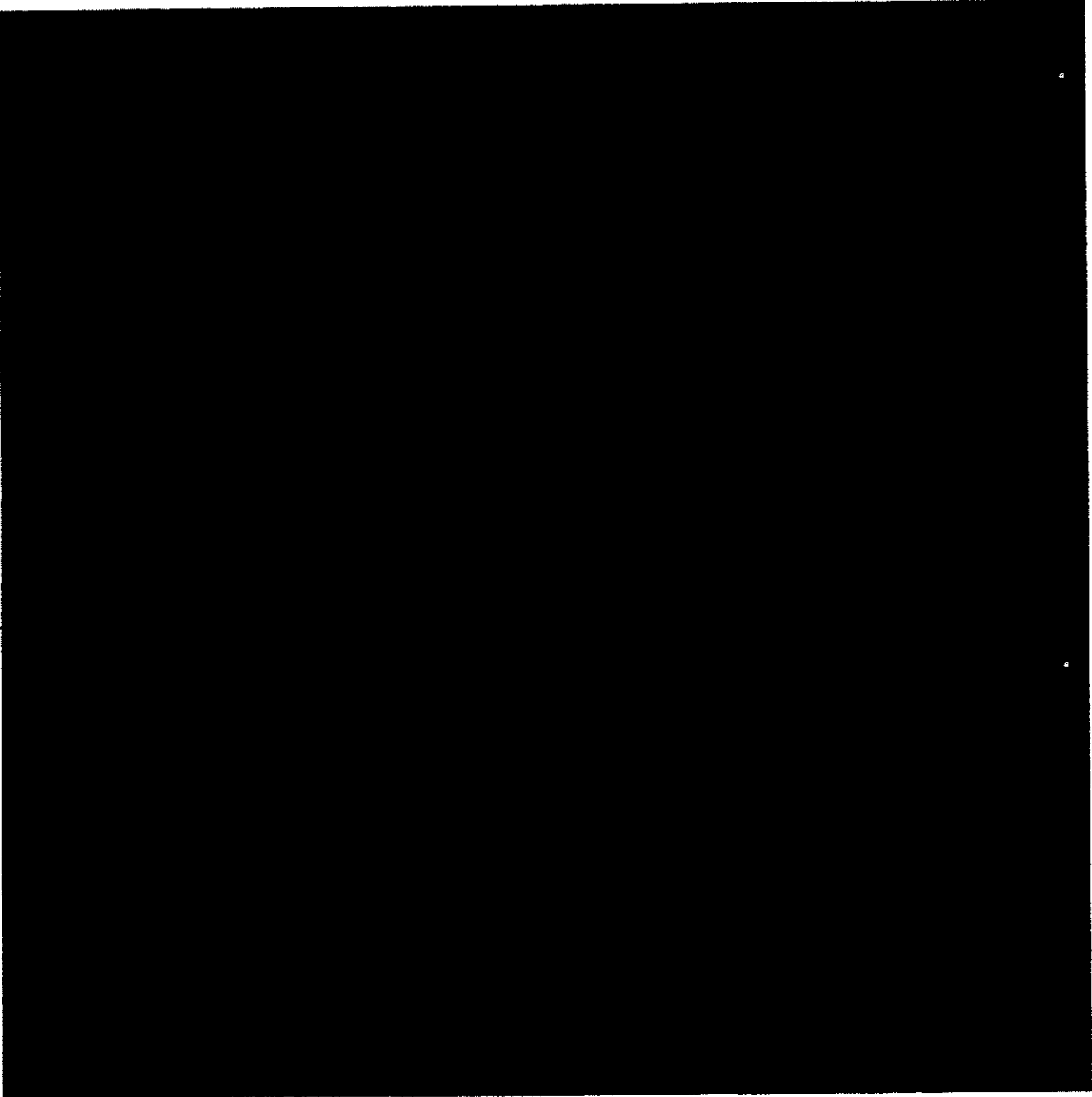


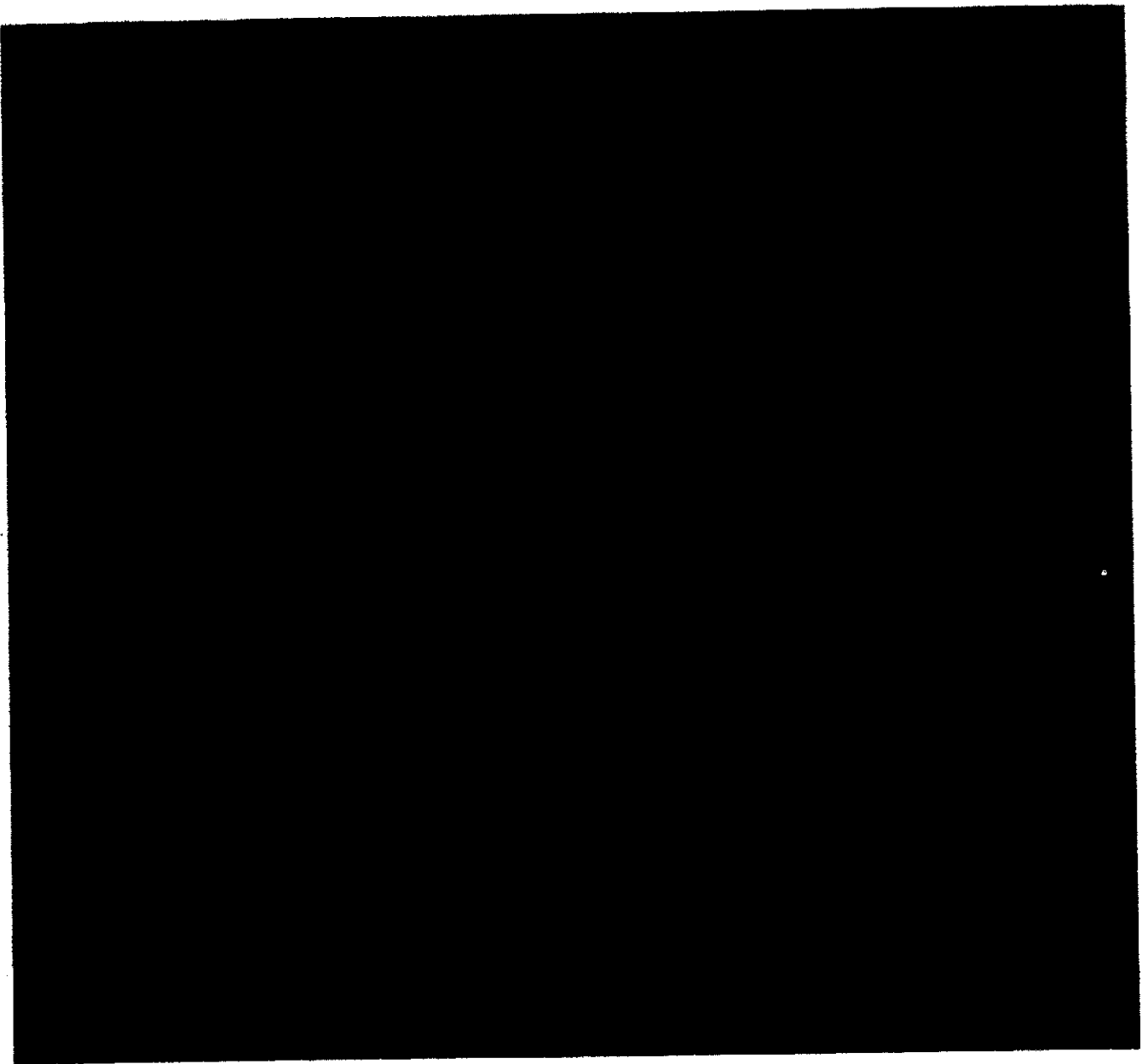




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**From:** Monica Wagner <Monica.Wagner@ag.ny.gov>  
**Sent:** Tuesday, May 03, 2016 11:18 PM  
**To:** Ritenour, Rhodes B.  
**Cc:** Daniel, John W.  
**Subject:** Re: Common interest agreement

Thanks for explaining that, Rhodes. I'll talk to my office and be in touch.

Monica

On May 3, 2016, at 5:16 PM, Ritenour, Rhodes B. <[RRRitenour@og.state.va.us](mailto:RRRitenour@og.state.va.us)> wrote:

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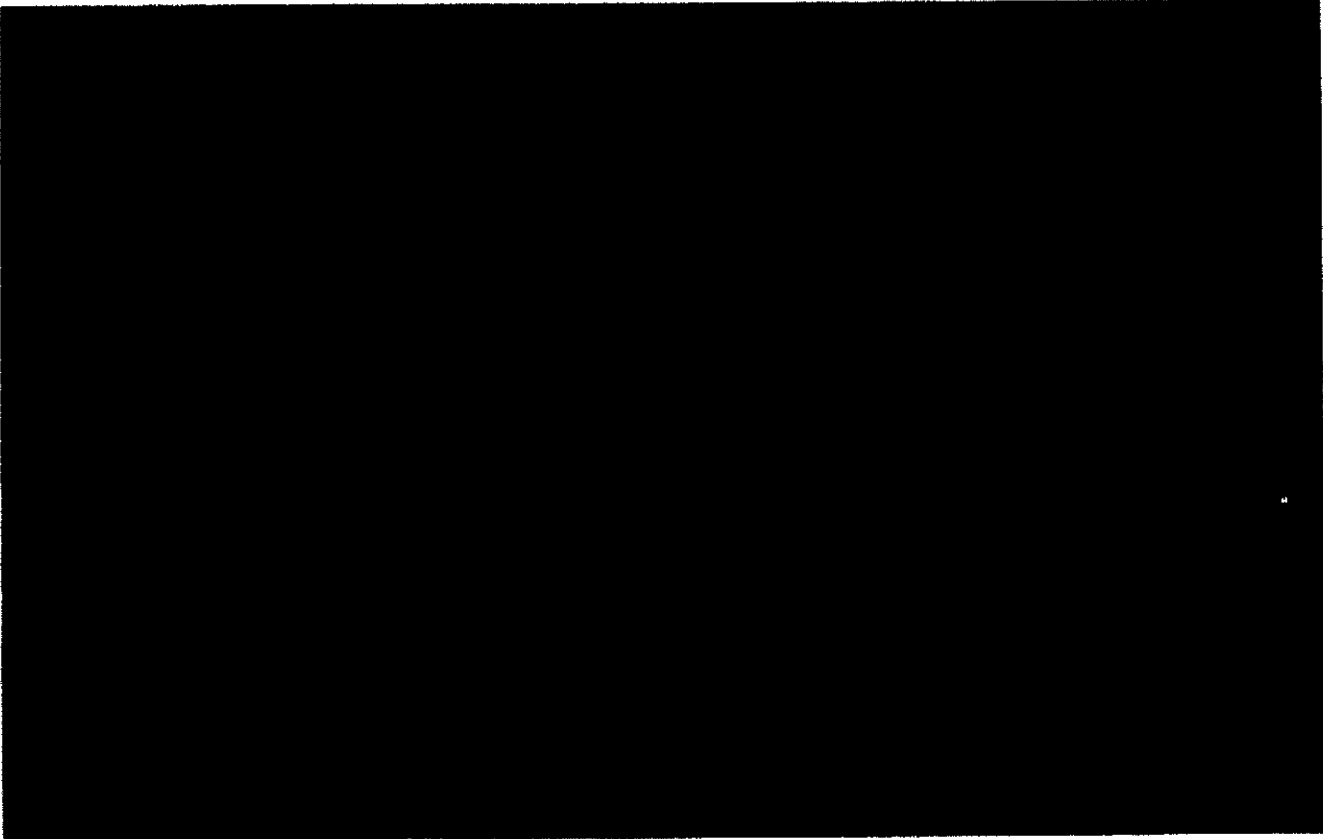
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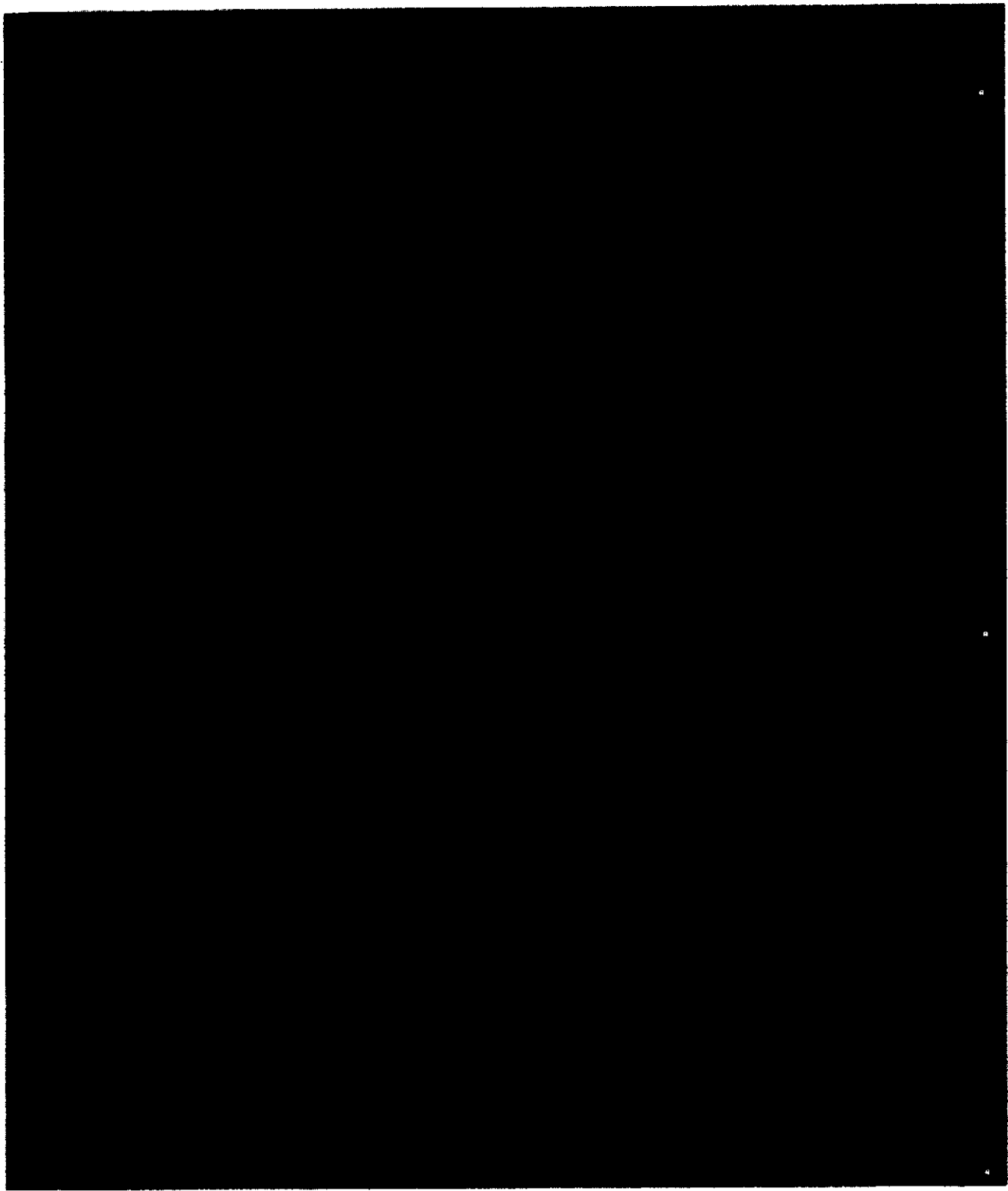
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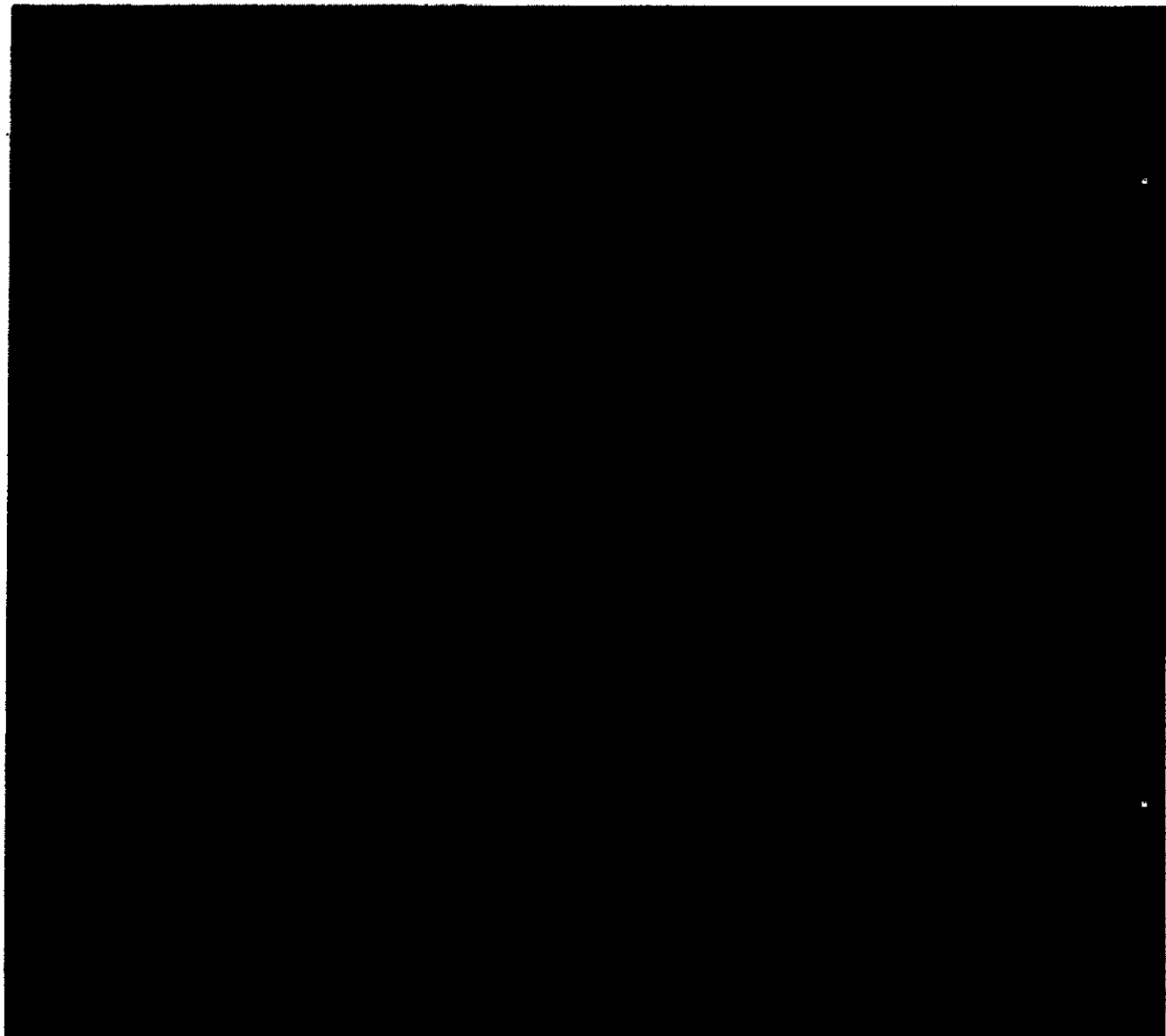
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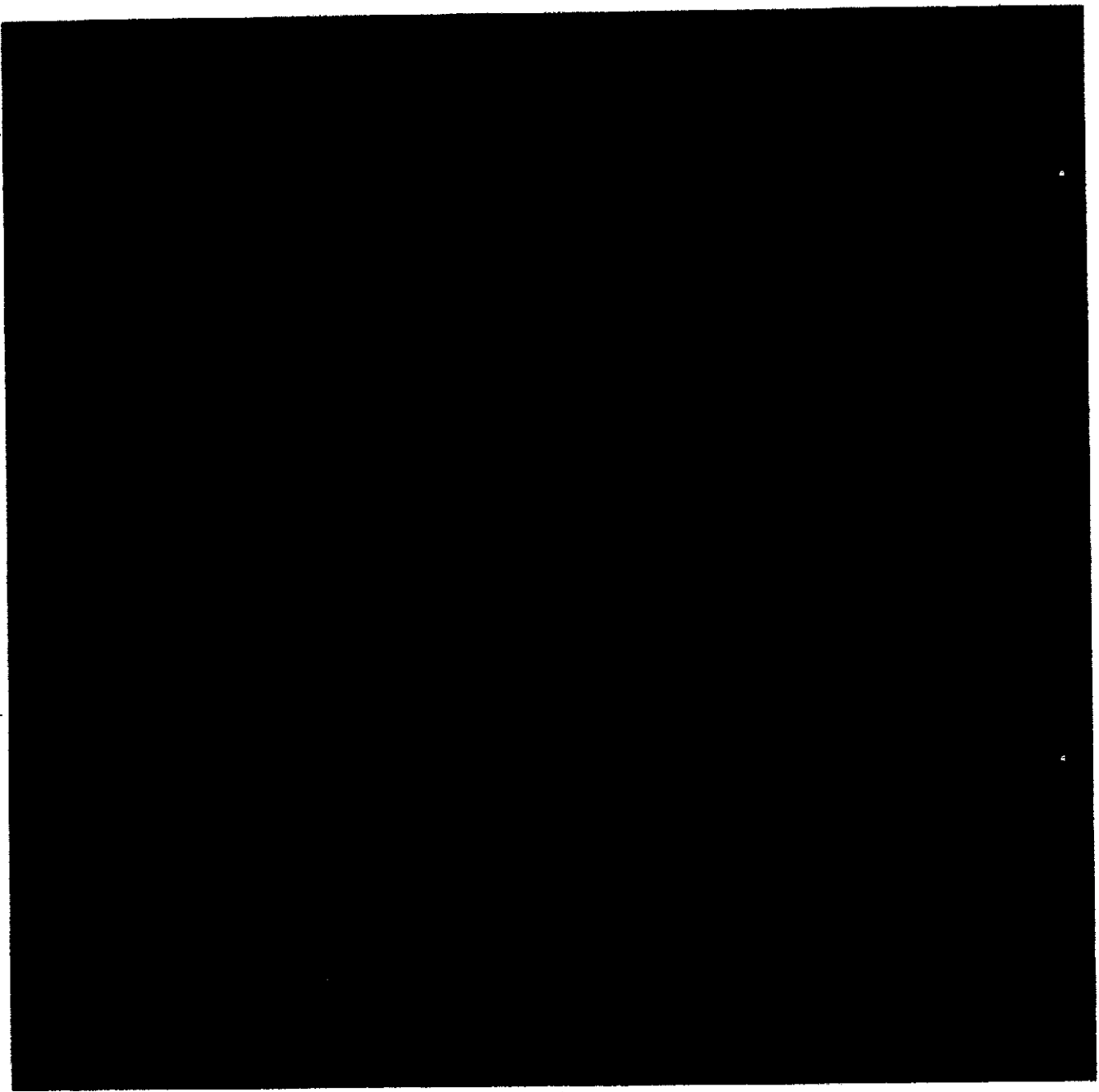


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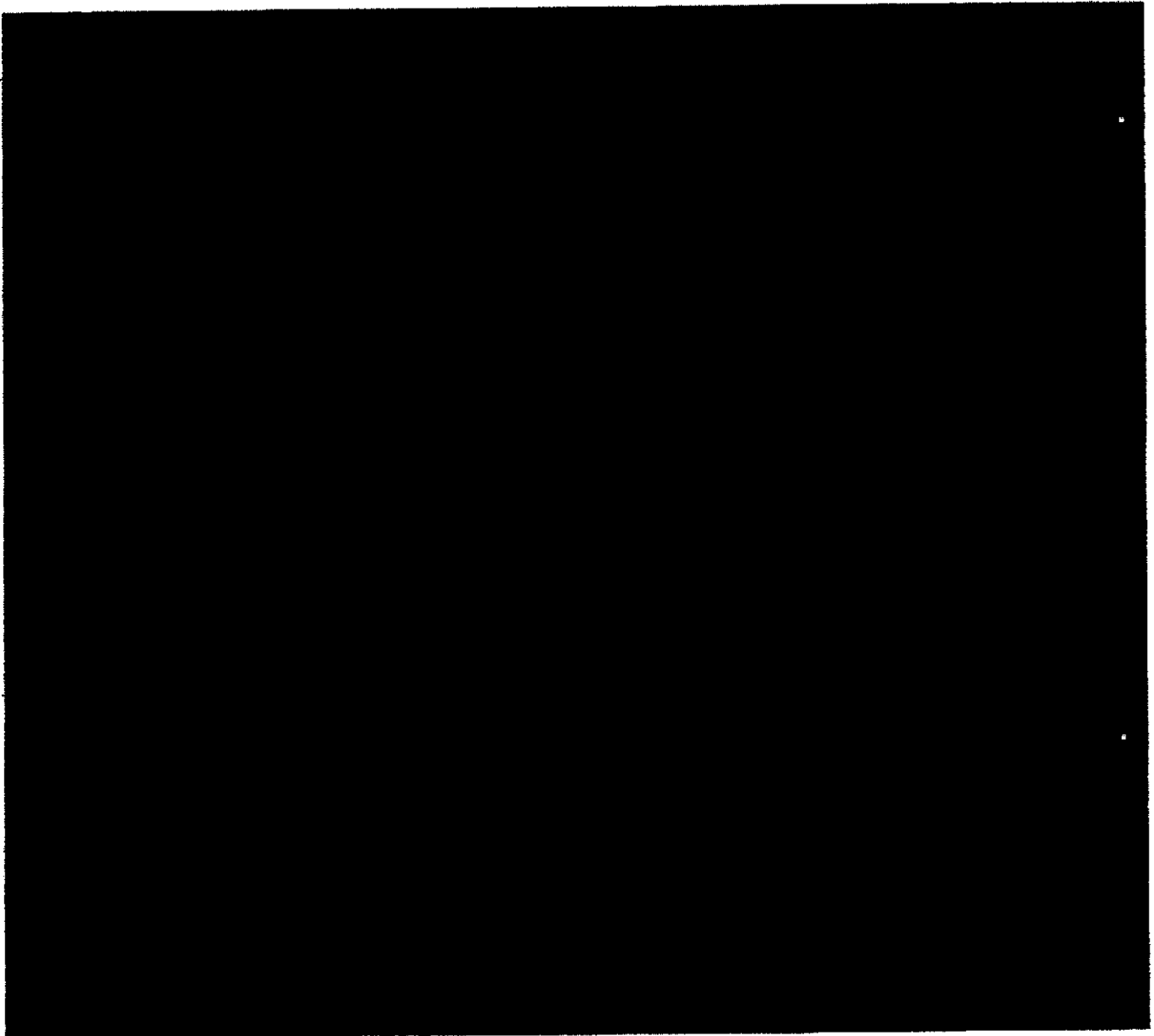
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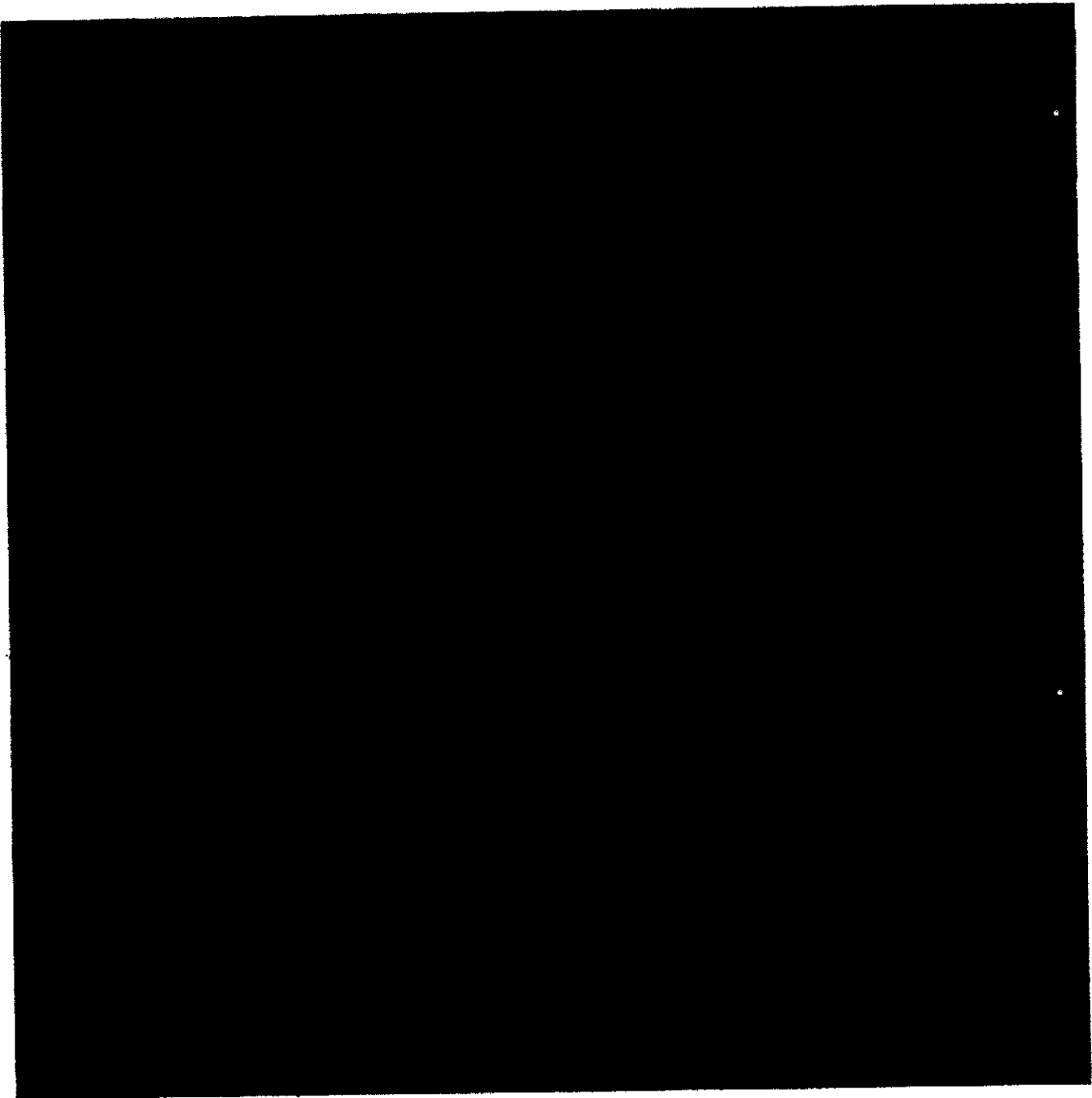
**Smith, Ruth Ann.**

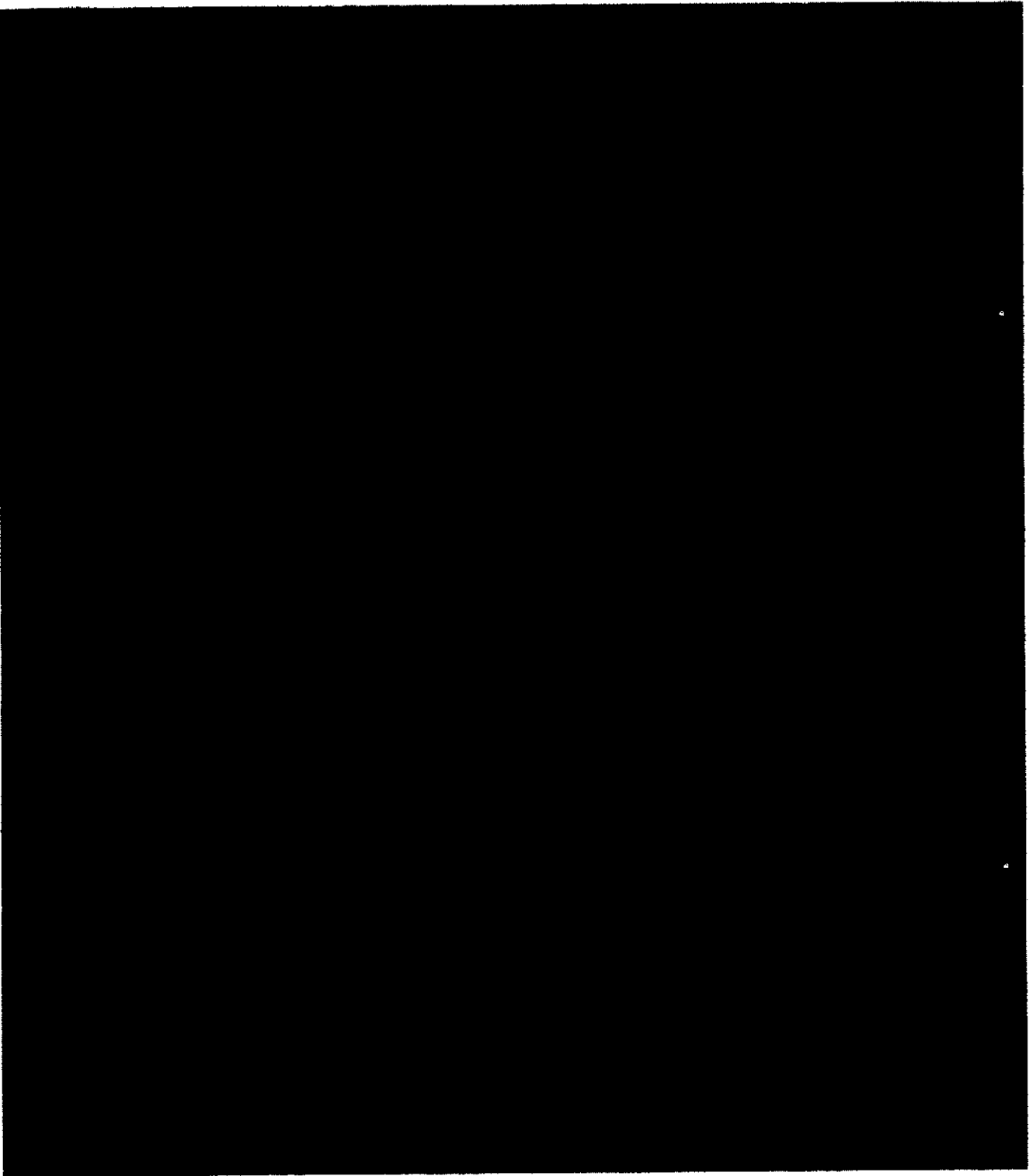
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Thank you for your patience with our signing on to the Common Interest Agreement.

Before signing on to the Agreement, I wanted to make certain we were clear on our Office's understanding of the CIA and how it impacts (or doesn't) our duty to comply with Virginia's Freedom Of Information Act.

Virginia's public records law is interpreted with an eye toward transparency and its 144 exemptions are rarely applied broadly. Unlike the federal FOIA scheme, Virginia's FOIA law reflects years of specific modifications and carve-outs unique to Commonwealth agencies, not broad based categories of information which are applicable over various state and local public entities. While there are general discretionary exemptions for attorney-client privileged material and work product (which may be applicable under common interest once an agreement is signed and litigation is contemplated or reasonably anticipated), it is our view that such exemptions may not cover the full scope of cooperative material exchanged in furtherance of the investigation objectives expressed in the CIA.

Additionally, while our FOIA law has a "catch-all" provision requiring disclosure except as "otherwise prohibited by law," many of the discretionary provisions for investigative action assume that Virginia is actively participating in or conducting the investigation. While Virginia may possess a specific exemption for prosecutorial privilege related to a criminal investigation or in furtherance of a civil investigative demand under the antitrust provisions, the ability to assert a joint investigative privilege would hinge on Virginia's substantive involvement in the investigation and a clear nexus to an express statutory exemption.

Accordingly, we believe if there is information shared with Virginia under the common interest agreement which has no legitimate exception to disclosure expressed in Virginia law, we would have no choice but to produce it when requested. We would certainly work with the state participants to notify them of the disclosure, and be receptive to their comments and concerns regarding the production, but we would still be obligated by law to produce it. It is our view that the common interest agreement does not inoculate us from production of information or documents not clearly exempted from mandatory disclosure by our public records statute.

We wanted to be clear at the outset that our office is taking this position, before signing on to the CIA and asserting this position after the fact. Please let me know if this is a problem for you or the group, and we can proceed accordingly.

Best,

Rhodes B. Ritenour  
Deputy Attorney General  
Civil Litigation Division  
Office of the Attorney General  
900 East Main Street

**Smith, Ruth Ann.**

---

**From:** Garrahan Paul <Paul.Garrahan@doj.state.or.us>  
**Sent:** Monday, May 02, 2016 6:31 PM  
**To:** 'Monica Wagner'; 'Allen Brooks'; 'Amy Winn'; 'Christopher Courchesne'; 'Dennis Ragen'; 'Elizabeth Wilkins'; 'Greg Schultz'; 'Heather Leslie'; 'James Gignac'; 'Jerry Reid'; Daniel, John W.; John Oleske; 'Josh Auerbach'; 'Karen Olson'; 'Laura Watson'; Lemuel Srolovic; 'Leslie Seffern'; Mandy DeRoche; 'Matthew Levine'; 'Melissa Hoffer'; Michael J. Myers; 'Michele Van Gelderen'; 'Nick Persampieri'; Flanagan Patrick A; Peter Washburn; 'Ralph Durstein'; 'Renee Gumbs'; Ritenour, Rhodes B.; 'Robert Snook'; 'Sally Magnani'; 'Scot Kline'; 'Tania Maestas'; 'Tannis Fox'; Nord Tim D; 'Wendy Morgan'; 'William Grantham'  
**Cc:** Kron Michael C; Ellenberg Noah  
**Subject:** RE: Common interest agreement  
**Attachments:** Oregon\_AG\_April29request.pdf

All: Under paragraph 6 of the CIA, this email is to notify you that Oregon just received the attached public records request. Please let me know if you have any questions regarding this request.

**Paul Garrahan**

Oregon Department of Justice  
971.673.1943 (Tue, Thu, Fri) (Portland)  
503.947.4593 (Mon, Wed) (Salem)  
503.929.7553 (Mobile)

**From:** Monica Wagner [mailto:Monica.Wagner@ag.ny.gov]  
**Sent:** Thursday, April 28, 2016 2:57 PM  
**To:** 'Allen Brooks'; 'Amy Winn'; 'Christopher Courchesne'; 'Dennis Ragen'; 'Elizabeth Wilkins'; 'Greg Schultz'; 'Heather Leslie'; 'James Gignac'; 'Jerry Reid'; 'John Daniel'; John Oleske; 'Josh Auerbach'; 'Karen Olson'; 'Laura Watson'; Lemuel Srolovic; 'Leslie Seffern'; Mandy DeRoche; 'Matthew Levine'; 'Melissa Hoffer'; Michael J. Myers; 'Michele Van Gelderen'; 'Nick Persampieri'; Flanagan Patrick A; Garrahan Paul; Peter Washburn; 'Ralph Durstein'; 'Renee Gumbs'; 'Rhodes Ritenour'; 'Robert Snook'; 'Sally Magnani'; 'Scot Kline'; 'Tania Maestas'; 'Tannis Fox'; Nord Tim D; 'Wendy Morgan'; 'William Grantham'  
**Subject:** RE: Common interest agreement

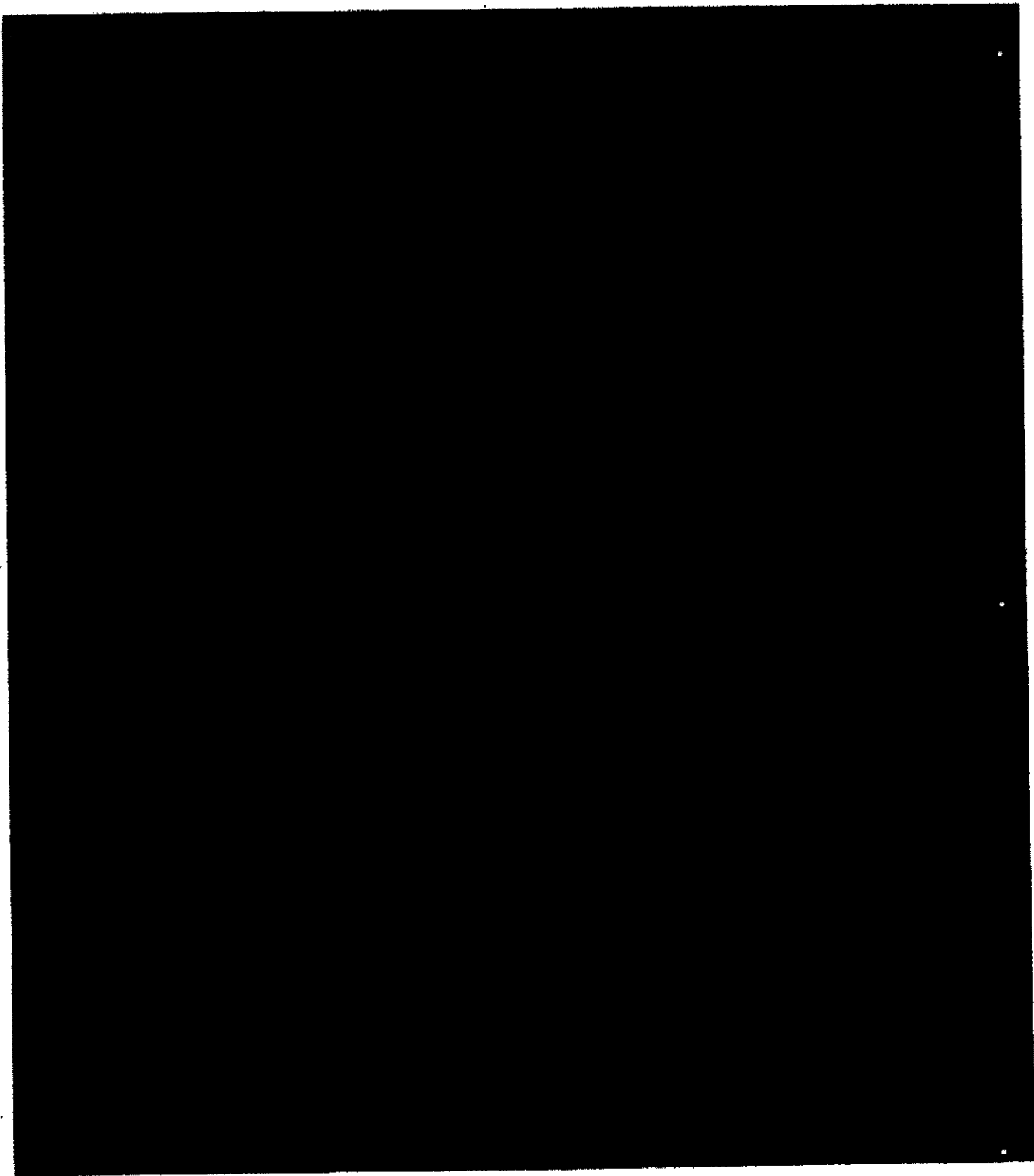
We have approvals and signature blocks for almost every state, so I've asked my paralegal, Amanda Moody, to send out the agreement for signatures tomorrow. If you haven't approved and/or sent a signature block, I'll send you a separate email.

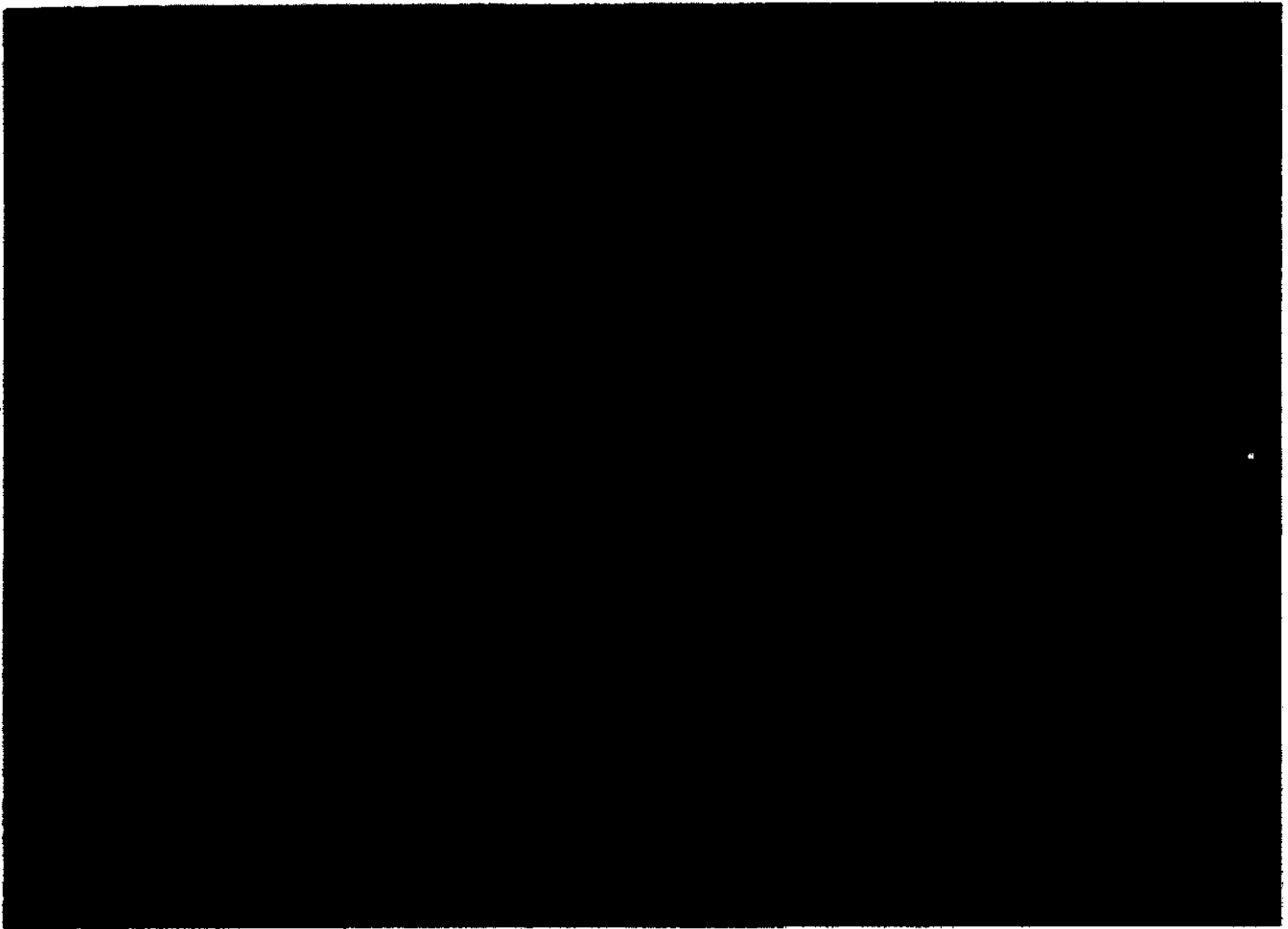
Thanks,

Monica

Monica Wagner  
Deputy Chief  
Environmental Protection Bureau  
Office of the Attorney General of New York  
120 Broadway, 26th Floor  
New York, NY 10271  
(212) 416-6351







**Smith, Ruth Ann.**

---

**From:** Garrahan Paul [mailto:Paul.Garrahan@doj.state.or.us]

**Sent:** Tuesday, May 03, 2016 12:46 PM

**To:** 'Monica Wagner'; 'Allen Brooks'; 'Amy Winn'; 'Christopher Courchesne'; 'Dennis Ragen'; 'Elizabeth Wilkins'; 'Greg Schultz'; 'Heather Leslie'; 'James Gignac'; Reid, Jerry; 'John Daniel'; 'John Oleske'; 'Josh Auerbach'; 'Karen Olson'; 'Laura Watson'; 'Lemuel Srolovic'; 'Leslie Seffern'; 'Mandy DeRoche'; 'Matthew Levine'; 'Melissa Hoffer'; 'Michael J. Myers'; 'Michele Van Gelderen'; 'Nick Persampieri'; Flanagan Patrick A; 'Peter Washburn'; 'Ralph Durstein'; 'Renee Gumbs'; 'Rhodes Ritenour'; 'Robert Snook'; 'Sally Magnani'; 'Scot Kline'; 'Tania Maestas'; 'Tannis Fox'; Nord Tim D; 'Wendy Morgan'; 'William Grantham'

**Cc:** Kron Michael C; Ellenberg Noah; 'michael.jerry@ag.ny.gov'

**Subject:** RE: Common interest agreement

All: Under paragraph 6 of the CIA, this email is to notify you that Oregon just received the attached, second public records request. Please let me know if you have any questions regarding this request.

Paul Garrahan

Oregon Department of Justice

971.673.1943 (Tue, Thu, Fri) (Portland)

503.947.4593 (Mon, Wed) (Salem)

503.929.7553 (Mobile)

**From:** Garrahan Paul

**Sent:** Monday, May 02, 2016 3:31 PM

**To:** 'Monica Wagner'; 'Allen Brooks'; 'Amy Winn'; 'Christopher Courchesne'; 'Dennis Ragen'; 'Elizabeth Wilkins'; 'Greg Schultz'; 'Heather Leslie'; 'James Gignac'; 'Jerry Reid'; 'John Daniel'; 'John Oleske'; 'Josh Auerbach'; 'Karen Olson'; 'Laura Watson'; 'Lemuel Srolovic'; 'Leslie Seffern'; 'Mandy DeRoche'; 'Matthew Levine'; 'Melissa Hoffer'; 'Michael J. Myers'; 'Michele Van Gelderen'; 'Nick Persampieri'; Flanagan Patrick A; 'Peter Washburn'; 'Ralph Durstein'; 'Renee Gumbs'; 'Rhodes Ritenour'; 'Robert Snook'; 'Sally Magnani'; 'Scot Kline'; 'Tania Maestas'; 'Tannis Fox'; Nord Tim D; 'Wendy Morgan'; 'William Grantham'

**Cc:** Kron Michael C; Ellenberg Noah

**Subject:** RE: Common interest agreement

All: Under paragraph 6 of the CIA, this email is to notify you that Oregon just received the attached public records request. Please let me know if you have any questions regarding this request.

Paul Garrahan  
Oregon Department of Justice  
971.673.1943 (Tue, Thu, Fri) (Portland)  
503.947.4593 (Mon, Wed) (Salem)  
503.929.7553 (Mobile)

**From:** Monica Wagner [mailto:Monica.Wagner@ag.ny.gov]

**Sent:** Thursday, April 28, 2016 2:57 PM

**To:** 'Allen Brooks'; 'Amy Winn'; 'Christopher Courchesne'; 'Dennis Ragen'; 'Elizabeth Wilkins'; 'Greg Schultz'; 'Heather Leslie'; 'James Gignac'; 'Jerry Reid'; 'John Daniel'; 'John Oleske'; 'Josh Auerbach'; 'Karen Olson'; 'Laura Watson'; 'Lemuel Srolovic'; 'Leslie Seffern'; 'Mandy DeRoche'; 'Matthew Levine'; 'Melissa Hoffer'; 'Michael J. Myers'; 'Michele Van Gelderen'; 'Nick Persampieri'; 'Flanagan Patrick A; Garrahan Paul; Peter Washburn; 'Ralph Durstein'; 'Renee Gumbs'; 'Rhodes Ritenour'; 'Robert Snook'; 'Sally Magnani'; 'Scot Kline'; 'Tania Maestas'; 'Tannis Fox'; 'Nord Tim D'; 'Wendy Morgan'; 'William Grantham'

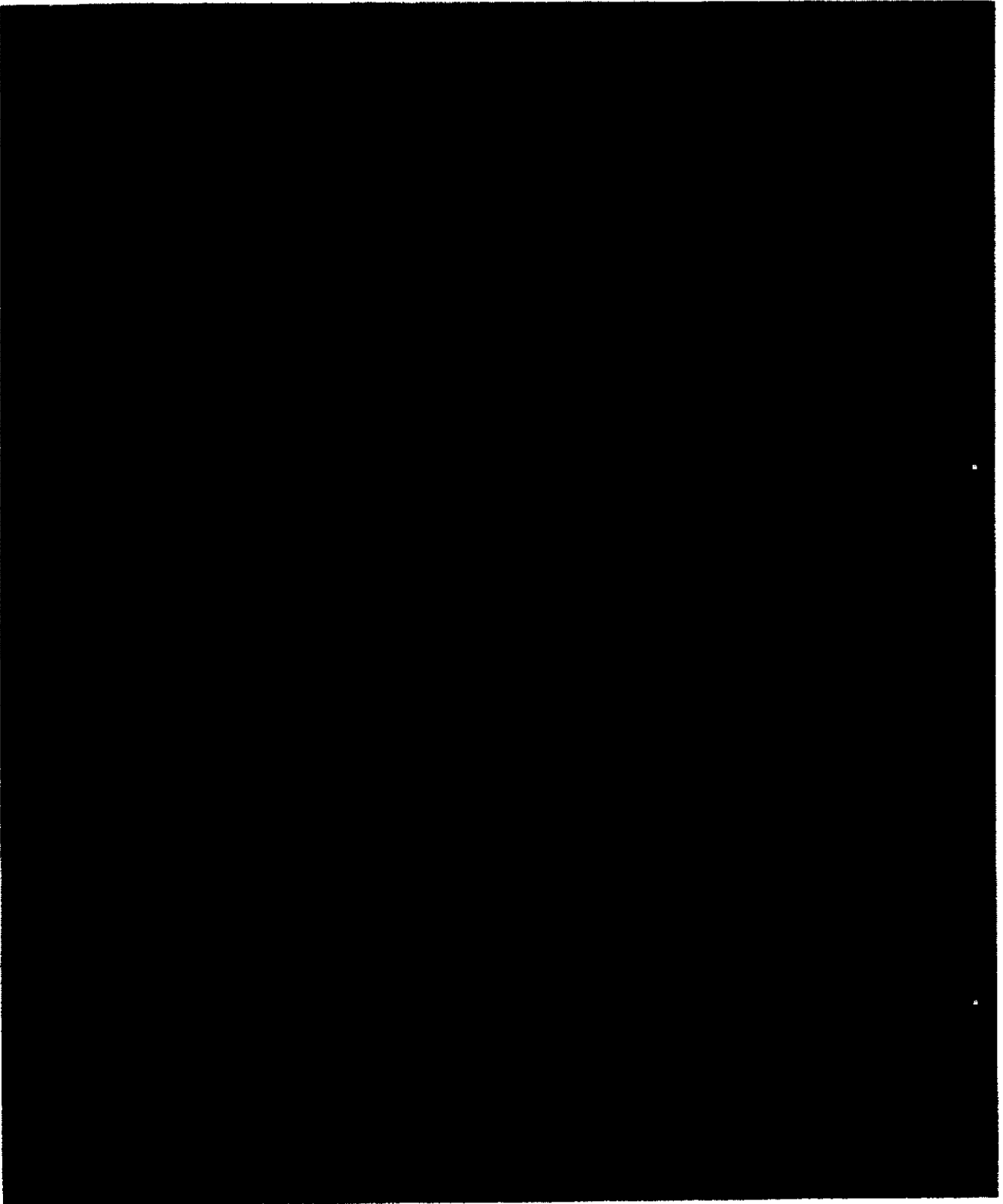
**Subject:** RE: Common interest agreement

We have approvals and signature blocks for almost every state, so I've asked my paralegal, Amanda Moody, to send out the agreement for signatures tomorrow. If you haven't approved and/or sent a signature block, I'll send you a separate email.

Thanks,

Monica

Monica Wagner  
Deputy Chief  
Environmental Protection Bureau  
Office of the Attorney General of New York  
120 Broadway, 26th Floor  
New York, NY 10271  
(212) 416-6351





**Smith, Ruth Ann.**

---

**From:** Monica Wagner [<mailto:Monica.Wagner@ag.ny.gov>]

**Sent:** Friday, May 06, 2016 2:03 PM

**To:** Ritenour, Rhodes B.

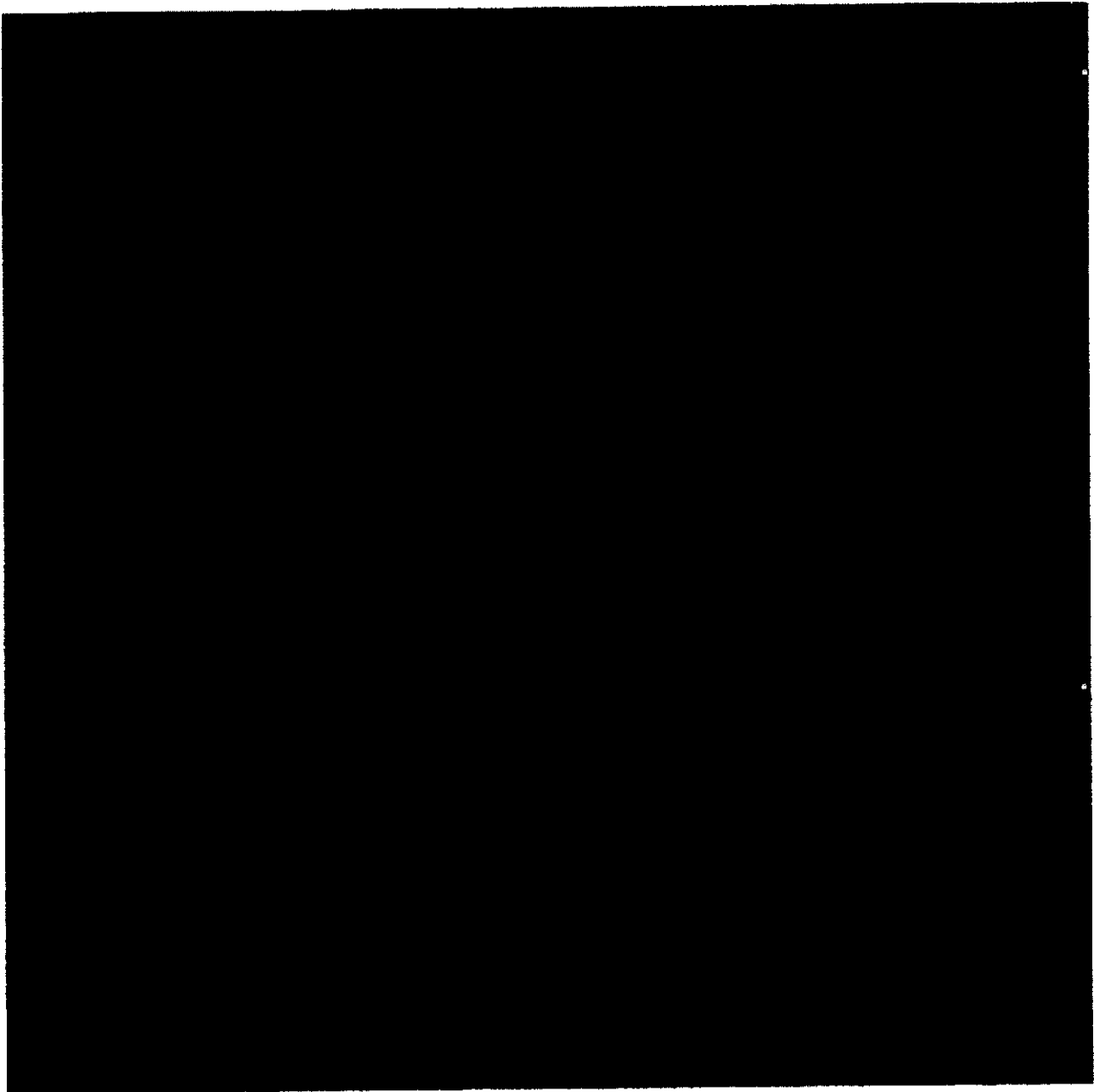
**Cc:** Danfel, John W.; John Oleske

**Subject:** RE: Common interest agreement

Rhodes,

Thanks for letting us know your office's understanding of your obligations under VA's FOI Act. That does not present a problem for NY and we're comfortable with VA signing the common interests agreement. If you'd like to raise it with the other states, do you want to do that on next Tuesday's call?

Would you have time to talk to John Oleske and me about the coalition more generally before next Tuesday's call?





**Kibe, Jennifer S.**

---

**From:** Monica Wagner <Monica.Wagner@ag.ny.gov>  
**Sent:** Thursday, April 28, 2016 5:57 PM  
**To:** 'Allen Brooks'; 'Amy Winn'; 'Christopher Courchesne'; 'Dennis Ragen'; 'Elizabeth Wilkins'; 'Greg Schultz'; 'Heather Leslie'; 'James Gignac'; 'Jerry Reid'; 'Daniel, John W.; John Oleske'; 'Josh Auerbach'; 'Karen Olson'; 'Laura Watson'; 'Lemuel Srolovic'; 'Leslie Seffern'; 'Mandy DeRoche'; 'Matthew Levine'; 'Melissa Hoffer'; 'Michael J. Myers'; 'Michele Van Gelderen'; 'Nick Persampieri'; 'Patrick Flanagan'; 'Paul Garrahan'; 'Peter Washburn'; 'Raiph Durstein'; 'Renee Gumbs'; 'Riteneur, Rhodes B.'; 'Robert Snook'; 'Sally Magnani'; 'Scot Kline'; 'Tania Maestas'; 'Tannis Fox'; 'Tim Nord'; 'Wendy Morgan'; 'William Grantham'  
**Subject:** RE: Common interest agreement

We have approvals and signature blocks for almost every state, so I've asked my paralegal, Amanda Moody, to send out the agreement for signatures tomorrow. If you haven't approved and/or sent a signature block, I'll send you a separate email.

Thanks,

Monica

Monica Wagner  
Deputy Chief  
Environmental Protection Bureau  
Office of the Attorney General of New York  
120 Broadway, 26th Floor  
New York, NY 10271  
(212) 416-6351

Accordingly, we believe if there is information shared with Virginia under the common interest agreement which has no legitimate exception to disclosure expressed in Virginia law, we would have no choice but to produce it when requested. We would certainly work with the state participants to notify them of the disclosure, and be receptive to their comments and concerns regarding the production, but we would still be obligated by law to produce it. It is our view that the common interest agreement does not inoculate us from production of information or documents not clearly exempted from mandatory disclosure by our public records statute.

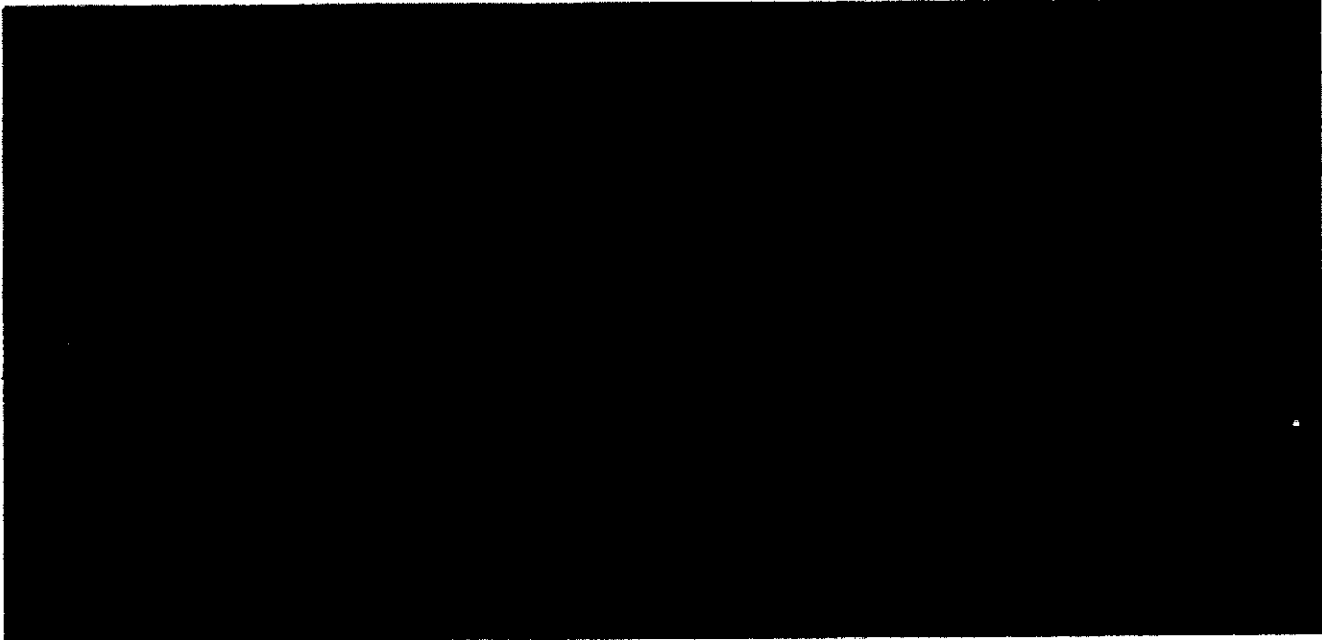
We wanted to be clear at the outset that our office is taking this position, before signing on to the CIA and asserting this position after the fact. Please let me know if this is a problem for you or the group, and we can proceed accordingly.

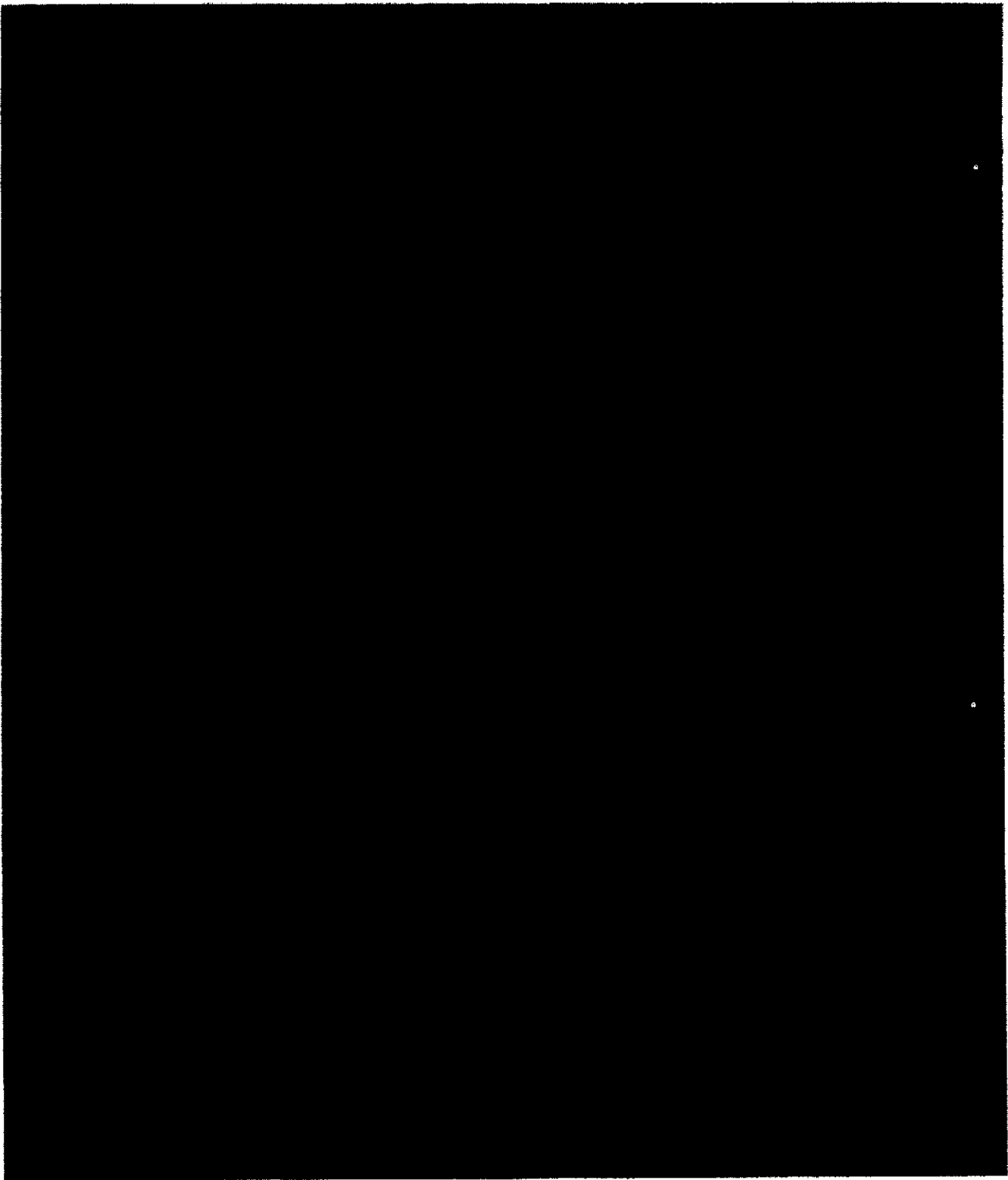
Best,

Rhodes B. Ritenour  
Deputy Attorney General  
Civil Litigation Division  
Office of the Attorney General  
900 East Main Street  
Richmond, VA 23219  
Office: (804) 786-6731  
Mobile: (804) 517-2931  
E-mail: [RRitenour@oag.state.va.us](mailto:RRitenour@oag.state.va.us)  
<http://www.ag.virginia.gov/>

**From:** Monica Wagner [<mailto:Monica.Wagner@ag.ny.gov>]  
**Sent:** Thursday, April 28, 2016 6:20 PM  
**To:** Ritenour, Rhodes B.  
**Subject:** RE: Common interest agreement

I asked my paralegal to go ahead and send you the final agreement and your signature page, and then you can sign it when you get approval. Thanks.







**Kibe, Jennifer S.**

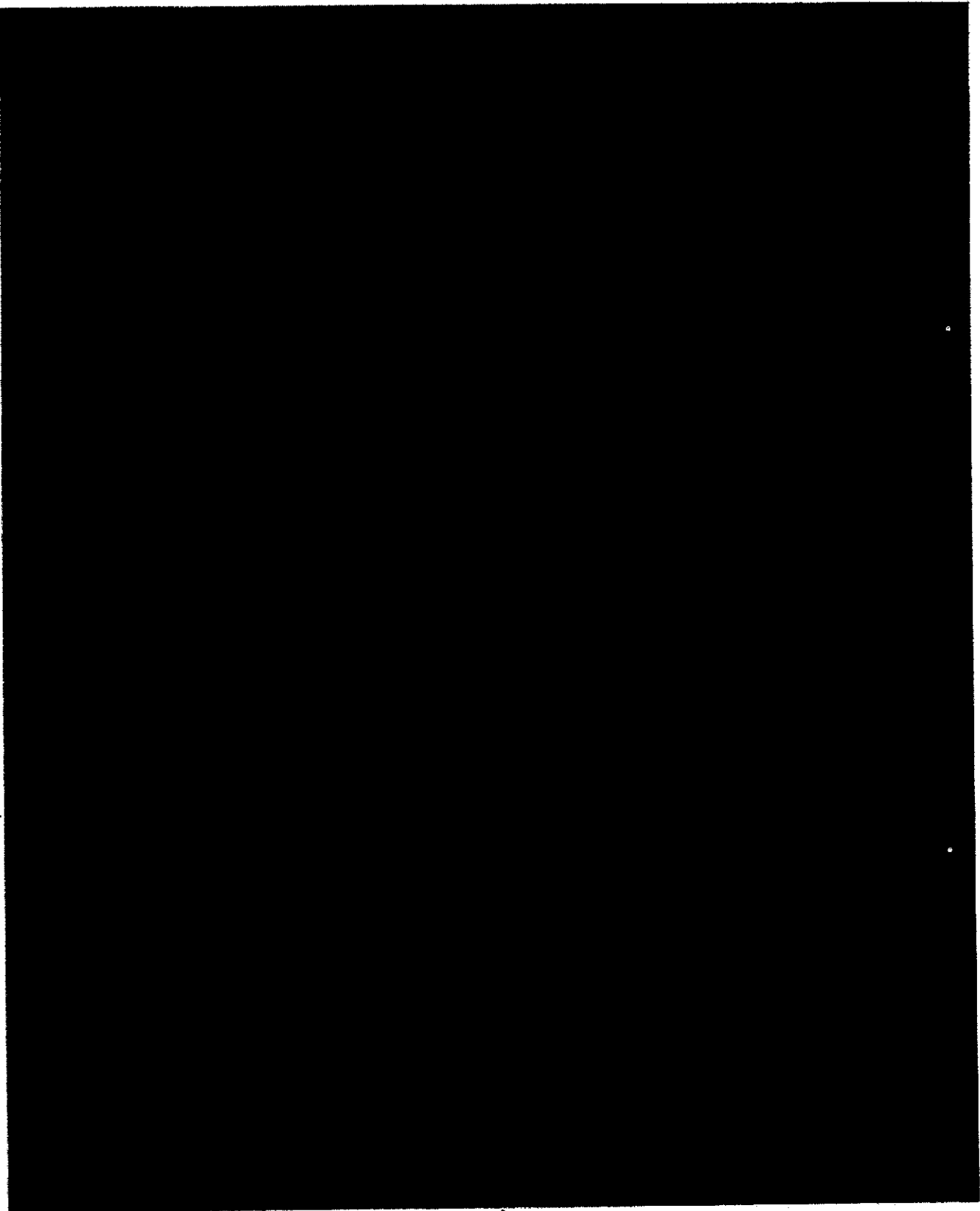
---

**From:** Michael J. Myers <Michael.Myers@ag.ny.gov>  
**Sent:** Thursday, April 28, 2016 11:07 AM  
**To:** 'Allen Brooks'; 'Greg Schultz'; 'James Gignac'; 'Jerry Reid'; Danie., John W.; 'Karen Olson'; 'Matthew Levine'; Peter Washburn; Ritenour, Rhodes B.; 'Tannis Fox'; Jonathan Wiener (Jonathan.Wiener@doj.ca.gov); Elaine Meckenstock (Elaine.Meckenstock@doj.ca.gov)  
**Cc:** 'Christopher Courchesne'; Laura Watson (lauraw2@atg.wa.gov); 'Garrahan Paul' (Paul.Garrahan@doj.state.or.us)  
**Subject:** Section 115 call tomorrow

All, sorry for the last minute notice for some, but I had previously offered to set up a call with Mike Burger, the principal author of the Section 115 paper I previously circulated, so that those interested could have an opportunity to hear Mike describe this approach and ask any questions. In response, I heard from several of you (MA, OR, WA) that you were interested in participating in such a call. Based on the availability of those states and Mike's, I scheduled the call for tomorrow at 3 pm eastern. If you would like to participate in the call, let me know and I can provide you with the dial-in info. Alternatively, if you're interested in this topic but can't do the call, let me know also. Thanks.--Mike

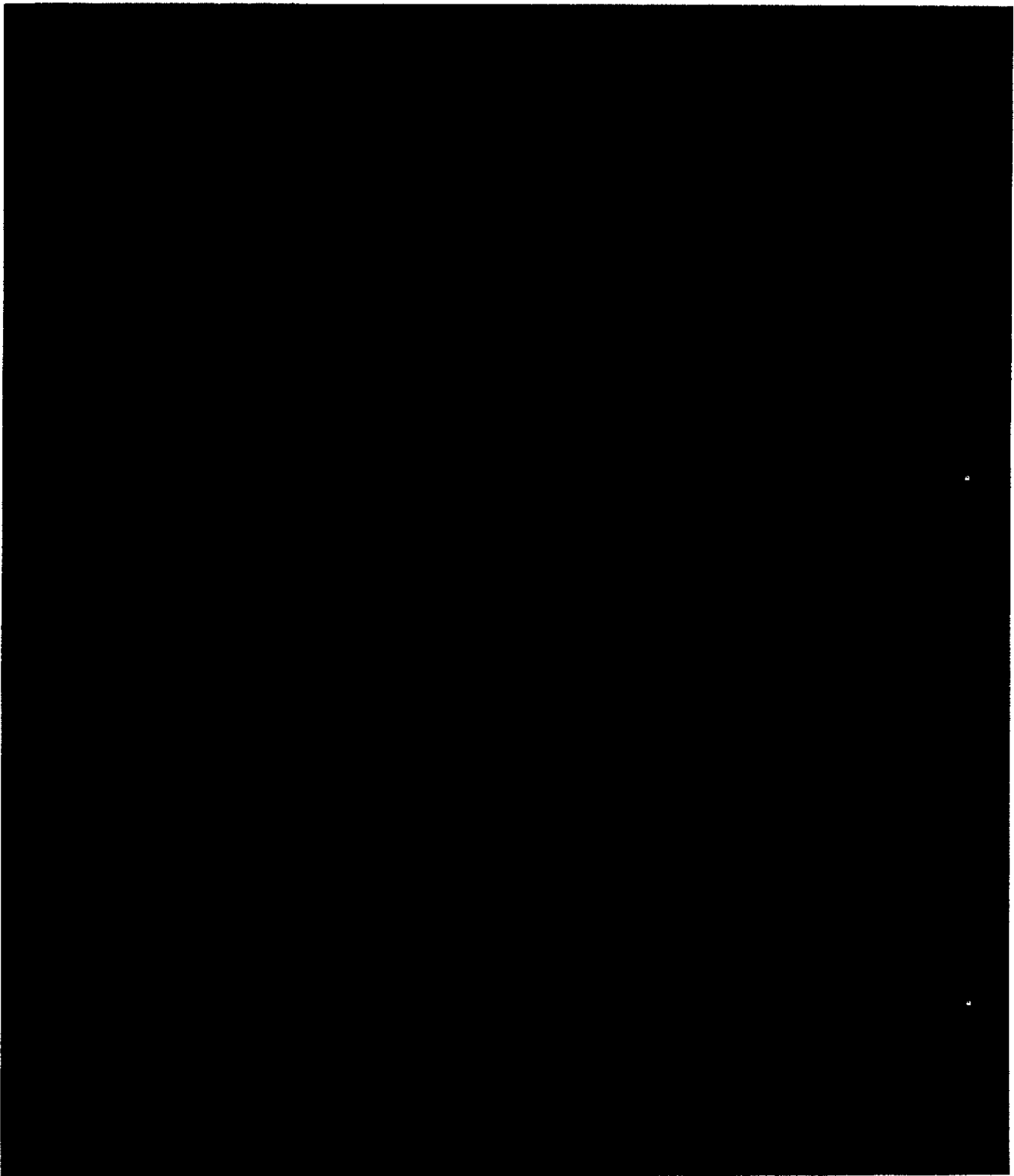
Michael J. Myers  
Chief, Affirmative Litigation Section  
Environmental Protection Bureau  
New York State Attorney General  
The Capitol  
Albany, NY 12224  
(518) 776-2382  
[michael.myers@ag.ny.gov](mailto:michael.myers@ag.ny.gov)

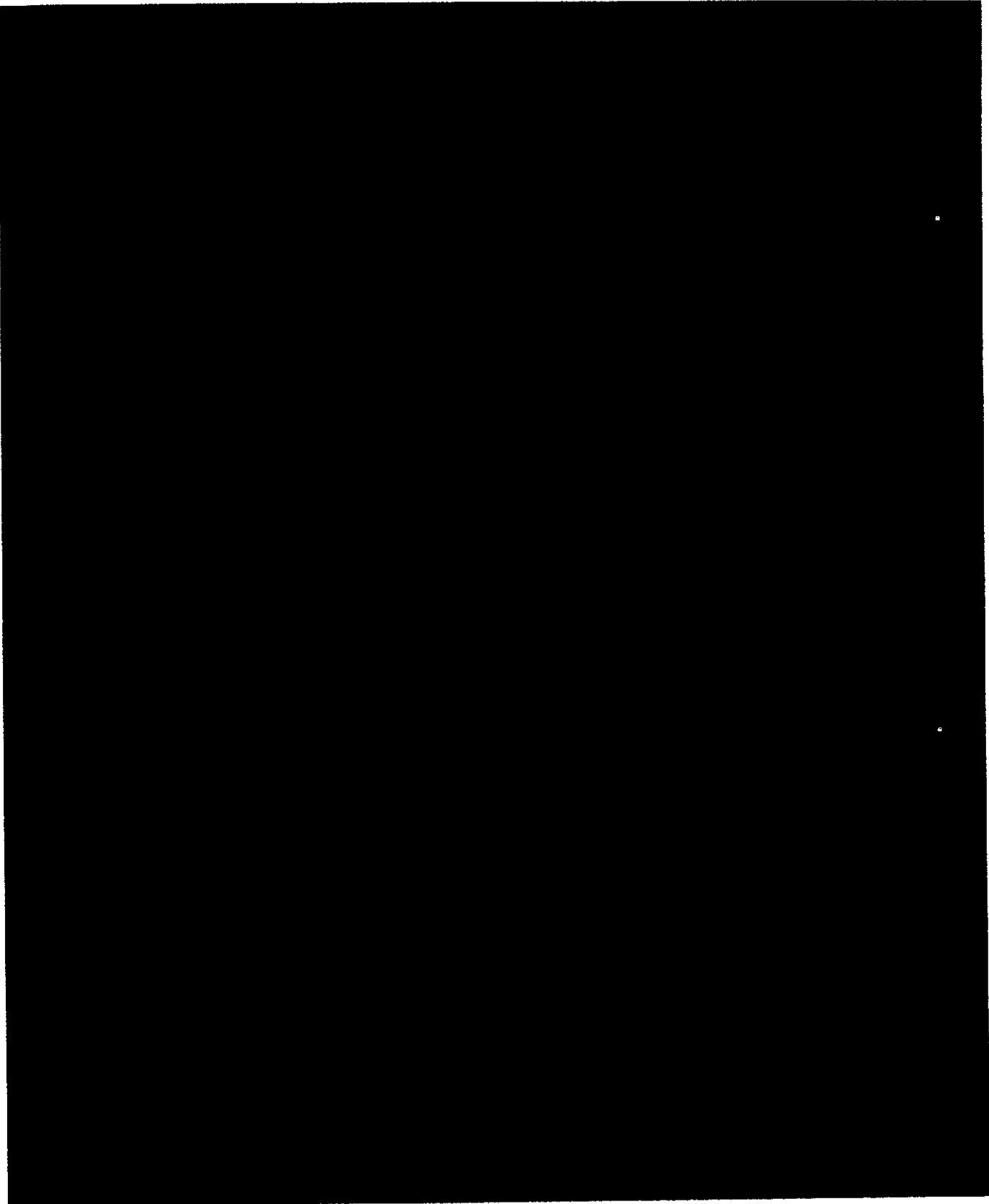




**Smith, Ruth Ann.**

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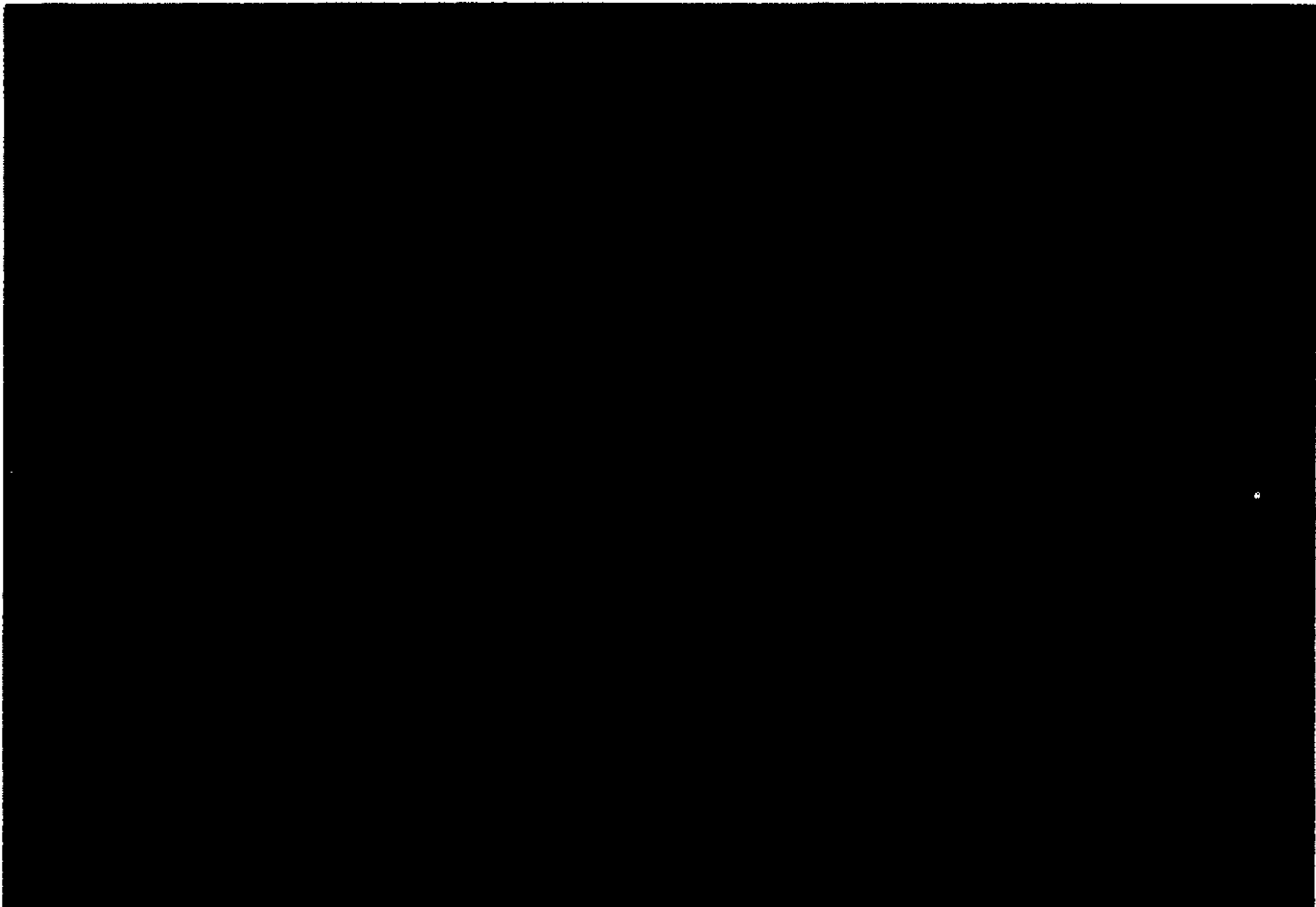






**Smith, Ruth Ann.**

---



**From:** Ritenour, Rhodes B. [<mailto:RRitenour@oag.state.va.us>]

**Sent:** Thursday, August 25, 2016 10:51 AM

**To:** Watson, Laura (ATG); 'Kline, Scot'; Brooks, K. Allen; Wilkins, Elizabeth (OAG); Garrahan Paul; 'Reid, Jerry'; 'Courchesne, Christophe (AGO)'; Michael Jerry; Amy Winn; Courchesne, Christophe (AGO); Dennis Ragen; Heather Leslie; James Gignac; Daniel, John W.; John Oleske; Josh Auerbach; Karen Olson; Lemuel Srolovic; Seffern, Leslie (ATG); Mandy DeRoche; Matthew Levine; Hoffer, Melissa (AGO); Michael J. Myers; Michele Van Gelderen; Monica Wagner; Persampieri, Nick; Flanagan Patrick A; Peter Washburn; Renee Gumbs; Robert Snook ; Sally Magnani; Tania Maestas; Tannis Fox; Nord Tim D; Morgan, Wendy; William Grantham

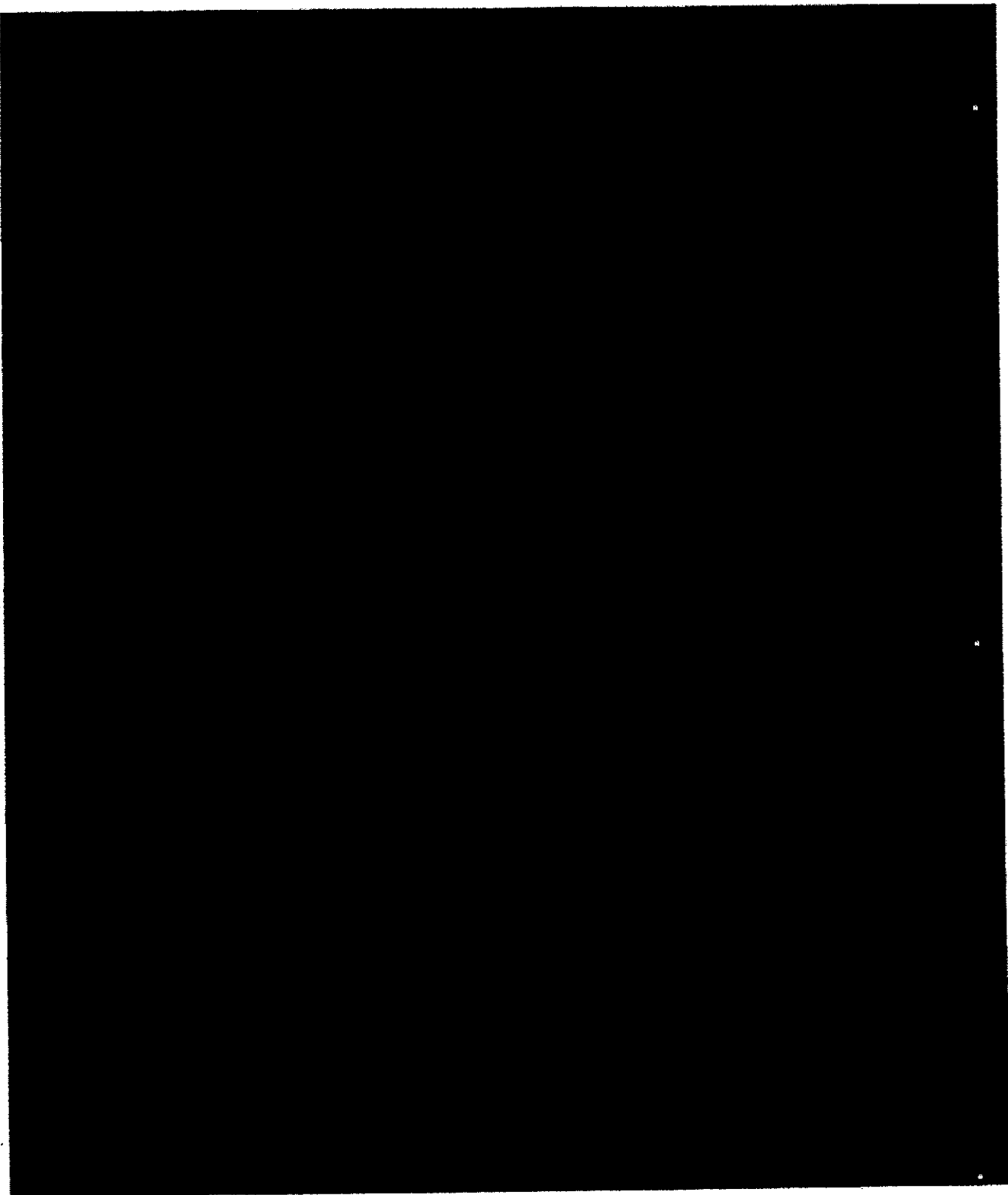
**Cc:** Riley, Jillian (AGO)

**Subject:** FOIA Response

Attached please find what Virginia produced yesterday in response to the FOIA request from the Free Market Environmental Law Clinic.

Best,

Rhodes B. Ritenour  
Deputy Attorney General  
Civil Litigation Division  
Office of the Attorney General



**From:** Ritenour, Rhodes B. [mailto:RRitenour@oag.state.va.us]

**Sent:** Thursday, August 25, 2016 10:51 AM

**To:** Watson, Laura (ATG); 'Kline, Scot'; Brooks, K. Allen; Wilkins, Elizabeth (OAG); Garrahan Paul; 'Reid, Jerry'; 'Courchesne, Christophe (AGO)'; Michael Jerry; Amy Winn; Courchesne, Christophe (AGO); Dennis Ragen; Heather Leslie; James Gignac; Daniel, John W.; John Oleske; Josh Auerbach; Karen Olson; Lemuel Srolovic; Seffern, Leslie (ATG); Mandy DeRoche; Matthew Levine; Hoffer, Melissa (AGO); Michael J. Myers; Michele Van Gelderen; Monica Wagner; Persampleri, Nick; Flanagan Patrick A; Peter Washburn; Renee Gumbs; Robert Snook ; Sally Magnani; Tania Maestas; Tannis Fox; Nord Tim D; Morgan, Wendy; William Grantham

**Cc:** Riley, Jillian (AGO)

**Subject:** FOIA Response

Attached please find what Virginia produced yesterday in response to the FOIA request from the Free Market Environmental Law Clinic.

Best,

Rhodes B. Ritenour  
Deputy Attorney General  
Civil Litigation Division  
Office of the Attorney General  
900 East Main Street  
Richmond, VA 23219  
Office: (804) 786-6731  
Mobile: (804) 517-2931  
E-mail: RRitenour@oag.state.va.us  
<http://www.ag.virginia.gov/>

---

This electronic communication may contain confidential or privileged information for an intended recipient. If you are not the intended recipient or received this email in error, please notify the sender immediately by return email and delete this email without disclosing, duplicating or otherwise transmitting the contents, including all attachments.

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\*\*\*\*\*CONFIDENTIALITY NOTICE\*\*\*\*\*

This e-mail may contain information that is privileged, confidential, or otherwise exempt from disclosure under applicable law. If you are not the addressee or it appears from the context or otherwise that you have received this e-mail in error, please advise me immediately by reply e-mail, keep the contents confidential, and immediately delete the message and any attachments from your system.

\*\*\*\*\*



**Smith, Ruth Ann.**

---

**From:** Amanda Moody <Amanda.Moody@ag.ny.gov>  
**Sent:** Friday, April 29, 2016 10:57 AM  
**To:** Ritenour, Rhodes B.  
**Cc:** Monica Wagner  
**Subject:** Climate Change Coalition CIA  
**Attachments:** Climate Change Common Interest Agreement.pdf; VA\_sign.docx

Good Morning,

Attached is the Climate Change Coalition Common Interest Agreement and signature page. Please sign and send back once you get the final approval. We will send the final agreement signed by all coalition states once we get everyone's signature.

An electronic or faxed signature is fine. The fax number is 212-416-8444 or 212-416-6007

Thank you and have a great weekend.

Amanda Moody  
Legal Assistant II  
Office of the Attorney General  
212-416-8471

**IMPORTANT NOTICE:** This e-mail, including any attachments, may be confidential, privileged or otherwise legally protected. It is intended only for the addressee. If you received this e-mail in error or from someone who was not authorized to send it to you, do not disseminate, copy or otherwise use this e-mail or its attachments. Please notify the sender immediately by reply e-mail and delete the e-mail from your system.

**Paul Gorrahan**

Oregon Department of Justice  
971.673.1943 (Tue, Thu, Fri) (Portland)  
503.947.4593 (Mon, Wed) (Salem)  
503.929.7553 (Mobile)

**From:** Monica Wagner [<mailto:Monica.Wagner@eg.ny.gov>]

**Sent:** Thursday, April 28, 2016 2:57 PM

**To:** 'Allen Brooks'; 'Amy Winn'; 'Christopher Courchesne'; 'Dennis Ragen'; 'Elizabeth Wilkins'; 'Greg Schultz'; 'Hoather Leslie'; 'James Gignac'; 'Jerry Reid'; 'John Daniel'; 'John Oleske'; 'Josh Auerbach'; 'Karen Olson'; 'Laura Watson'; 'Lemuel Srolovic'; 'Leslie Seffern'; 'Mandy DeRoche'; 'Matthew Levine'; 'Melissa Hoffer'; 'Michael J. Myers'; 'Michele Van Gelderen'; 'Nick Persampieri'; 'Flanagan Patrick A'; 'Gorrahan Paul'; 'Peter Washburn'; 'Ralph Durstein'; 'Renee Gumbs'; 'Rhodes Ritenour'; 'Robert Snook'; 'Sally Magnan'; 'Scot Kline'; 'Tania Maestas'; 'Tannis Fox'; 'Nord Tim D'; 'Wendy Morgan'; 'William Grantham'

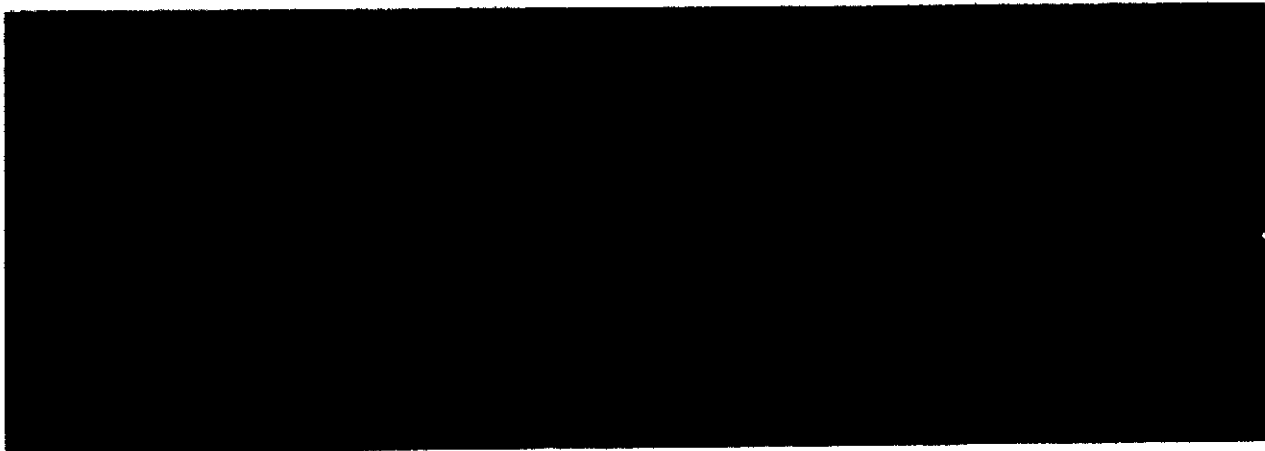
**Subject:** RE: Common Interest agreement

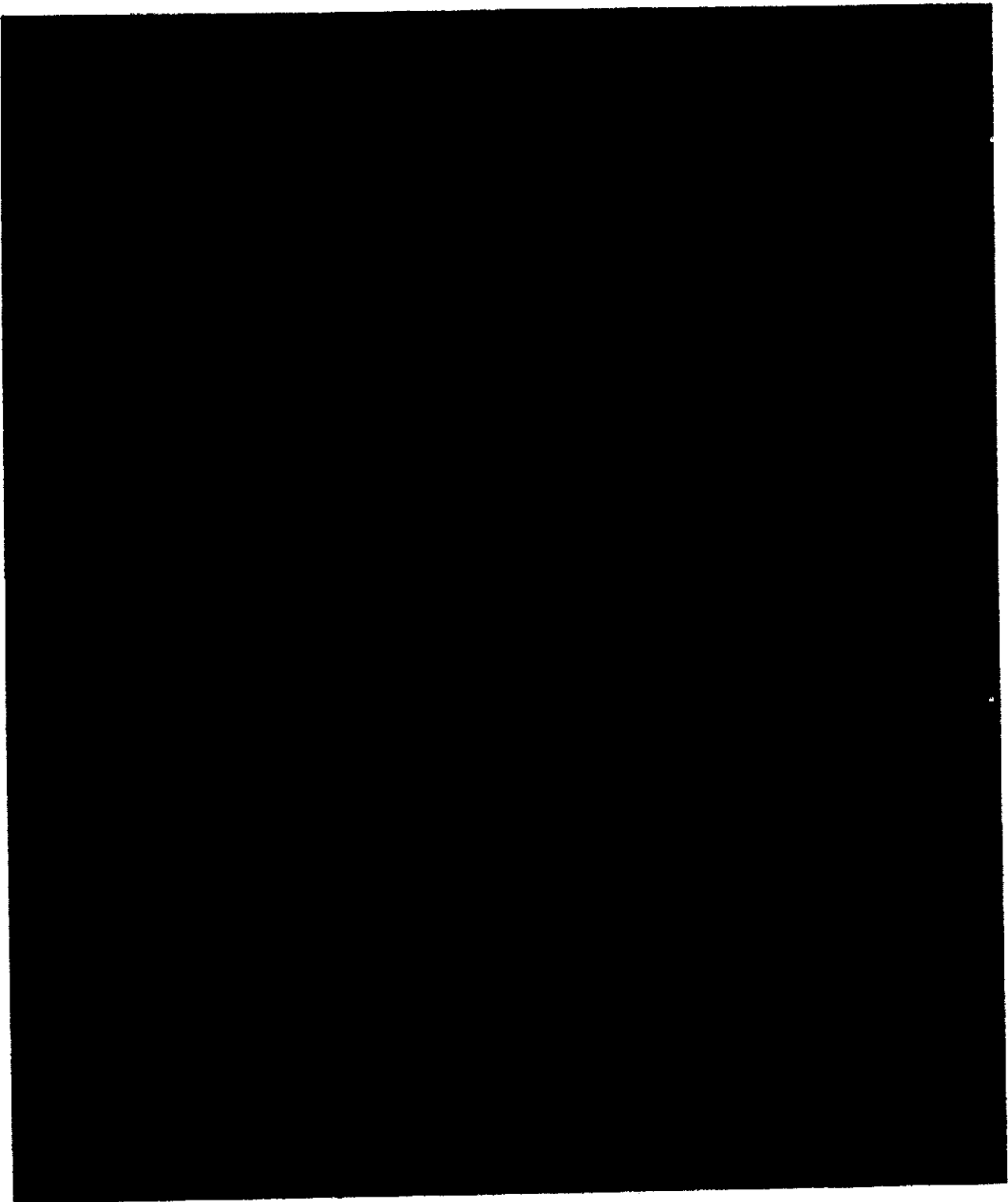
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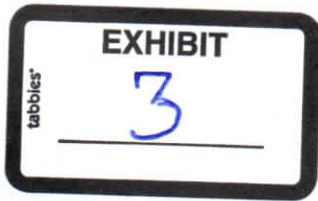
Thanks,

Monica

Monica Wagner  
Deputy Chief  
Environmental Protection Bureau  
Office of the Attorney General of New York  
120 Broadway, 26th Floor  
New York, NY 10271  
(212) 416-6351







# COMMONWEALTH of VIRGINIA

Office of the Attorney General

Mark R. Herring  
Attorney General

900 East Main Street  
Richmond, Virginia 23219  
804-786-2071  
FAX 804-786-1991  
Virginia Relay Services  
800-828-1120  
7-1-1

May 5, 2016

## VIA ELECTRONIC MAIL & U.S. MAIL

David W. Schnare, Esq.  
Free Market Environmental Law Clinic  
9033 Brook Ford Road  
Burke, Virginia 22015  
[schnarefme@gmail.com](mailto:schnarefme@gmail.com)

Craig E. Richardson  
Energy & Environmental Legal Institute  
1610 Walden Drive  
McLean, Virginia 22101  
[richardson@eelegal.org](mailto:richardson@eelegal.org)

**Re: Freedom of Information Act request – received April 4, 2016**

Dear Messrs. Schnare and Richardson:

The Office of the Attorney General for the Commonwealth of Virginia (hereinafter, "Office") acknowledges receipt of the above-referenced request in which you seek certain records pursuant to the Virginia Freedom of Information Act, Virginia Code Section 2.2-3700, *et seq.* (hereinafter, "FOIA"). Specifically, you request:

1. Please provide us **copies of all emails, including attachments, sent to or from (including also as cc: or bcc:) employees of the the [sic] Office of the Attorney General, except secretarial/administrative staff, which correspondence uses any of the following terms, anywhere in the email, including in the body, To, From, cc: and/or bcc: or Subject fields:**
  - a) "climate denial"



b) "climate denier"

c) "climate risk"

**For the above-described request:** responsive records will be **dated over the approximately three-month period from January 1, 2016 through the date you process this request.**


2. We also request copies of all correspondence between employees of the Virginia Attorney General's Office, except secretarial/administrative staff, and employees of the New York Attorney General's Office, dated between March 20, 2016 and March 30, 2016.

As indicated in our April 20, 2016 correspondence, documents responsive to your request would be produced on a rolling basis. Please find enclosed the second and final production of documents responsive your request. Kindly note that this Office identified two documents containing both responsive and non-responsive material. Accordingly, the non-responsive portions of those documents have been redacted. In addition, this Office identified five documents that constitute, in relevant part, working papers of the Attorney General. The portions of those documents that are exempt from mandatory disclosure per Virginia Code Section 2.2-3705.7(2) have also been redacted.

I hope that the information provided is of assistance to you.

With kind regards, I am

Very truly yours,



Meaghan O'Brien  
FOIA Administrator

Enclosures

Wahneema Lubiano, Meghan L.

---

**From:** Daniel, John W.  
**Sent:** Friday, March 25, 2016 11:23 AM  
**To:** Ritenour, Rhodes B.  
**Subject:** RE: Qs for 3/29 Climate Change Meeting

[REDACTED]

**From:** Ritenour, Rhodes B.  
**Sent:** Friday, March 25, 2016 11:20 AM  
**To:** Daniel, John W.  
**Subject:** RE: Qs for 3/29 Climate Change Meeting

[REDACTED]

Rhodes B. Ritenour  
Deputy Attorney General  
Civil Litigation Division  
Office of the Attorney General  
900 East Main Street  
Richmond, VA 23219  
Office: (804) 786-6731  
Mobile: (804) 517-2931  
E-mail: [RRitenour@oag.state.va.us](mailto:RRitenour@oag.state.va.us)  
<http://www.ag.virginia.gov/>

**From:** Daniel, John W.  
**Sent:** Friday, March 25, 2016 10:30 AM  
**To:** Ritenour, Rhodes B.  
**Subject:** FW: Qs for 3/29 Climate Change Meeting

[REDACTED]

**From:** Peter Washburn [<mailto:Peter.Washburn@ag.ny.gov>]  
**Sent:** Friday, March 25, 2016 10:20 AM  
**To:** Daniel, John W.  
**Cc:** Ritenour, Rhodes B.  
**Subject:** RE: Qs for 3/29 Climate Change Meeting

Thank you. We look forward to seeing you on Tuesday.

Peter Washburn/ Policy Advisor/ Environmental Protection Bureau/  
NYS Office of the Attorney General / 120 Broadway, NY, NY 10271/  
212-416-8483 (o) / 212-416-6007 (fax) / [peter.washburn@ag.ny.gov](mailto:peter.washburn@ag.ny.gov)

**From:** Daniel, John W. [<mailto:JDaniel@oag.state.va.us>]  
**Sent:** Friday, March 25, 2016 10:08 AM  
**To:** Peter Washburn  
**Cc:** Ritenour, Rhodes B.  
**Subject:** RE: Qs for 3/29 Climate Change Meeting

Peter: Rhodes and I appreciate all of the efforts to make our meeting on Tuesday so thanks much for that. We look forward to being with you and participating to the greatest extent possible. We are mostly interested in hearing about efforts ongoing in the other jurisdictions present and how Virginia may compliment those efforts and move forward here. Not sure we have specific items for the afternoon discussion at this time but likely will be prompted by the discussions. We would be very interested in any discussion and thoughts about resource sharing through collaborative thinking in the formation of coalition building.

Thanks for creating the opportunity for all of us to get together. Just as heads up, Rhodes and I will likely need to depart a bit early have a 5:00 flight from Newark—Look forward to visiting on Tuesday.

**From:** Peter Washburn [<mailto:Peter.Washburn@ag.ny.gov>]

**Sent:** Thursday, March 24, 2016 1:08 PM

**To:** 'Matthew.Levine@ct.gov'; Daniel, John W.; Ritenour, Rhodes B.; 'elizabeth.wilkins@dc.gov'; 'lauraw2@atg.wa.gov'; [trmaestas@nmag.gov](mailto:trmaestas@nmag.gov)

**Cc:** Lemuel Srolovic; Michael Meade; Michael J. Myers; 'scot.kline@vermont.gov'; 'wendy.morgan@vermont.gov'

**Subject:** RE: Qs for 3/29 Climate Change Meeting

All --

We're still interested in your thoughts on elements of next week's gathering to ensure it's as productive as possible. Please pass along any responses your office has to the following questions as soon as possible. Thank you.

- (1) What do you hope to get or learn during the afternoon? We want to make sure we cover what we can of your particular interests.
- (2) Please provide a very brief description of the office activities you will describe at the 1:45 segment of the agenda. We'd like to group related activities together. You will have 2-3 minutes to describe your activities.
- (3) Specific items you would like to discuss in the discussion of expanding the coalition's work beyond the federal/EPA advocacy and litigation.
- (4) Will any consumer protection or securities staff be participating? Fossil fuel company disclosure investigations raise consumer protection and securities issues as well as climate change. If enough folks from that part of your offices are participating, we could plan a break out session for them.
- (5) Any other thoughts about the afternoon's working session?

Thank you.

-- Peter

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**Wallmeyer Rose, Meghan L.**

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**From:** Ritenour, Rhodes B.  
**Sent:** Monday, March 21, 2016 9:01 PM  
**To:** Daniel, John W.  
**Subject:** RE: Qs for 3/29 Climate Change Meeting

[REDACTED]

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**From:** Daniel, John W.  
**Sent:** Monday, March 21, 2016 4:15 PM  
**To:** Ritenour, Rhodes B.  
**Subject:** RE: Qs for 3/29 Climate Change Meeting

[REDACTED]

**From:** Ritenour, Rhodes B.  
**Sent:** Monday, March 21, 2016 4:11 PM  
**To:** Daniel, John W.  
**Subject:** FW: Qs for 3/29 Climate Change Meeting

[REDACTED]

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**From:** Peter Washburn [<mailto:Peter.Washburn@ag.ny.gov>]  
**Sent:** Monday, March 21, 2016 4:06 PM  
**To:** 'Gregory Schultz' ([gSchultz@riag.ri.gov](mailto:gSchultz@riag.ri.gov)); 'Melissa.Hoffer@MassMail.State.MA.US'; 'richard.johnston@state.ma.us'; 'christophe.courchesne@state.ma.us'; 'Matthew.Levine@ct.gov'; 'Garrahan Paul' ([Paul.Garrahan@doj.state.or.us](mailto:Paul.Garrahan@doj.state.or.us)); 'Tim.D.Nord@doj.state.or.us'; 'Claude.Walker@doj.vi.gov'; 'Jerry.Reid@maine.gov'; Daniel, John W.; Ritenour, Rhodes B.; 'tmaestas@nmag.govp'; 'elizabeth.wilkins@dc.gov'; 'lauraw2@atg.wa.gov'

**Kelly, Michael K.**

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**From:** Kelly, Michael K.  
**Sent:** Monday, March 28, 2016 4:01 PM  
**To:** Eric Soufer; 'Michael Meade'  
**Cc:** O'Holleran, Kevin C.  
**Subject:** FW: a couple of questions re: appearance in NY tomorrow

Michael Kelly  
Director of Communications  
Office of Attorney General Mark Herring  
(804)786-5874 (d)  
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**From:** Elana Schor [mailto:eschor@politico.com]  
**Sent:** Monday, March 28, 2016 3:58 PM  
**To:** Kelly, Michael K.  
**Subject:** a couple of questions re: appearance in NY tomorrow

Hi Michael,

Left you a message about this, but I wanted to follow up on the advisory that AG Schneiderman's office just sent out. We are hearing from multiple sources that other AGs will use the event to announce investigations into ExxonMobil's climate change communications and disclosures, and that AG Herring is likely one of these. Looking for comment, on the record or on background/not for attribution, on:

- Whether the AG will use tomorrow's event to announce any new steps with regard to Exxon
- If not, whether the AG is actively considering taking steps towards an investigation

My deadline is immediate/rolling throughout the day, and cell number is below.

thanks,

Elana Schor  
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