



THE CITY OF NEW YORK
LAW DEPARTMENT
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BY NYSCEF

Hon. James G. Clynes, J.S.C.
Supreme Court of the State of New York
80 Centre Street, Room 136
New York, NY 10013

Re: Chevat v. New York City Department of Environmental Protection
Index No. 155678/2024

Dear Justice Clynes:

I am an Assistant Corporation Counsel in the Office of the Corporation Counsel assigned to represent the New York City Department of Environmental Protection (“Respondent”) in the above-referenced proceeding. I write pursuant to Petitioner’s filing submitted to the Court on February 3, 2026. *See* Affirmation in Support dated February 3, 2026, NYSCEF No. 62 (the “Sur-reply”).

Pursuant to 22 N.Y.C.R.R. 202.8(c), “[a]bsent express permission in advance, sur-reply papers, including correspondence, addressing the merits of a motion are not permitted.” Petitioner filed his motion for permission to take pre-hearing discovery on December 21, 2025. NYSCEF No. 45 *et seq.* Respondent filed opposition papers and Petitioner filed an affirmation in reply. *See* NYSCEF Nos. 58-60. Accordingly, Respondent respectfully requests that the Court strike Petitioner’s unauthorized sur-reply.

Since November, the parties have been engaged in an ongoing process to identify and produce responsive records in DEP’s possession. Petitioner conducted in-office reviews on November 17, 2025, and December 15, 2025, and DEP has produced (or will shortly produce) every document requested during those visits. *See* Affirmation in Opposition to Motion, dated December 19, 2025, NYSCEF No. 59 at ¶¶ 3-7. To date, Respondent has produced 215 pages of responsive records and a one-page memorandum, and DEP is currently scanning and preparing additional documents requested by Petitioner following the December 15, 2025, visit.

Moreover, during his confirmation hearing on February 4, 2026, newly appointed Corporation Counsel Steven Banks testified that he will be conducting a full review of issues

pertaining to 9/11 documents and part of that review will be to see what records exist and what records can be released.

For all the reasons stated herein and, in the City's, prior submissions, discovery is not proper in this Article 78 FOIL proceeding. We appreciate Your Honor's attention to this matter.

Respectfully submitted,

/s/ Saarah S. Dhinsa
Saarah S. Dhinsa
Assistant Corporation Counsel

cc. via NYSCEF