In the United States Court of Federal Claims

No. 13-465C
(Filed: May 20, 2016)

****
FAIRHOLME FUNDS, INC., et al., *
*
Plaintiffs, *
*
v. *
*
THE UNITED STATES, *
*
Defendant. *
****

ORDER

Before the court is plaintiff's November 23, 2015 motion to compel. Upon consideration of the arguments made therein and in defendant's response and plaintiffs' subsequent reply, the court has determined that an in camera review of a sampling of documents is necessary. Therefore, **by no later than Friday, May 27, 2016**, defendant shall provide the court with hard copies of the documents identified in those pages of the Vaughn index attached as Exhibit 1 to plaintiffs' motion to compel. In addition, defendant shall, by the same date, provide the court with supporting affidavits from agency heads or their delegates with respect to all documents as to which defendant asserts the deliberative process privilege. See Pacific Gas & Elec. Co. v. United States, 70 Fed. Cl. 128, 134 (2006) ("To invoke the deliberative process privilege, the party resisting discovery must meet several procedural requirements. . . . First, the head of the agency that has control over the requested document must assert the privilege after personal consideration. . . . Alternatively, and recently confirmed as an appropriate practice by the Federal Circuit, the head of an Agency can, when carefully undertaken, delegate authority to invoke the deliberative process privilege on the Agency's behalf.") (internal citations and quotation marks omitted).

IT IS SO ORDERED.

s/ Margaret M. Sweeney
MARGARET M. SWEENEY
Judge