Ministry for the Environment
Manatū Mō Te Taiao

PO Box 10362, Wellington 6143
Website: www.mfe.govt.nz
Freephone: 0800 499 700

19-D-02509

Chris Johnston
fyi-request-11318-98c5562b@requests.fyi.org.nz

Dear Chris

Thank you for your email of 8 December 2019 seeking clarification on our response of 3 December 2019 (19-D-02214). This request was for documents, emails, notes or minutes that mentioned Ned Nikolov and/or Karl Zeller and/or Dr Roy Spencer.

You have requested clarification on the points listed below:

> *ITEM B) RELATED DOCUMENTS*
> *Note that I have not been able to read the Part 1 document above so my questions below are in response to your letter 19 D 02214 Chris Johnston letter vFinal.pdf which mentioned that:*
>
> *"The response did not include reference to the names in your request, so is not in scope"*
>
> *Could you please clarify the interpretation that is being applied of a Record and what is in scope to this request? Specifically:*
> *1. An email trail that includes previous emails should be included where any of the emails in the chain mention the key words. The definition of a Record in the Public Records Act 2005 mentions the "original form".*
> *2. I argue that*
> *2.1. An email as sent in its original form is one record (Record A), and the reply (which included the original email) was a second record (Record B).*
> *2.2. For the purposes of efficiency I am happy for the reply (Record B that includes the original Record A) to be treated as one (that is send only Record B) when responding to an OIA, but*
> *2.3. It is not compliant with the OIA or Public Records Act definitions to omit Record B and only send Record A.*
> *3. Please confirm whether the response to this OIA has used the logic in (2.1 &2.2) or 2.3 above?*
> *4. Please apply the logic in 2.2 above to this OIA in a revised response..... or state that the MfE will not or state that the MfE has already applied the logic in 2.2 in the Part 1 document that I cannot read.*

Below we address each of the points you have raised:

***Could you please clarify the interpretation that is being applied of a Record and what is in scope to this request?***
The Ministry has interpreted the scope of your request (Ref: 19-D-02214) to mean all information/documents that mention Ned Nikolov and/or Karl Zeller and/or Dr Roy Spencer.

***An email trail that includes previous emails should be included where any of the emails in the chain mention the key words. The definition of a Record in the Public Records Act 2005 mentions the "original form".***

***An email as sent in its original form is one record (Record A), and the reply (which included the original email) was a second record (Record B).***

***For the purposes of efficiency I am happy for the reply (Record B that includes the original Record A) to be treated as one (that is send only Record B) when responding to an OIA, but***
***It is not compliant with the OIA or Public Records Act definitions to omit Record B and only send Record A.***
***Please confirm whether the response to this OIA has used the logic in (2.1 &2.2) or 2.3 above?***
***Please apply the logic in 2.2 above to this OIA in a revised response or state that the MfE will not or state that the MfE has already applied the logic in 2.2 in the Part 1 document that I cannot read.***

I acknowledge that in this instance the Ministry failed to provide you with a full and complete response due to our decision to withhold part of the email chain.

The portion of the chain that was withheld in 19-D-02214, was incorrectly determined to be outside the scope of your request. Please accept our apologies for this.

The Ministry is now providing you with the complete email chain, noting that some information has been withheld under section 9(2)a of the Act in order to protect the privacy of the correspondent. This document is attached.

On 9 December 2019 we re-sent to you Part 1, as you were unable to access this. As per your email of 9 December 2019 we now understand that you have been able to access this information.

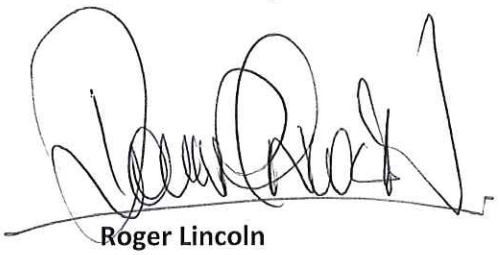
You have the right to seek an investigation and review by the Office of the Ombudsman of my decision to withhold information relating to this request, in accordance with section 28(3) of the Act. The relevant details can be found on their website at: www.ombudsman.parliament.nz.

Please note that due to the public interest in our work the Ministry for the Environment publishes responses to requests for official information on our OIA responses page shortly after the response has been sent.

If you have any queries about this, please feel free to contact our Executive Relations team.

Apologies again for any inconvenience.

Yours sincerely



**Roger Lincoln**
Director, Climate Change