

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

PUBLIC EMPLOYEES FOR ENVIRONMENTAL)	
RESPONSIBILITY,)	
)	
)	
Plaintiff,)	
)	
v.)	Civil Action
)	No. [11-1583]
)	
OFFICE OF SCIENCE AND TECHNOLOGY POLICY)	
)	
Defendant,)	

DECLARATION OF THOMAS DILENGE,
GENERAL COUNSEL,
BIOTECHNOLOGY INDUSTRY ORGANIZATION

I, Thomas Dilenge, hereby depose and say:

1. I am the General Counsel of the Biotechnology Industry Organization (BIO), located at 1201 Maryland Avenue SW, Suite 900, Washington, DC 20024.

2. BIO is a trade association incorporated under Section 501(c)(6) of the Internal Revenue Code whose primary mission is to engage in federal, state, and international advocacy on public policy issues on behalf of its more than 1,100 members worldwide. Our primary commercial business is, thus, government relations and advocacy. BIO members are involved in the research and development of innovative healthcare, agricultural, industrial and environmental biotechnology products.

3. I am providing this declaration in connection with the above-captioned civil action arising under the Freedom of Information Act (FOIA). The purpose of this declaration is to address matters raised by the plaintiff in opposition to the withholding of certain information by the Office of Science and Technology Policy (OSTP), at the request of BIO. This declaration is provided for the public record.

4. In my position as the General Counsel of BIO, I am aware that plaintiff submitted to OSTP a FOIA request for records in the possession of OSTP relating to a particular topic. At BIO's request, OSTP is withholding from disclosure certain information it received from an employee of BIO. Specifically, BIO requested and OSTP agreed to withhold one paragraph of an e-mail communication dated February 8, 2011, sent by a BIO employee to OSTP. The

particular paragraph at issue was contained in an internal BIO e-mail that was forwarded by a BIO employee to OSTP inadvertently.

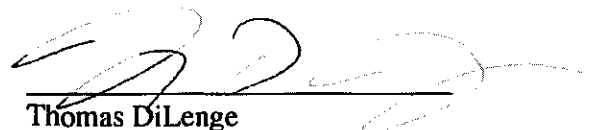
5. This paragraph contains confidential business information that was voluntarily, indeed mistakenly, provided to OSTP, and is of a kind that BIO would not normally release to the public, OSTP, or any other outside party.

6. The contents of the redacted paragraph directly relate to BIO's internal strategy for accomplishing our advocacy mission with respect to the subject matter under discussion. This information was not requested by OSTP, and BIO did not believe that it would obtain any advantage by providing it to OSTP.

7. The release of this paragraph would create substantial competitive harm to the business interests of BIO and its members, by revealing BIO's strategy to those who disagree with BIO's advocacy objective. BIO operates in an advocacy environment in which there are many organizations that oppose the use of biotechnology, particularly in the agricultural arena, and that seek to persuade federal, state and local agencies to restrict the technology's use. If this information were released, competitors could imitate or seek to counteract BIO's strategy and further their own contrary agendas at the expense of BIO and its members.

8. The redacted paragraph was contained in an internal BIO e-mail that was forwarded by a BIO employee to OSTP. While the BIO employee intended to forward to OSTP the attachment referenced in her e-mail, the forwarded e-mail between the BIO employee and our chief state-level government relations staff person for agricultural issues, which included the redacted paragraph regarding a recommendation for BIO's internal strategy, should not have been provided to OSTP at all, as BIO does not normally provide information about our internal strategic discussions with any third parties and views them as confidential.

I declare under the penalty of perjury that the foregoing is true to the best of my knowledge and belief.



Thomas DiLenge
General Counsel, BIO
(202) 962-667
tdilenge@bio.org