

Federal Court of Canada
Trial Division



Section de première instance de
la Cour fédérale du Canada

Date: 20030417

Docket: T-2073-00

Neutral Citation: 2003 FCT 462

Winnipeg, Manitoba, the 17th day of April, 2003

Present: The Honourable Mr. Justice Campbell

BETWEEN:

SHELDON BLANK

and

THE DEPARTMENT OF JUSTICE



Applicant

Respondent

REASONS FOR ORDER AND ORDER

1. This is an application for judicial review pursuant to s. 41 of the *Access to Information Act*, R.S.C. 1985, Chapter A-1, (the "*Act*") with respect to records not released pursuant to a request for access by the Applicant. The subject matter of the request concerns past, and presently outstanding, criminal prosecutions against the Applicant's company.

2. The Respondent to the current application submits that the records being withheld are subject to exemptions under sections 16, 19, 20, 21, and 23 of the *Act*. The Respondent claims

solicitor-client privilege and litigation privilege over many documents (s. 23), as well as exemptions based on personal information (s. 19), law enforcement (s. 16), information provided by third-parties (s. 20), and information in the form of "advice and recommendations" (s. 21).

The Respondent maintains that as a result of the applicable exemptions, the records were properly withheld.

3. In the present case, the Applicant contests the exemptions claimed by the Respondent respecting access to the 1500 records. The principle exemptions claimed are litigation privilege and solicitor-client privilege. By way of a finding given during the course of the November 19, 2002 hearing, for the reasons provided at pages 37-38 of the Transcript thereof, I found that, if litigation privilege can be claimed to exclude a record from release, if the litigation to which the record relates in the present case has ended, the record should be released. The finding has particular importance with respect to the records found in Exhibit 43, vols. 1-3, pages 108-114, which by the Order made below, are not exempt from production as the summary conviction proceedings to which they relate have ended.

4. At the hearing of the present application on February 26, 2003, decisions were made with respect to the bulk of the records under review. However, decision was reserved on certain records which were alleged to contain evidence of obstruction, perjury, extortion, conspiracy, and trespass on the part of Government of Canada officials and/or counsel acting on their behalf.

5. The argument made by the Applicant is that solicitor-client privilege will not protect communications that are in themselves criminal or else made with a view of obtaining legal advice to facilitate the commission of a crime (per Paciocco and Struesser, *The Law of Evidence*, 3rd edition, at p.189).

6. While counsel for the Respondent agrees to the principle of law just cited, two objections are raised with respect to applying it in the present case: a sound evidentiary foundation of misconduct must be provided before the records concerned can be vetted, which has not been done; and the records in question have already been vetted in a parallel civil proceeding and, therefore, are effectively *res judicata*.

7. Because the present case concerns access to records pursuant to the provisions of the *Act*, I find that an opinion expressed by other Courts in other proceedings does not act as a bar to applying the mandatory provisions of the *Act*. As a result, I have vetted the records under review to consider whether they disclose criminal misconduct based solely on the basis of the Applicant's suspicions. In an application such as this, where the Applicant is unrepresented and has no way of knowing what the records contain, I find it is fair and reasonable to decide upon the piercing of the solicitor-client privilege argument made by the Applicant by considering the contents of the documents under review. The documents so considered are noted in the Order below as "reserved".

8. I find that there is no evidence in any of the records under review in the present case of obstruction, perjury, extortion, conspiracy, or trespass on the part of Government of Canada officials and/or counsel acting on their behalf.

9. The Applicant has complained that certain of the records produced for which exemption is claimed appear to attach other records which are not produced. The Applicant argues that by s. 46 of the *Act* I can compel the production of the records not produced. I agree with counsel for the Respondent in finding that s. 46 only entitles me to require the production of the records for which exclusion is claimed in the present case, and none other.

ORDER

With respect to the Applicant's application under s. 41 of the *Access to Information Act*, the attached Schedule with notations, together with the following statements, form the content of my order which is as follows:

(1) On the Schedule, the notation "disclosed" in the left margin denotes documents for which the claim of exemption from disclosure is denied because the Applicant is already in possession of the document through other *Access to Information Act* requests. The documents so designated are hereby ordered to be disclosed by the head of the institution in possession of the document without handwritten notes thereon if so designated in the Schedule.

(2) On the Schedule, the notation “ordered” in the left margin denotes documents for which the claim of exemption from disclosure is denied because, in my opinion, the head of the institution in possession of the document is not authorized to refuse to disclose the document. The documents so designated are hereby ordered to be disclosed by the head of the institution in possession of the document, but without handwritten notes thereon if so designated in the Schedule.

(3) On the Schedule, the notation “reserved” in the left margin denotes documents which were the subject of further argument on the issue of piercing the solicitor-client privilege. In the end result, with respect to these documents, the claim of exemption from disclosure is sustained.

(4) With respect to Documents 2216-2217, 2219, and 2222 in Exhibit 42, as the claim for exemption from disclosure was sustained by Justice Gibson in T-1111-98, I consider them *res judicata*.

(5) With respect to the balance of the documents in the Schedule, the claim of exemption from disclosure is sustained for the reason noted in the rationale column.

(6) Document 2252-2253 in Exhibit 43 is erroneously included and no order is made as a result. This document is marked “erroneous” in the Schedule.

(7) The following orders were made with respect to documents where exemption from disclosure is claimed but they do not appear in the Schedule:

(a) Exhibit 42:

- 354: "ordered"; public record
- 355: "ordered"; public record
- 674: sustained; s. 19
- 736: sustained; s. 19
- 737: "ordered"; public record
- 752: sustained; s. 21(1)(a)(b)
- 761: sustained; s.19(1)
- 762: "ordered"; public record
- 779: sustained; s.19(1)
- 780: "ordered"; public record
- 1005: "ordered"; public record
- 1059: sustained
- 1070: "disclosed"
- 1467: "ordered"; public record
- 1471: "ordered"; public record
- 1497: "ordered"; public record
- 1503: "ordered"; public record

1505: "ordered"; public record

1515: "ordered"; public record

1518: "ordered"; public record

1520: "ordered"; public record

1521: "ordered"; public record

1525: "ordered"; public record

1526: "ordered"; public record

1529: "ordered"; public record

2259: sustained

b) Exhibit 43:

903: "disclosed"

904: "disclosed"

905: "disclosed"

906: "disclosed"

907: "disclosed"

2209 "disclosed"

2210: "disclosed"

2258: sustained

2260: sustained

2261: sustained

2262: sustained

2263: sustained

2264: sustained

2265: sustained

2266: sustained

(c) Exhibit 44:

155: sustained; s.19(1)

156: sustained; s.19(1)

157: "ordered"; public record

158: sustained; s.19(1)

172: "ordered"; public record

173: sustained; s.19(1)

178: "ordered"; public record

181: "ordered"; public record

182: sustained; s.19(1)

183: sustained; s.19(1)

184: sustained; s.19(1)

192: "ordered"; public record

196: "ordered"; public record

199: "ordered"; public record

201: "ordered"; public record

203: sustained; s.19(1)

204: sustained; s.19(1)

311: sustained; s.23

(d) Exhibit 45:

91: sustained; s.21(1)(b)

92: sustained; s.21(1)(b)

93: sustained; s.21(1)(b)

103: sustained; s.21(1)(b)

104: sustained; s.21(1)(b)

105: sustained; s.21(1)(b)

111: sustained; s.21(1)(b)

112: sustained; s.21(1)(b)

"Douglas Campbell"
Judge

EXHIBIT 42 (A-1997-0167)

PAGE	DATE	ADRESSEE / ADRRESSOR	TITLE	RATIONALE
74	95-01-26	To D. Davis from Taylor McCaffrey	Second page of a letter – Prosecutor's margin notes severed	Litigation privilege - information prepared for anticipated litigation by Justice officials
101 - 102	95-07-18	To D. Davis from G. Murray	Faxed copy of "Effluent Meter" of Gateway Industries Ltd. Acct. No. 08-08-01694-4 – Hand-written notes by EC official severed	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
125	95-06-03	To D. Davis from G. Murray	Gateway Industries – Consumption History – Hand-written notes by EC official severed	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
126	95-06-03	To D. Davis from G. Murray	Gateway Industries – Readings – Hand-written notes by EC official severed	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
166 - 167	95-11-27	To D. Davis from Taylor McCaffrey	Pages 2 and 3 of a letter re: Request for Further Particulars – Prosecutor's margin notes severed	Litigation privilege - information prepared for anticipated litigation by Justice officials
169	95-11-27	To D. Davis from Taylor McCaffrey	Page 5 of a letter re: Request for Further Particulars – Prosecutor's margin notes severed	Litigation privilege - information prepared for anticipated litigation by Justice officials
172 - 173	95-11-27	To D. Davis from Taylor McCaffrey	Pages 8 and 9 of a letter re: Request for Further Particulars – Prosecutor's margin notes severed	Litigation privilege - information prepared for anticipated litigation by Justice officials
182	95-12-13	To D. Davis from Taylor McCaffrey	Letter with attachments re: Request for Additional Particulars – Prosecutor's margin notes severed	Litigation privilege - information prepared for anticipated litigation by Justice officials
250 - 251	96-07-10	To D. Davis from G. Murray	Letter with attachments re: Gateway Industries Ltd.	Legal advice sought by client and Litigation privilege - information prepared for anticipated litigation by Justice officials
277	96-08-15	To D. Davis from G. Murray	Fax header sheet with attachments re: submission sent in the previous minutes	Legal advice sought by client and Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
295	96-08-15	To D. Davis from G. Murray	Fax header sheet with attachments re: Info to Obtain Search Warrant	Legal advice sought by client and Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
315	96-08-15	To D. Davis from G. Murray	Fax header sheet with attachments re: J. Pietracci's notes	Legal advice sought by client and Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
317	96-08-16	To D. Davis from T. Youmans	Fax header sheet with attachments re: Blank's Affidavit	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
328	96-08-18	To G. Murray from D. Davis	Fax header sheet with attachments re: Gateway Industries	Legal advice provided by counsel and Litigation privilege - information prepared for anticipated litigation by Justice officials

DISCLOSED

DISCLOSED

DISCLOSED

EXHIBIT 42 (A-1997-0167)

TITLE

ADDRESSEE / ADDRESSOR

DATE

PAGE

RATIONALE

PAGE	DATE	ADDRESSEE / ADDRESSOR	TITLE	RATIONALE
332	Undated	To D. Davis from G. Murray	Fax header sheet with attachments re: contacts with Mr. Blank	officials Legal advice sought by client and Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
408	96-09-24	To D. Davis from G. Murray	Fax header sheet re: R. Slatnik's telephone log	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
794	97-05-02	To D. Davis from G. Murray	Fax header sheet with attachments re: Subpoenas	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
950	96-09-19	To file	Hand-written notes by T. Youmans	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
1057	97-05-30	To D. Davis from T. Youmans	Fax header sheet with attachments re: Clarification provided in an email message	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
1401	97-07-20	To file	Hand-written notes - G. Murray's day book - sever re: summons	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
1404	95-11-28	To file	Hand-written notes - G. Murray's day book	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
	95-12-06		sever re: Gateway Charges	
			sever re: Taylor McCaffrey particulars discussion with D. Davis	
	95-12-22		sever re: telephone conversation with D. Davis	
1405	96-01-16	To file	Hand-written notes - G. Murray's day book - sever D. Davis conversation re: Court	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
1406	96-02-15	To file	Hand-written notes - G. Murray's day book - sever D. Davis conversation re: Court	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
1407	96-02-27	To file	Hand-written notes - G. Murray's day book - sever D. Davis conversation re: Gateway Search	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
1408	96-03-12	To file	Hand-written notes - G. Murray's day book - sever D. Davis conversation re: disclosure	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
1410	96-04-10	To file	Hand-written notes - G. Murray's day book - sever D. Davis conversation re: disclosure	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
1416	96-09-11	To file	Hand-written notes - G. Murray's day book - sever D.	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials

DISCLOSED
DISCLOSED
DISCLOSED
DISCLOSED
DISCLOSED
DISCLOSED
DISCLOSED
DISCLOSED
DISCLOSED

EXHIBIT 42 (A-1997-0167)

PAGE	DATE	ADDRESSEE / ADDRESSOR	TITLE	RATIONALE
1419 <i>DISCLOSED</i>	96-09-23	To file	Davis conversation re: witnesses Sever - notes re: search tapes ; discussion with P. Gavrel EC-LSU	litigation by Environment Canada or Justice officials Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
1434 <i>DISCLOSED</i>	96-12-24 97-01-07 97-01-17	To file	Sever - notes re: disclosure Sever - notes re: witness B. Boughen Sever - notes re: meeting with J. Anton and D. Davis re: Gateway discharge data	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
1730 <i>DISCLOSED</i>	93-10-21	Conservation and Protection Occurrence Report from G. Murray	Gateway Industries - Effluent Samples (Page 4 of 6) - sever re: search warrant	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
1732 <i>DISCLOSED</i>	93-10-21	Conservation and Protection Occurrence Report from G. Murray	Gateway Industries - Effluent Samples (Page 5 of 6) - sever re: admissibility	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
2098 <i>DISCLOSED</i>	96-09-25	To D. Davis from G. Murray	Fax header sheet with attachments re: Information to consider for Disclosure	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
2216-2217 <i>DISCLOSED</i>	Undated	Report 2216-2227 re: Gateway	Gateway Industries Ltd. Winnipeg, Manitoba - I. Background	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
2219 <i>DISCLOSED</i>	Undated	Report 2216-2227 re: Gateway	Gateway Industries Ltd. Winnipeg, Manitoba - I. Background - II. Assessment	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
2222 <i>RES SUBMITTED</i>	Undated	Report 2216-2227 re: Gateway	Gateway Industries Ltd. Winnipeg, Manitoba - Compliance History and Environmental Impact	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
2275	96-09-23	To file	Sever re: F. Tanner ; search tapes ; P. Gavrel ; R. Moto	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
2276	96-09-23 96-09-24	To file	Sever re: telephone call with D. Davis (DOJ) about subpoenas Sever re: telephone call with P. Gavrel (LSU) re: Gateway	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
2277	96-09-24	To file	Sever re: telephone call with D. Davis (DOJ) re: Gateway	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
2278	96-09-26	To file	Sever re: telephone call with D. Davis (DOJ) re: witnesses	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
2279	96-09-26	To file	Sever re: telephone message to W. Howard, witness	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
2281	96-09-26	To file	Sever re: telephone call from J. MacLeod re: subpoena	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials

EXHIBIT 42 (A-1997-0167)

4

PAGE	DATE	ADDRESSEE / ADDRESSOR	TITLE	RATIONALE
2367	96-10-02	To file	Hand-written notes by G. Murray re: message from D. Davis re: trial	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
3436	Undated	Court Brief	Index of a Court Brief - Confidential information for Crown Counsel	Litigation privilege - information prepared for anticipated litigation by Justice officials
3462	97-04-08	Supplemental Affidavit from A. Laurencelle	Page 4 of the Affidavit of A. Laurencelle - sever prosecutor's hand-written notes regarding Affidavit item 11	Litigation privilege - information prepared for anticipated litigation by Justice officials
3464	97-06-09	Appellant's Factum	Page 5 of the Factum of the Appellants - sever prosecutor's hand-written notes re: Factum items 16 & 17	Litigation privilege - information prepared for anticipated litigation by Justice officials
3484	97-06-09	Appellant's Factum	Page 7 of the Factum of the Appellants - sever prosecutor's hand-written notes re: Factum items 18 & 19	Litigation privilege - information prepared for anticipated litigation by Justice officials
3494	97-04-21	Applicant's Factum	Page 13 of the Factum of the Applicants - sever prosecutor's hand-written notes re: Factum item 44	Litigation privilege - information prepared for anticipated litigation by Justice officials
3496	97-06-09	Appellant's Factum	Page 5 of the Factum of the Appellants - sever prosecutor's hand-written notes re: Factum items 6 & 17	Litigation privilege - information prepared for anticipated litigation by Justice officials
3498	97-06-09	Appellant's Factum	Page 7 of the Factum of the Appellants - sever prosecutor's hand-written notes re: Factum items 19 & 20	Litigation privilege - information prepared for anticipated litigation by Justice officials
3550	Undated	Motions Brief	Page 9 of the Factum of the Appellants - sever prosecutor's hand-written notes re: Factum item A Page 17 of Motion's Brief - sever prosecutor's hand-written comments re: Brief item 43	Litigation privilege - information prepared for anticipated litigation by Justice officials

sustained

DISCLOSED WITHOUT HANDWRITTEN NOTES THEREON

ORDERED BUT WITHOUT HANDWRITTEN NOTES THEREON

EXHIBIT 43, Vols. 1-3 (A-1997-0167)

5

PAGE	DATE	ADRESSEE / ADDRESSOR	TITLE	RATIONALE
1	1995-1996	C. Bond - Prosecutor's file cover	File cover page	Litigation privilege - information prepared for anticipated litigation by Justice officials
2	1995-1996	C. Bond - Prosecutor's file cover	File cover page	Litigation privilege - information prepared for anticipated litigation by Justice officials
3	94-06-29	To D. Davis from P. Gavrel	Memorandum re: Gateway Industries Ltd. - PPER Investigation - Fisheries Act - legal advice to WRO	Litigation privilege - information prepared for anticipated litigation by Justice officials
4-5	94-07-15	To D. Davis from T. Youmans	Letter re: s. 36(3) Fisheries Act Investigation - Gateway Industries, Winnipeg - re: search warrant	Legal advice sought by client and Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
6	94-07-18	To the file from D. Davis	Note to file re: Gateway Industries Ltd - Search Warrant	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
7	94-07-18	To T. Youmans from D. Davis	Letter re: s. 36(3) Fisheries Act Investigation - Gateway Industries, Winnipeg (legal opinion)	Legal advice provided by counsel and Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
8	94-07-25	To G. Murray from D. Davis	Message re: Gateway Industries Ltd. - review of draft information	Legal advice provided by counsel
9-11	94-07-25	To G. Murray from D. Davis	Letter re: Gateway Industries Inc. - Application to obtain a Search Warrant - legal review of clients information	Legal advice provided by counsel
12-28	Undated	To D. Davis from G. Murray	Letter with attachments re: Gateway Industries Ltd. re: enforcement, property line, draft search warrant	Legal advice sought by client and Litigation privilege - information prepared for anticipated litigation by Environment Canada and Justice officials
29-32	94-09-09	To G. Murray from D. Davis	Letter re: Gateway Industries Ltd. - Fisheries Act Investigation - File No. 4192-12-1 (re: enforcement action)	Legal advice provided by counsel and Litigation privilege - information prepared for anticipated litigation by Environment Canada and Justice officials
33	94-09-23	To D. Davis from G. Murray	Letter re: Gateway Industries Ltd. - draft search warrant	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
34	94-10-03	To C. Bond from D. Davis	Message re: Gateway Industries Ltd. - Search Warrant	Legal advice sought by client
35-36	94-10-06	To C. Bond from D. Davis	Memorandum re: Gateway Industries Ltd. - Fisheries Act - legal opinion	Legal advice provided by counsel and Litigation privilege - information prepared for anticipated litigation by Justice officials
37-38	94-10-07	To G. Murray from D. Davis	Letter with attachments re: Gateway Industries - Effluent Sample Seized July 19, 1994	Litigation privilege - information prepared for anticipated litigation by Environment Canada and Justice officials

EXHIBIT 43, Vols. 1-3 (A-1997-0167)

PAGE	DATE	ADRESSEE / ADDRESSOR	TITLE	RATIONALE
39	Undated	Information for search warrant	Draft	Litigation privilege - information prepared for anticipated litigation by Environment Canada and Justice officials and
40	Undated	Search Warrant	Draft - Search warrant	Litigation privilege - litigator's drafts (work in progress)
41	94-11-14	To D. Davis from G. Murray	Letter re: Gateway Industries Ltd. - revised information	Litigation privilege - information prepared for anticipated litigation by Environment Canada and Justice officials and
42	94-11-24	To G. Murray from D. Davis	Letter re: Gateway Industries Ltd. - Search Warrant - meeting about the search warrant	Litigation privilege - litigator's drafts (work in progress)
43 - 46	94-12-02	To D. Davis from G. Murray	Letter re: Gateway Industries Ltd. - draft search warrant to be reviewed	Litigation privilege - information prepared for anticipated litigation by Environment Canada and Justice officials and
47 - 61	94-12-06	To D. Davis from G. Murray	Letter re: Gateway Industries Ltd. - changes to search warrant	Litigation privilege - litigator's drafts (work in progress)
62	94-12-14	To D. Davis from G. Murray	Letter with attachments re: Gateway Industries Ltd.	Legal advice sought by client
63 - 64	Undated	To D. Davis from G. Murray	Draft - search warrant	Litigation privilege - information prepared for anticipated litigation by Justice officials
65 - 66	95-01-11	To D. Davis from G. Murray	Letter re: Search Warrant	Legal advice sought by client and Litigation privilege - litigator's drafts (work in progress)
67	95-01-12	To G. Murray from D. Davis	Letter re: Accused - Gateway Industries Ltd. - s.36(3) Fisheries Act	Legal advice sought by client and Litigation privilege - litigator's drafts (work in progress)
68	Undated	To file	Hand-written notes from prosecutor re: search warrant	Legal advice sought by client
76 - 78	Undated	To file	Hand-written notes from prosecutor re: file review	Litigation privilege - information prepared for anticipated litigation by Justice officials
79	95-01-26	To the file from D. Davis	Note to file re: Gateway Industries - Seizure of Documents	Litigation privilege - information prepared for anticipated litigation by Justice officials
80	Undated	To file	Hand-written notes from C. Bond, prosecutor, re: file review	Litigation privilege - information prepared for anticipated litigation by Justice officials
83	95-04-13	To D. Davis from G. Murray	Letter re: Seizure Items Extension - Gateway Industries Ltd.	Litigation privilege - information prepared for anticipated litigation by Justice officials
84 - 89	95-04-13	To D. Davis from G. Murray	Draft application for an order	Legal advice sought by client
90 - 91	95-04-17	To G. Murray from D. Davis	Letter re: Accused - Gateway Industries Ltd. - s.36(3) Fisheries Act - draft affidavit, comments	Litigation privilege - litigator's drafts (work in progress)
92	95-04-25	To the file from D. Davis	Note to file re: Gateway Industries Ltd. - Application	Legal advice provided by counsel

RESERVED

RESERVED

RESERVED

RESERVED

RESERVED

RESERVED

RESERVED

RESERVED

RESERVED

RESERVED

RESERVED

RESERVED

RESERVED

RESERVED

RESERVED

RESERVED

RESERVED

RESERVED

RESERVED

RESERVED

RESERVED

EXHIBIT 43, Vols. 1-3 (A-1997-0167)

PAGE	DATE	ADDRESSEE / ADDRESSOR	TITLE	RATIONALE
94 - 95	95-04-25	To A. Laurencelle from D. Davis	for Further Detention - prosecutor's note Letter re: Gateway Industries Ltd. - Search Warrant - January 25, 1995 (not sent)	litigation by Justice officials Litigation privilege - litigator's drafts (work in progress)
96 - 97 <i>RECEIVED</i>	95-07-05	To Darin Davis from T. Youmans	Letter re: Fisheries Act Investigation - Gateway Industries, Winnipeg - seeking advice re: charges	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
98 - 99 <i>RECEIVED</i>	95-07-18	To G. Murray from D. Davis	Letter re: Accused - Gateway Industries Ltd. - s.36(3) Fisheries Act - legal advice and questions to client	Legal advice provided by counsel
100 <i>DISPOSED</i>	95-07-18	To D. Davis from G. Murray	Fax header sheet re: the Record of Gateway Industries Account	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
103 - 107	Undated	To file	Hand-written notes from prosecutor re: file review, Gateway discharge	Litigation privilege - information prepared for anticipated litigation by Justice officials
108 - 114 <i>RECEIVED</i>	95-07-12	To the file from D. Davis	Note to file re: Gateway Industries - P.P.E.R. Charges - legal and factual issues outlines	Litigation privilege - information prepared for anticipated litigation by Justice officials
115 <i>RECEIVED</i>	95-07-18	To D. Davis from G. Murray	Round trip memorandum with attachments re: Gateway Industries - incorporation material for review	Legal advice sought by client
122 - 124 <i>RECEIVED</i>	95-07-19	To D. Davis from G. Murray	Letter re: Gateway Industries - rainfall data and potential effect of meter readings	Legal advice sought by client
136 - 138	95-07-20	To T. Youmans from D. Davis	Letter re: Accused - Gateway Industries Ltd. - s.36(3) Fisheries Act - opinion re: prosecution	Legal advice provided by counsel
139	95-07-21	To D. Davis from G. Murray	Fax header sheet - weather information	Legal advice sought by client
140 - 142 <i>RECEIVED</i>	95-07-21	To D. Davis from G. Murray	Faxed letter re: Gateway Industries - Comment about rainfall data	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
143	95-07-24	To D. Davis from G. Murray	Cover letter re: Gateway Industries	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
144	Undated	Draft summons to S. Blank	Draft summons	Litigation privilege - litigator's drafts (work in progress)
145	Undated	Draft summons to Gateway Industries	Draft summons	Litigation privilege - litigator's drafts (work in progress)
146 - 148	Undated	Draft information by G. Murray	Draft information	Litigation privilege - litigator's drafts (work in progress)
149	95-07-25	To D. Davis from G. Murray	Letter re: Gateway Industries re: MOU	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
150	95-08-02	To D. Davis from G. Murray	Letter re: Gateway Industries Ltd. - enclosing seized Nov. 8/94 document with comments	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
151 <i>RECEIVED</i>	92-11-08	To Loma from Fred	Hand-written note re: erroneous: flume readings	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials

EXHIBIT 43, Vols. 1-3 (A-1997-0167)

8

PAGE	DATE	ADRESSEE / ADRESSOR	TITLE	RATIONALE
152 <i>DISCLOSED</i>	Undated	To file	Hand-written note re: 1991-1994 sewer charge	litigation by Environment Canada officials
153	95-08-29	To D. Davis from G. Murray	Letter re: Gateway Industries Ltd. - Search Warrant - Court brief	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
161	Undated	To Brian from D. Davis	Hand-written notes by D. Davis about disclosure	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
179	95-12-01	To R. Maertens from D. Davis	Memorandum re: Gateway Industries Ltd. - December 06, 1995 about length of Court adjournment	Litigation privilege - information prepared for anticipated litigation by Justice officials
180	95-12-01	To G. Murray from D. Davis	Letter with attachments re: Gateway Industries Ltd. - Fisheries Act & Pulp and Paper Effluent Regulations about disclosure	Legal advice provided by counsel & Litigation privilege - information prepared for anticipated litigation by Justice officials
185 - 188	Undated	To file	Hand-written notes by prosecutor about disclosure	Litigation privilege - information prepared for anticipated litigation by Justice officials
192	96-01-09	To D. Davis from G. Murray	Letter re: Gateway Industries Ltd. - Request for further particulars	Legal advice sought by client
197 - 198 <i>DISCLOSED</i>	96-01-24	To D. Davis from G. Murray	Letter re: Gateway Industries Ltd. - Request for further particulars	Legal advice sought by client
201	96-02-07	To D. Davis from G. Murray	Round Trip Memorandum re: Gateway Industries	Legal advice sought by client
206 <i>DISCLOSED</i>	96-02-20	To D. Davis from G. Murray	Letter re: Gateway Industries Ltd. - Court brief	Legal advice sought by client
207 <i>DISCLOSED</i>	96-02-27	To D. Davis from G. Murray	Letter re: Gateway Industries Ltd. - Request for G. Murray's search notes	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials and Legal advice sought by client
208 <i>DISCLOSED</i>	96-02-29	To D. Davis from G. Murray	Letter with attachments re: Gateway Industries Ltd. - Request for further particulars	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
210 <i>DISCLOSED</i>	96-03-08	To D. Davis from G. Murray	Letter with attachments re: Gateway Industries Ltd.	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
211 <i>DISCLOSED</i>	Undated	To file	Hand-written notes by prosecutor re: letter at page 212	Litigation privilege - information prepared for anticipated litigation by Justice officials
212 <i>DISCLOSED</i>	95-03-16	To A. Permut from G. Murray	Industrial work surcharge	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
217 - 222 <i>DISCLOSED</i>	Undated	To file	Hand-written notes by prosecutor re: trial preparation	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials

EXHIBIT 43, Vols. 1-3 (A-1997-0167)

RATIONALE

TITLE

ADRESSEE / ADRESSOR

DATE

PAGE

PAGE	DATE	ADRESSEE / ADRESSOR	TITLE	RATIONALE
223	96-02-05	File from C. Bond and D. Davis	File cover page - C. Bond and D. Davis	litigation by Justice officials Litigation privilege - information prepared for anticipated litigation by Justice officials
224	96-02-05	File from C. Bond and D. Davis	File cover page - C. Bond and D. Davis	Litigation privilege - information prepared for anticipated litigation by Justice officials
230	96-04-16	To D. Davis from G. Murray	Letter with attachments re: Gateway Industries Ltd. - lab samples	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
231	96-04-18	To D. Davis from G. Murray	Letter with attachments re: Gateway Industries Ltd. - aerial photos	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
246	96-05-23	To file	Hand-written notes by prosecutor re: trial preparation	Litigation privilege - information prepared for anticipated litigation by Justice officials
259 - 262	96-08-12	To G. Murray from D. Davis	Fax re: Gateway - Prosecutor's notes and questions for EC	Litigation privilege - information prepared for anticipated litigation by Justice officials
263	Undated	To file	Hand-written notes by prosecutor re: trial preparation	Litigation privilege - information prepared for anticipated litigation by Justice officials
268 - 271	96-08-13	To D. Davis from G. Murray	Fax (pages 2-5) - sequenced events for review by prosecutor	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
278	96-08-15	To D. Davis from G. Murray	Fax (page 2) - comments re: search for review by prosecutor	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
282 - 285	96-08-15	To D. Davis from G. Murray	Fax (pages 2-5) - G. Murray's comments on S. Blank's affidavit	Legal advice sought by client and Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
318	96-08-16	To D. Davis from T. Youmans	Fax header sheet - for review	Legal advice sought by client
319 - 325	96-08-16	To D. Davis from T. Youmans	Draft response to S. Blank's affidavit	Legal advice sought by client
327	96-08-18	To the file from D. Davis	Note to file re: Gateway Industries et al - Application for Disclosure	Litigation privilege - information prepared for anticipated litigation by Justice officials
329 - 331	Undated	To file	Hand-written notes by prosecutor re: trial preparation	Litigation privilege - information prepared for anticipated litigation by Justice officials
333 - 334	96-08-19	To D. Davis from G. Murray	Fax (pages 2-3) - for review, contacts G. Murray had with S. Blank	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
335	Undated	To file	Hand-written notes by prosecutor re: trial preparation - affidavit	Litigation privilege - information prepared for anticipated litigation by Justice officials
336 - 337	96-08-19	To D. Davis from S. Kurbis	Letter re: Gateway Industries - response to questions	Litigation privilege - information prepared for anticipated litigation by Justice officials

DISCLOSED

DISCLOSED

EXHIBIT 43, Vols. 1-3 (A-1997-0167)

1/c

RATIONALE

TITLE

ADRESSEE / ADDRESSOR

DATE

PAGE

PAGE	ADRESSEE / ADDRESSOR	DATE	TITLE	RATIONALE
344 - 345	To file	Undated	about search and notes	litigation by Environment Canada officials
358 - 359	To D. Davis from J.K.G. Stinson (RCMP)	96-08-29	Hand-written notes by prosecutor re: trial preparation - issues pre-trial	Litigation privilege - information prepared for anticipated litigation by Justice officials
360	To D. Davis from G. Murray	96-08-30	Letter re: Search of 2 Gateway Drive and subpoena	Litigation privilege - information prepared for anticipated litigation by Justice officials
361	To G. Murray from D. Davis	96-09-05	Letter with attachments re: Gateway Industries Ltd. about disclosure	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
368 - 369	To file	Undated	Letter re: Accused - Gateway Industries Ltd. - Transitional Authorizations (PPER)	Litigation privilege - information prepared for anticipated litigation by Justice officials
370 - 372	To A. Laurencelle from D. Davis	96-09-09	Hand-written notes by prosecutor about evidence - discharge	Litigation privilege - information prepared for anticipated litigation by Justice officials
373 - 374	To D. Davis from G. Murray	96-09-11	Unsent letter re: Accused - Gateway Industries Ltd. Et al. - Motion for Further Disclosure	Litigation privilege - information prepared for anticipated litigation by Justice officials and Litigation privilege - litigator's drafts (work in progress)
375 - 378	To D. Davis from G. Murray	96-09-11	Letter re: Gateway Industries Ltd. - Notes from searchers and comments re: disclosure	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
384 - 385	To G. Murray from D. Davis	96-09-12	Letter re: Gateway Industries Ltd. - Response to prosecutor's questions	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
388 - 397	To file	Undated	Letter re: Accused - Gateway Industries Ltd. Et al. - Disclosure	Legal advice provided by counsel
399 - 401	To G. Murray from D. Davis	96-09-16	Hand-written notes by prosecutor at court	Litigation privilege - information prepared for anticipated litigation by Justice officials
402 - 403	To D. Davis from G. Murray	96-09-18	Letter re: Accused - Gateway Industries - Seeking addresses	Litigation privilege - information prepared for anticipated litigation by Justice officials
405	To D. Davis from G. Murray	96-09-23	Letter re: Gateway Industries Ltd. re: disclosure	Legal advice sought by client
409	To D. Davis from G. Murray	96-09-24	Letter re: Gateway Industries Ltd. re: B. Boughen	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
414 - 416	To D. Davis from G. Murray	96-09-17	Letter re: lab info and telephone log	Legal advice sought by client
417 - 418	To file	Undated	Gateway Industries re: List of Items held by T. Youmans	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
427 - 430	To file	96-10-01	Hand-written notes by prosecutor - witness list for subpoena	Litigation privilege - information prepared for anticipated litigation by Justice officials
			Hand-written notes by prosecutor about Court	Litigation privilege - information prepared for anticipated litigation by Justice officials

DISCLOSED

DISCLOSED

DISCLOSED

DISCLOSED

DISCLOSED

DISCLOSED

EXHIBIT 43, Vols. 1-3 (A-1997-0167)

PAGE	DATE	ADDRESSEE / ADDRESSOR	TITLE	RATIONALE
431	96-10-02	File cover C. Bond and D. Davis	appearance File cover page – prosecution	litigation by Justice officials Litigation privilege - information prepared for anticipated litigation by Justice officials
432	96-10-02	File cover C. Bond and D. Davis	File cover page – prosecution	Litigation privilege - information prepared for anticipated litigation by or Justice officials
433	93-02-09	To file	T. Youmans' hand-written notes about samples	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
437 – 438	Undated	To file from G. Murray	G. Murray's notes about A. Laurencelle's concerns	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
441 444	96-09-19	To file from G. Murray	Concern identified by Mr. Laurencelle during viewing of original notes 96-09-19	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
442	Undated	To file from G. Murray	Concerns identified by Mr. Laurencelle during viewing of original notes	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
452	96-10-02	To D. Davis from A. Permut	Message slip re: Gateway matter – witness	Litigation privilege - information prepared for anticipated litigation by Justice officials
453	96-10-03	To D. Davis from G. Murray	Letter with attachments re: Gateway Industries Ltd. – resumes of witnesses	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
454 – 455	Undated	To file	Hand-written notes by prosecutor re: legal issues	Litigation privilege - information prepared for anticipated litigation by Justice officials
458 – 469	Undated	To file	Hand-written notes by prosecutor re: trial preparation – evidence	Litigation privilege - information prepared for anticipated litigation by Justice officials
470	96-10-15	To His Honour Judge S. Devine & A. Laurencelle from D. Davis	Letter re: Gateway Industries Ltd. Et al. – S. 36(3) Fisheries Act – Next Court Date: October 16, 1996 – Courtroom: 303, at 10am. 408 York Avenue (not sent)	Litigation privilege - information prepared for anticipated litigation by Justice officials and Litigation privilege – litigator's drafts (work in progress)
474	96-10-24	To D. Davis from G. Murray	Letter re: Gateway Industries Ltd. – witness and trial preparation	Legal advice sought by client and Litigation privilege - information prepared for anticipated litigation by Environme Canada officials
477	96-10-29	To G. Murray from D. Davis	Letter with instructions to G. Murray	Legal advice provided by counsel
483	96-12-24	To D. Davis from G. Murray	Letter with attachments re: Gateway Industries Ltd. for review	Legal advice sought by client
484	96-12-11	To G. Murray from D. Davis	Letter with attachments re: Accused – Gateway Industries Ltd. Et al. – S.36 (3) Fisheries Act et al. – Next Court Date: December 16, 1996 – Courtroom:	Legal advice provided by counsel

DISCLOSED
DISCLOSED

DISCLOSED

EXHIBIT 43, Vols. 1-3 (A-1997-0167)

RATIONALE

TITLE

ADDRESSEE / ADDRESSOR

DATE

PAGE

PAGE	DATE	ADDRESSEE / ADDRESSOR	TITLE	RATIONALE
489 - 492 <i>SUSTAINED</i>	96-09-17, updated on 96-12-17	To file	409, at 10am, 408 York Avenue for review Gateway Industries re: List of Items held by T. Youmans	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
493	96-12-18	To D. Davis from G. Murray	Faxed letter re: previous faxed letter re: Gateway Industries Ltd. meeting with D. Williamson	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
494 - 495	96-12-18	To D. Davis from G. Murray	Faxed letter re: Gateway Industries Ltd. - meeting with witnesses	Legal advice provided by counsel and Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
496 - 497	Undated	To file	Hand-written notes by prosecutors - legal preparation - constitutional issue	Litigation privilege - information prepared for anticipated litigation by Justice officials
498 - 500 <i>SUSTAINED</i>	96-12-20	To D. Davis from G. Murray	Letter with attachments re: Gateway Industries Ltd. - response to prosecutor's questions	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
501	96-12-20	To J. Scratch from D. Davis	Letter with attachments re: Gateway Industries Ltd. & Sheldon Blank concerning constitutional and Charter questions	Legal advice provided by counsel and Litigation privilege - information prepared for anticipated litigation by Justice officials and
514	97-01-23	To D. Davis & P. Gavrel from J. Marshall	Email re: Gateway Industries Ltd. & Sheldon Blank - Charter and constitutional questions	Legal advice provided by counsel and Litigation privilege - information prepared for anticipated litigation by Justice officials
515	97-01-23	To D. Davis from J. Marshall	Covering memorandum re: Peninsula Ready Mix Case Materials	Litigation privilege - information prepared for anticipated litigation by Justice officials
528	97-02-17	To D. Davis & C. Cinkant-Hill from W. Smart	Email re: s. 78.1 Fisheries Act - case law citations	Litigation privilege - information prepared for anticipated litigation by Justice officials
529 - 530	Undated	To file	Hand-written notes by prosecutor - case law citations	Litigation privilege - information prepared for anticipated litigation by Justice officials
531 <i>SUSTAINED</i>	97-02-18	To D. Davis from J. Marshall	Series of emails re: s. 78.1 Fisheries Act - legal issue discussion	Litigation privilege - information prepared for anticipated litigation by Justice officials
532 - 533 <i>SUSTAINED</i>	97-02-20	To D. Davis from J. Marshall	Series of emails re: s. 78.1 Fisheries Act - case law citations and discussions	Litigation privilege - information prepared for anticipated litigation by Justice officials
537 - 538 <i>Ordered</i>	97-12-20	To D. Davis from G. Murray	Faxed letter re: Gateway Industries Ltd. (pages 1-2) - potential amendment to Gateway charges	Legal advice sought by client and Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
542	97-02-25	To D. Davis from G. Murray	Faxed letter re: Gateway Industries Ltd. (page 1) -	Legal advice sought by client and Litigation privilege -

EXHIBIT 43, Vols. 1-3 (A-1997-0167)

13

RATIONALE

TITLE

ADRESSEE / ADRRESSOR

DATE

PAGE

PAGE	DATE	ADRESSEE / ADRRESSOR	TITLE	RATIONALE
554 <i>DISCLOSED</i>	97-02-27	To G. Murray from R. Stevens	potential amendment to Gateway charges	information prepared for anticipated litigation by Environment Canada officials
555 <i>DISCLOSED</i>	97-02-27	To G. Murray from R. Stevens	Fax re: Ministerial correspondence	Litigation privilege - information prepared for anticipated litigation by DFO officials
556 - 558 <i>DISCLOSED</i>	92-10-20	To D. Robinson from D. Haliburton	Fax re: Correspondence Search (pages 5-8)	Litigation privilege - information prepared for anticipated litigation by DFO officials
560 <i>SUSTAINED</i>	97-02-27	To R. Stevens from G. Murray	Fax with 2 page attachment - draft letter re: outfall	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials and Litigation privilege - litigator's drafts (work in progress)
562 <i>DISCLOSED</i>	97-02-27	To R. Stevens from G. Murray	Fax re: Correspondence Search (page 10)	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
564	97-02-28	To D. Davis from G. Murray	Fax re: Correspondence Search (page 12)	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
565	97-02-28	To D. Davis from G. Murray	Letter re: Gateway Industries Ltd. about disclosure	Legal advice sought by client and Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
575	97-03-01	To file from D. Davis	Notes re: Motion to Quash	Litigation privilege - information prepared for anticipated litigation by Justice officials
576	97-03-19	To D. Davis from J. Cliffe	Email re: Fisheries Act	Legal advice provided by counsel
577 - 597	97-03-20	To D. Davis from W. Smart	Email re: Fisheries Act	Legal advice provided by counsel
598 - 604	Undated	To file	Hand-written notes by prosecutor - legal issues	Litigation privilege - information prepared for anticipated litigation by Justice officials
612 - 613	Undated	To file	"Taylor McCaffrey Request for Further Disclosure" - Prosecutor's comments	Litigation privilege - information prepared for anticipated litigation by Justice officials
619	96-03-08	To D. Davis from G. Murray	Letter re: Gateway Industries Ltd.	Legal advice sought by client
622 - 634	96-03-22	To D. Davis from G. Murray	Letter re: Gateway Industries Ltd.	Legal advice sought by client
635 - 636	Undated	To file	Hand-written notes by prosecutor - trial notes for cross-examination	Litigation privilege - information prepared for anticipated litigation by Justice officials
637	96-08-20	To D. Davis from S. Kurbis	Faxed letter re: Gateway Industries (pages 2-3)	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
638 - 643	96-08-28	To D. Davis from G. Murray	Fax header sheet re: comments to Mr. Blank's Affidavit section 31 (page 1)	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
	96-08-28	To D. Davis from G. Murray	Faxed comments re: Mr. Blank's Affidavit section 31	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials

EXHIBIT 43, Vols. 1-3 (A-1997-0167)

RATIONALE

PAGE	DATE	ADRESSEE / ADDRESSOR	TITLE	RATIONALE
644 - 645	Undated	To file	(pages 2-7) Hand-written notes by prosecutors - questions for examination re: S. Blank's affidavit	litigation by Environment Canada officials Litigation privilege - information prepared for anticipated litigation by Justice officials
646 - 648	96-08-16	To D. Davis from G. Murray	Comments re: S. Blank's affidavit item 31	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
649 - 650	96-09-27	To D. Davis from G. Murray	Letter with attachments re: Gateway Industries Ltd.	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
651 - 652	96-11-04	To D. Davis & G. Murray & B. Briscoe from T. Youmans	Letter re: Fisheries Act Investigation - Gateway Industries, Winnipeg	Legal advice sought by client
663 - 664	97-03-25	To D. Davis from G. Murray	Letter with attachments re: Gateway Industries Ltd. - inspectors	Legal advice sought by client
666	97-03-26	To D. Davis from G. Murray	Letter with attachments re: Gateway Industries Ltd. (page 1) - Can-Say Statement	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
685	97-04-07	To D. Davis from G. Murray	Letter re: Gateway Industries Ltd. - reports requested by defense	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
688 - 689	97-04-08	To D. Davis from G. Murray	Letter re: Gateway Industries Ltd. - draft letter for review	Legal advice sought by client
701	97-04-12	To P. Gavrel from D. Davis	Email re: Gateway - Barry Briscoe	Legal advice provided by counsel
702	97-04-13	To G. Murray from D. Davis	Letter re: Accused - Gateway Industries Ltd. - Fisheries Act - Minister's Certificate	Legal advice provided by counsel
703	97-04-13	To G. Murray from D. Davis	Letter with attachments re: Accused - Gateway Industries Ltd. - Fisheries Act - Searcher's Notes	Legal advice provided by counsel
704 - 705	97-04-14	To D. McCaffrey & A. Bryant from D. Davis	Letter re: Accused - Gateway Industries Ltd. & Blank, Sheldon - s.36(3) Fisheries Act - amendment to charges	Litigation privilege - information prepared for anticipated litigation by Justice officials
716	97-04-15	To Sylvia from D. Davis	Memorandum re: Subpoenas from Gateway Industries - May 12 to June 6 - 317 - 36(3) Fisheries Act	Litigation privilege - litigator's drafts (work in progress)
717 - 719	97-04-15	To J. Marshall & P. Gavrel from D. Davis	Series of emails re: Pulp and Paper Effluent Regulations	Litigation privilege - information prepared for anticipated litigation by Justice officials
720	97-04-16	File from C. Bond and D. Davis	File cover page (Vol. 5)	Litigation privilege - information prepared for anticipated litigation by or Justice officials
721	97-04-16	To D. Davis from G. Murray	Faxed letter re: Gateway Industries Ltd. (page 1)	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials

disclosed

EXHIBIT 43, Vols. 1-3 (A-1997-0167)

PAGE	DATE	ADDRESSEE / ADDRESSOR	TITLE	RATIONALE
722	97-04-16	To B. Hay & D. Davis from C. Bond	Email re: Subpoena to Environment Canada Employee	Litigation privilege - information prepared for anticipated litigation by Justice officials
745	97-04-17	To J. Marshall from D. Davis	Email re: McCubbin Report	Legal advice provided by counsel
750	Undated	Note to prosecutor's file	"Particular demanded by Defence re: Deleterious Substance" - Prosecutor's note	Litigation privilege - information prepared for anticipated litigation by Justice officials
753	97-04-21	To T. Youmans from P. Gavrel	Email re: Letter to Gateway Industries	Legal advice sought by client & Legal advice provided by counsel
758 - 759	97-04-23	To C. Bond from G. Murray	Letter with attachments re: Gateway Industries Ltd.	Legal advice sought by client
760	97-04-23	To K. Stewart from G. Murray	Letter re: Presence of fish in the Red River	Litigation privilege - information prepared for anticipated litigation by Justice officials
782 - 784	Undated	To file	Hand-written notes by prosecutor - disclosure motion	Litigation privilege - information prepared for anticipated litigation by Justice officials
788	97-05-01	To the file from D. Davis	Note to file re: Application to Judge Devine re Recusing	Litigation privilege - information prepared for anticipated litigation by or Justice officials
790	97-05-01	To J. Marshall & P. Gavrel from D. Davis	Fax header sheet with attachments re: Notices of Constitutional Question in the Gateway matter	Litigation privilege - information prepared for anticipated litigation by Justice officials
793	97-05-01	To J. Marshall from D. Davis	Email re: Gateway Industries - about recusing	Litigation privilege - information prepared for anticipated litigation by Justice officials
802	97-05-02	To C. Bond from D. Davis	Email re: Gateway - A. Laurencelle's affidavit and cross-examination	Litigation privilege - information prepared for anticipated litigation by Justice officials
810	97-05-03	To C. Bond from D. Davis	Email re: Gateway Industries	Litigation privilege - information prepared for anticipated litigation by Justice officials
811	97-05-02	To D. Davis from C. Bond	Email re: Gateway	Litigation privilege - information prepared for anticipated litigation by Justice officials
812	97-05-03	To Sylvia from D. Davis	Memorandum re: draft subpoenas	Litigation privilege - information prepared for anticipated litigation by Justice officials
816	97-05-05	To J. Marshall from D. Davis	Email re: Gateway Industries (recuse)	Litigation privilege - information prepared for anticipated litigation by Justice officials
817	97-05-05	To C. Bond from D. Davis	Email re: Gateway - Search Warrant - quash	Litigation privilege - information prepared for anticipated litigation by Justice officials
818	97-05-04	To C. Bond from D. Davis	Email re: Gateway Industries - Komadowski	Litigation privilege - information prepared for anticipated litigation by Justice officials
819	97-05-04	To G. Murray from D. Davis	Email re: Gateway Industries - questions re: mills	Litigation privilege - information prepared for anticipated litigation by Justice officials And Litigation privilege - information prepared for anticipated

EXHIBIT 43, Vols. 1-3 (A-1997-0167)

PAGE DATE ADRESSEE / ADDRESSOR TITLE RATIONALE

820	97-05-05	To G. Murray from D. Davis	Email re: Analyst Certificate as Proof of Analysis	litigation by Justice officials Legal advice provided by counsel and Litigation privilege - information prepared for anticipated litigation by Justice officials
821	97-05-05	To G. Murray from D. Davis	Email re: Can-Say from P. Chambers	Legal advice provided by counsel and Litigation privilege - information prepared for anticipated litigation by Justice officials
822	97-05-05	To G. Murray from D. Davis	Email re: Gateway -- PPER -- TAE's	Legal advice provided by counsel and Litigation privilege - information prepared for anticipated litigation by Justice officials
823	97-05-05	To G. Murray from D. Davis	Email re: Gateway Industries	Legal advice provided by counsel and Litigation privilege - information prepared for anticipated litigation by Justice officials
824	97-05-05	To C. Bond from D. Davis	Email re: Gateway Industries -- Motion for Disclosure	Legal advice provided by counsel & Litigation privilege - information prepared for anticipated litigation by Environnr Canada or Justice officials
825 - 827	Undated	To file	Hand-written notes by prosecutor re: charges	Litigation privilege - information prepared for anticipated litigation by Justice officials
833 - 834	Undated	To file	Hand-written notes by prosecutor re: expert witness, trial preparation	Litigation privilege - information prepared for anticipated litigation by Justice officials
838 - 839	97-05-06	To G. Murray & D. Woo from D. Davis	Series of Emails re: Gateway Industries -- PPER compliance	Legal advice provided by counsel and Litigation privilege - information prepared for anticipated litigation by Environnr Canada officials
840	97-05-06	To D. Woo & G. Murray from D. Davis	Email re: Old PPER -- questions to EC	Legal advice provided by counsel, Legal advice sought by client, Litigation privilege - information prepared for anticipated litigation by Environnr Canada officials
844 - 847	97-05-07	To D. Woo & D. Davis from G. Murray	Series of Emails re: Gateway Industries -- questions to EC	Legal advice provided by counsel, Legal advice sought by client, Litigation privilege - information prepared for anticipated litigation by Environnr Canada officials
848 - 849	97-05-07	To D. Davis from G. Murray	Email re: Ex# 24	Legal advice sought by client and Litigation privilege - information prepared for anticipated litigation by Environnr Canada officials
850	97-05-07	To G. Murray & D. Woo from D. Davis	Email re: PPER Enforcement	Legal advice provided by counsel

EXHIBIT 43, Vols. 1-3 (A-1997-0167)

15

PAGE	DATE	ADDRESSEE / ADDRESSOR	TITLE	RATIONALE
851	97-05-07	Davis To D. Davis from G. Murray	Email re: Ex# 24	Legal advice sought by client
852	97-05-07	To G. Murray & D. Davis from D. Woo	Email re: Old PPER	Legal advice provided by counsel & Litigation privilege - information prepared for anticipated litigation by Environme. Canada or Justice officials
853	97-05-07	To G. Murray from D. Davis	Email re: Minister's Certificate	Legal advice provided by counsel
854 - 855	97-05-07	To G. Murray, D. Davis, R. Patzer, D. Cymbaluk and H. Sommerstad from D. Woo	Email re: Gateway Industries	Legal advice provided by counsel & Litigation privilege - information prepared for anticipated litigation by Environme Canada officials
858	97-05-08	To C. Finnbogason from D. Davis	Email re: Gateway - Absolute Liability	Litigation privilege - information prepared for anticipated litigation by Justice officials
859 - 861	97-05-08	To D. Woo, G. Murray and R. Patzer from D. Davis	Series of Emails re: PPER Compliance Reports	Litigation privilege - information prepared for anticipated litigation by Justice officials
862	97-05-08	To D. Davis & G. Murray from T. Youmans	Email re: Old PPER	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
865 - 868	97-05-20	To file	Hand-written notes by prosecutor - trial preparation	Litigation privilege - information prepared for anticipated litigation by Justice officials
869	97-05-22	To G. Murray from D. Davis	Email re: Gateway Industries - expert witness	Litigation privilege - information prepared for anticipated litigation by Justice officials
870 - 871	97-05-22	To D. Brock, L. Longo, D. Davis, D. Couture, G. Martin, G. Murray, T. Youmans, P. Hollier and D. Kimmnett from P. Gavrel	Email re: Time Limit within which charges must be laid under the Fisheries Act	Litigation privilege - information prepared for anticipated litigation by Justice officials
873 - 874	97-05-26	To D. Davis from T. Youmans	Email re: request for information re "Summary of Transitional Authorizations - By Region"	Litigation privilege - information prepared for anticipated litigation by Environment Canada or Justice officials
875	97-05-26	To G. Murray from D. Davis	Email re: Master Angler Awards Program - Proof of Fish in the Red River	Legal advice provided by counsel
876 - 877	97-05-27	To D. Brock, D. Davis and T. Youmans from G. Murray	Email re: Charges Against Gateway Ltd.	Legal advice sought by client
878	97-05-28	To S. George & D. Davis from T. Youmans	Email re: Release of PPER Information	Litigation privilege - information prepared for anticipated litigation by Environment Canada or Justice officials
879	97-05-30	To D. Davis from G. Murray	Email re: PPER Conference Call Minutes - B. Briscoe	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials

RESERVED

RESERVED

RESERVED

RESERVED

EXHIBIT 43, Vols. 1-3 (A-1997-0167)

12

RATIONALE

TITLE

ADRESSEE / ADDRESSOR

DATE

PAGE

PAGE	DATE	ADRESSEE / ADDRESSOR	TITLE	RATIONALE
881 - 883 <i>RESERVED</i>	97-06-04	To G. Murray from D. Davis	Email re: Affidavit Regarding Discrepancy if Dates On Information to Obtain and Appendices Associated With Same	Legal advice provided by counsel
884 <i>RESERVED</i>	97-06-05	To G. Murray from D. Davis	Email re: DFO Ministers Certificate	Legal advice provided by counsel
885 <i>RESERVED</i>	97-06-12	To G. Murray & D. Davis from P. Gavrel	Email re: Fisheries Act	Legal advice sought by client
887 <i>RESERVED</i>	97-06-18	To D. Davis from G. Murray	Email re: Gateway Industries - Section 82(2) Fisheries Act - Ministers Certificate	Legal advice sought by client
899 - 900	97-10-02	To B. Hay, D. Frayer, H. Gliner, N. Goldstein, R. Gosman, G. Joyal, R. LaFreniere and C. Morrison from C. Bond	Emails re: Factum - Re Gateway Industries	Legal advice provided by counsel & Litigation privilege - information prepared for anticipated litigation by Justice officials
914 - 916	Undated	Provincial Court	G. Murray - Draft Information	Litigation privilege - information prepared for anticipated litigation by Justice officials and Litigation privilege - litigator's drafts (work in progress)
917 - 919	Undated	From G. Murray	Hand-written notes by prosecutor re: Gateway Charges	Litigation privilege - information prepared for anticipated litigation by Justice officials
924 - 928	96-03-06	To file	Taylor McCaffrey Request for Further Particulars Request Date of March 6, 1996	Litigation privilege - information prepared for anticipated litigation by Justice officials
929 - 930	Undated	To file	Hand-written notes by prosecutor about S. Blank's affidavit	Litigation privilege - information prepared for anticipated litigation by Justice officials
933 <i>DISCLOSED</i>	96-09-09	To G. Murray from R. Slatnik	Fax header sheet with attachments re: notes on Gateway	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
934 - 938 <i>DISCLOSED</i>	96-09-09	To G. Murray from R. Slatnik	Faxed hand-written notes	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
943 <i>DISCLOSED</i>	96-09-10	To the file from S. Kurbis	Note to file re: microcassette	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
946 <i>DISCLOSED</i>	96-09-19	To file	Hand-written notes by T. Youmans - meeting notes	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
955 <i>DISCLOSED</i>	96-09-25	To the file from S. Kurbis	Note to file re: microcassette	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
956 - 966	Undated	To D. Davis	Hand-written notes by G. Murray re: meeting	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials

EXHIBIT 43, Vols. 1-3 (A-1997-0167)

TITLE

ADRESSEE / ADDRESSOR

DATE

PAGE

RATIONALE

PAGE	DATE	ADRESSEE / ADDRESSOR	TITLE	RATIONALE
972 - 974	97-04-07	To D. Davis from G. Murray	Fax re: Gateway Industries - "computer file names"	Legal advice sought by client & Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
975 - 990 993	97-04-07	To D. Davis from G. Murray	Fax re: Gateway Industries - "computer file names"	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
996	97-04-11	To D. Davis from G. Murray	Letter with attachments re: Gateway Industries Ltd.	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
998	97-04-16	To D. Davis from G. Murray	Letter with attachments re: Gateway Industries Ltd	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
1000 - 1001	97-05-02	To M. Pierce from D. Davis	Fax header sheet re: Gateway file	Legal advice provided by counsel
1003 - 1004	97-04-29	To D. Davis from G. Murray	Faxed letter re: Gateway Industries Ltd (pages 2-3)	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
1036	97-04-29	To D. Davis from G. Murray	Fax re: P&N regional pulp and paper compliance reports (pages 5-6)	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
1042	97-05-02	To D. Davis from J. Marshall	Memorandum re: Gateway Industries Ltd. and Sheldon Blank	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
1043	97-05-06	To D. Davis from G. Murray	Letter with attachments re: Gateway Industries Ltd.	Legal advice sought by client
1044	97-05-06	To D. Davis from G. Murray	Letter with attachments re: Gateway Industries Ltd.	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
1045 - 1052	97-05-07	To D. Davis from G. Murray	Letter with attachments re: Gateway Industries Ltd.	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
1053	97-05-08	To C. Fimmgason from D. Davis	Fax re: Gateway Industries Ltd. (pages 1-8)	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
1054	97-05-23	To D. Davis	Email re: Gateway - Absolute Liability	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
1055 - 1056	97-05-23	To D. Davis	Letter with attachments re: Gateway Industries Ltd. about disclosure	Legal advice sought by client
1071	97-05-08	To file	Hand-written notes by G. Murray re: telephone conversation with Mr. Sabet	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
1072 - 1073	97-06-05	To D. Davis from G. Murray	Letter with attachments re: Gateway Industries Ltd.	Legal advice sought by client
1074 - 1076	97-05-27	To D. Brock and D. Davis from G. Murray	Emails re: Charges Against Gateway Ltd.	Litigation privilege - information prepared for anticipated litigation by Environment Canada or Justice officials
	97-07-25	To D. Davis from G. Murray	Letter with attachments re: Gateway Industries Ltd.	Legal advice sought by client

2

EXHIBIT 43, Vols. 1-3 (A-1997-0167)

PAGE	DATE	ADRESSEE / ADRESSOR	TITLE	RATIONALE
1077	Undated	To file	Hand-written notes by prosecutor	Litigation privilege - information prepared for anticipated litigation by Justice officials
1078	97-09-14	To C. Finnbogason from D. Davis	Email re: Challenge to SW in PIC	Litigation privilege - information prepared for anticipated litigation by Justice officials
1079	Undated	To file	Part of a document with some hand-written notes by prosecutor	Litigation privilege - information prepared for anticipated litigation by Justice officials
1172 - 1175	Undated	To file	Hand-written notes by prosecutor re: interview with witness	Litigation privilege - information prepared for anticipated litigation by Justice officials
1200 - 1202	Undated	From G. Murray	Hand-written note re: aerial photographs of Gateway (with attachments)	Litigation privilege - information prepared for anticipated litigation by Environment Canada or Justice officials
1210 - 1244	Undated	To file	Hand-written notes by prosecutor re: G. Murray's affidavit.	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
1249 - 1278	97-04-28	To file	Hand-written notes by prosecutor re: Affidavit of A. Laurencelle	Litigation privilege - information prepared for anticipated litigation by Justice officials
1279	Undated	From D. Deluca	Can-Say Statement from Dom Deluca	Litigation privilege - information prepared for anticipated litigation by Justice officials
1280 - 1290	Undated	To file	Hand-written notes by prosecutor re: interview with witness	Litigation privilege - information prepared for anticipated litigation by Justice officials
1292 - 1295	Undated	To file	Hand-written notes by prosecutor re: interview with witness	Litigation privilege - information prepared for anticipated litigation by Justice officials
1296	Undated	From I. Kitch	Can-Say Statement from Ian Kitch	Litigation privilege - information prepared for anticipated litigation by Justice officials
1297 - 1298	Undated	From R. Cann	Can-Say Statement from Rob Cann	Litigation privilege - litigator's drafts (work in progress)
1302	Undated	From G. Friesen	Can-Say Statement from Gary Friesen	Litigation privilege - litigator's drafts (work in progress)
1303	Undated	From D. Deluca	Can-Say Statement from Domenico Deluca	Litigation privilege - litigator's drafts (work in progress)
1304 - 1315	Undated	From K. Stewart	Can-Say Statement from Dr. Kenneth Stewart	Litigation privilege - litigator's drafts (work in progress)
1316 - 1323	Undated	To file	"Summary of Events" for prosecutor	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
1327 - 1331	Undated	To file	"Items not Disclosed" and explanations for prosecutor	Litigation privilege - information prepared for anticipated litigation by Environment Canada and Justice officials
1332 - 1333	Undated	To the file from T. Youmans	Gateway Industries re: "List of Items held by T. Youmans that have not been given to DOJ or disclosed to defense counsel"	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
1334 - 1335	Undated	To the file from T. Youmans	Faxed copy of: Gateway Industries re: "List of Items held by T. Youmans that have not been given to DOJ"	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials

EXHIBIT 43, Vols. 1-3 (A-1997-0167)

TITLE

ADDRESSEE / ADDRESSOR

DATE

PAGE

RATIONALE

PAGE	DATE	ADDRESSEE / ADDRESSOR	TITLE	RATIONALE
1336	Undated	To file	or disclosed to defense counsel" with comments "Provincial Contacts - Environment Act Proposal Process"	Litigation privilege - information prepared for anticipated litigation by Environment Canada or Justice officials
1338 - 1342	Undated	To file	Gateway Industries - Facts & Discussion	Litigation privilege - information prepared for anticipated litigation by Environment Canada or Justice officials
1374	Undated	To file	Hand-written notes re: document provided by J. Anton	Litigation privilege - information prepared for anticipated litigation by Environment Canada or Justice officials
1376 - 1378	95-01-25	To file	Hand-written notes from EC official re: searching Gateway	Litigation privilege - information prepared for anticipated litigation by Environment Canada or Justice officials
1379 - 1380	Undated	To file	Hand-written notes by prosecutor - trial preparation	Litigation privilege - information prepared for anticipated litigation by Justice officials
1657	94-04-25	To D. Near and R. Patzer from T. Youmans	Memorandum re: Gateway Industries, Winnipeg, MB - request for review of brief (memo)	Legal advice sought by client
1658 - 1659	94-05-09	To T. Youmans from D. Near	Memorandum re: Gateway Industries, Winnipeg, MB - Our File # EN4950-18 - response to request for review of brief	Legal advice provided by counsel
1660 - 1661	94-05-20	To T. Youmans from D. Near	Memorandum re: Gateway Industries, Winnipeg, MB - Our File # EN4950-18	Legal advice provided by counsel
1663 - 1670	95-07-04	To P. Gavrel from T. Youmans	Memorandum re: Gateway Industries	Legal advice sought by client
1671	95-07-11	To P. Gavrel from T. Youmans	Fax re: Gateway Industries - discussion with prosecutor about charges	Legal advice sought by client & Litigation privilege - information prepared for anticipated litigation by Environment Canada or Justice officials
1672 - 1673	95-07-18	To G. Murray from D. Davis	Email message re: depositing into municipal sewers	Legal advice sought by client
1675 - 1676	96-10-18	To P. Gavrel from T. Youmans	Memorandum re: Gateway Industries, Winnipeg, MB - postponement of Court case	Legal advice sought by client
1677	Undated	To B. Briscoe, R. Patzer and G. Murray from T. Youmans	Second part of a letter or memorandum	Legal advice sought by client
1678	Undated	To file	"Summary of Charges laid against Gateway Industries" - Chart with prosecutor's comments	Litigation privilege - information prepared for anticipated litigation by Justice officials
1679	96-12-20	To J. Scratch from D. Davis	Letter with attachments re: Gateway Industries Ltd. & Sheldon Blank	Legal advice provided by counsel & Litigation privilege - information prepared for anticipated litigation by Justice officials
1686	97-04-18	To P. Gavrel and R. Patzer from T.	Email re: letter to Gateway Industries	Legal advice sought by client

RESERVED
RESERVED

RESERVED

EXHIBIT 43, Vols. 1-3 (A-1997-0167)

PAGE	DATE	ADDRESSEE / ADDRESSOR	TITLE	RATIONALE
1687 - 1688	97-04-18	Youmans To S. Blank from T. Youmans	Letter re: Reporting Requirement - PPER	Litigation privilege - litigator's drafts (work in progress)
1691	Undated	From G. Murray	Email re: Charges (second page) - obtaining documentation re: Minister's awareness	Legal advice provided by counsel
1692	97-05-27	To L. Walden from G. McCallum	Memorandum re: R. v. Gateway Ltd.	Legal advice provided by counsel & Litigation privilege - information prepared for anticipated litigation by Environment Canada or Justice officials
1693 - 1694	97-06-03	To G. McCallum from G. Murray	Faxed memorandum re: R. v. Gateway Industries - Minister's Certificate	Legal advice sought by client
1695	Undated	To "whom it may concern" from B. Ayles	Minister's Certification	Litigation privilege - litigator's drafts (work in progress)
1696 - 1699	97-06-05	To G. Murray from D. Davis	Faxed Emails re: DFO Ministers Certificate (pages 2-5)	Legal advice provided by counsel
1700	97-07-18	To G. McCallum from G. Murray	Faxed memorandum re: R. v. Gateway Industries - Minister's Certificate	Legal advice sought by client & Litigation privilege - information prepared for anticipated litigation by Environment Canada or Justice officials
1701 - 1712	Undated	To file	"Gateway Industries Ltd. Winnipeg, Manitoba - Background, Assessment, Summary of Violations and Proposed Action"	Litigation privilege - information prepared for anticipated litigation by Environment Canada or Justice officials
1869 - 1871	Undated	G. Murray	p. 1869 Hand-written memo re: meeting notes taken at Search Debriefing held January 26, 1995 with a 2 page attachment of meeting notes	Litigation privilege - information prepared for anticipated litigation by Environment Canada or Justice officials
1872 - 1875	95-01-10	To T. Youmans, B. Armstrong, M. Labossiere, R. Slatnik, H. Sommerstad, R. Labossiere, G. Whitney, D. Labossiere, D. Jones, S. Kurbis from G. Murray	Memorandum re: Gateway Industries Ltd. Search	Legal advice sought by client
1893	95-03-21	To F. Tanner from G. Murray	Letter with attachments re: interview	Litigation privilege - information prepared for anticipated litigation by Environment Canada or Justice officials
1922 - 1933	95-08-29	To R. Patzer from S. Richartz	Document re: Gateway Industries - Sentencing	Litigation privilege - information prepared for anticipated litigation by Environment Canada or Justice officials
2027 - 2028	96-09-13	To G. Murray from M. Labossiere	Memorandum with attachments re: Gateway Industries - Notes	Litigation privilege - information prepared for anticipated litigation by Environment Canada or Justice officials
2184 - 2190	94-07-21	To file	Hand-written notes	Litigation privilege - information prepared for anticipated litigation by Environment Canada or Justice officials

RESERVED
RESERVED
RESERVED
RESERVED
RESERVED
RESERVED
RESERVED
DISCLOSED
DISCLOSED

EXHIBIT 43, Vols. 1-3 (A-1997-0167)

RATIONALE

PAGE	DATE	ADDRESSEE / ADDRESSOR	TITLE	RATIONALE
2191 - 2193 <i>DISCLOSED</i>	95-01-13	To file	Hand-written notes from J.K.G. Stinson (RCMP) about Gateway Search	litigation by Environment Canada or Justice officials Litigation privilege - information prepared for anticipated litigation by RCMP
2194 - 2202 <i>DISCLOSED</i>	95-01-24	To file	Hand-written notes from S. Calder (RCMP) about warrant	Litigation privilege - information prepared for anticipated litigation by RCMP
2203	95-01-24	To file	Hand-written notes re: meeting with K. Vokey re: effluent flow	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
2204 - 2206	95-05-23	To file	Hand-written notes by EC officials about warrant	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
2211 - 2215 2218	95-07-04 Undated	To P. Gavrel from T. Youmans Prosecution file	Memorandum with attachments re: Gateway Industries Part of a Document on Gateway Industries Ltd. "Inspections"	Legal advice sought by client Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
2220 - 2221	Undated	Prosecution file	Part of a Document on Gateway Industries Ltd. "Assessments"	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
2223 - 2227	Undated	Prosecution file	Part of a Document on Gateway Industries Ltd. - Environmental impact and summary of violations	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
2228 - 2230	Undated	Prosecution file	"Chronological Summary"	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
2231 - 2232	94-04-25	To D. Near from T. Youmans	Excerpt from preliminary "brief" sent to D. Near on April 25, 1994 by T. Youmans - legal advice required	Litigation privilege - information prepared for anticipated litigation by Environment Canada or Justice officials and 1 advice sought by client
2233 - 2234	95-02-06	To P. Gavrel from T. Youmans	Memorandum re: Request for Legal Opinion - Pulp and Paper Effluent Regulations	Legal advice sought by client
2235 - 2236 <i>DISCLOSED</i>	96-04-11	To D. Davis from G. Murray	Letter re: Gateway Industries Ltd. enclosing RCMP search notes	Legal advice sought by client and Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
2237	96-09-17	To the file from C. Henderson	Note to file re: Telecom with J. Stinson and A. Laurencelle	Litigation privilege - information prepared for anticipated litigation by Justice officials
2238 - 2242	96-08-29	To D. Davis from J.K.G. Stinson	Letter with attachments re: investigation and notes RCMP	Litigation privilege - information prepared for anticipated litigation by RCMP officials
2244 <i>DISCLOSED</i>	95-02-10	To N. Ayers, J. Stinson and S. Calder from G. Murray	Letter re: Search Warrant Execution - Gateway Industries - 95-01-25	Litigation privilege - information prepared for anticipated litigation by Environment Canada or Justice officials
2252 - 2253 <i>(ERRORS)</i>	Undated	To file	Diagrams and floor plan	Litigation privilege - information prepared for anticipated litigation by Environment Canada or Justice officials

EXHIBIT 43, Vols. 1-3 (A-1997-0167)

24

RATIONALE

TITLE

ADRESSEE / ADDRESSOR

DATE

PAGE

PAGE	DATE	ADRESSEE / ADDRESSOR	TITLE	RATIONALE
2257	Undated	To file	"Searcher Organization" plans for search of Gateway	litigation by Environment Canada or Justice officials
2274	Undated	To D. Davis from G. Murray	Disclosure comments	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
2344	97-04-16	To C. Mainella from D. Davis	Faxed memorandum with attachments re: Gateway Industries - Motion to Quash Search Warrant - April 17, 1997 Q.B. Motions List	Legal advice sought by client
2450	Undated	Court brief (draft)	"Gateway Industries Ltd. Pulp Mill Background" - extracts from report prepared by T. Youmans	Legal advice provided by counsel & Litigation privilege - information prepared for anticipated litigation by Justice officials
2451 - 2452	Undated	Court brief	"Reasons for Prosecution" - extracts from report prepared by T. Youmans	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
2453 - 2455	Undated	Court brief	"Possible Defenses" - extracts from report prepared by T. Youmans	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
2456 - 2459	Undated	Court brief	"General Information to Crown Counsel" - extracts from report prepared by T. Youmans	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
2460 - 2465	95-007-04	To P. Gavrel from T. Youmans	Memorandum re: Gateway Industries - re: conference call with D. Near	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
2466 - 2467	95-02-06	To P. Gavrel from T. Youmans	Memorandum re: Request for Legal Opinion - Pulp and Paper Effluent Regulations	Legal advice sought by client
3416 - 3419	97-12-12	Draft - Notice of Motion	Faxed draft copy of the "Notice of Motion" in the Court of Appeal between Her Majesty the Queen and Gateway Industries Ltd. and Sheldon Blank (unsigned)	Litigation privilege - litigator's drafts (work in progress) and Litigation privilege - information prepared for anticipated litigation by Justice officials
3437 - 3455	Undated	Draft - Motions Brief	Draft "Motions Brief" between Her Majesty the Queen and Gateway Industries Ltd. and Sheldon Blank (not signed, not filed in court)	Litigation privilege - litigator's drafts (work in progress) and Litigation privilege - information prepared for anticipated litigation by Justice officials

Disclosed

EXHIBIT 44 (A-1999-0044)

2

RATIONALE

TITLE

ADRESSEE / ADDRESSOR

DATE

PAGE

PAGE	DATE	ADRESSEE / ADDRESSOR	TITLE	RATIONALE
40	98-09-16	To the file from D. Davis	Memorandum to file re: Gateway Industries Ltd. & Blank, Sheldon - 36(3) & 37(1) Fisheries Act - Pulp and Paper Effluent Regulations (P.P.E.R.)	Litigation privilege - information prepared for anticipated litigation by Justice officials
87	97-10-27	To C. Bond from D. Davis	Email re: Gateway Industries and Sheldon Blank - sever question re: factums	Legal advice provided by counsel and Litigation privilege - information prepared for anticipated litigation by Justice officials
88	97-10-29	To T. Harwood-Jones from D. Davis	Email re: Gateway Industries and Sheldon Blank - sever solicitor-client ATIP application	Legal advice provided by counsel and Litigation privilege - information prepared for anticipated litigation by Justice officials
89	97-10-29	To T. St-Amant and D. Davis from T. Harwood-Jones	Email re: Gateway Industries and Sheldon Blank - sever solicitor-client ATIP exemption	Legal advice provided by counsel and Litigation privilege - information prepared for anticipated litigation by Justice officials
311	99-05-06	To M. Minuk from G. Murray	Fax header sheet with attachments re: notes - sever prosecutor's comments	Legal advice sought by client
403	97-12-03	To D. Davis from G. Murray	Faxed letter with attachments re: Gateway Industries Ltd. - sever G. Murray's comments re: disclosure	Legal advice sought by client
628	97-12-16	To P. Gavrel from B. Briscoe	Fax header sheet with attachments re: communications - sever B. Briscoe's comment	Legal advice sought by client

EXHIBIT 45 (A-1999-0044)
TITLE

RATIONALE

PAGE **DATE** **ADRESSEE / ADRESSOR**

PAGE	DATE	ADRESSEE / ADRESSOR	TITLE	RATIONALE
2	98-03-12	To H. Gliner from T. Youmans	Letter re: Gateway Industries Ltd. - Civil Suit	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
24	98-07-22	To G. Murray from D. Davis	Letter with attachments re: Gateway Industries Ltd. re: witness	Legal advice provided by counsel and Litigation privilege - information prepared for anticipated litigation by Justice officials
27	98-08-16	To D. Davis from C. Finnbogason	Forwarded Email re: Gateway - Prosecutor's comments	Litigation privilege - information prepared for anticipated litigation by Environment Canada or Justice officials and Legal advice provided by counsel
43	98-09-17	To the file from D. Davis	Memo re: Gateway Industries Ltd. & Blank, Sheldon - 36(3) & 37(1) - Fisheries Act - Pulp and Paper Effluent Regulations (P.P.E.R.) re: M. Minuk	Litigation privilege - information prepared for anticipated litigation by Justice officials and Legal advice provided by counsel
44	98-09-17	To the file from D. Davis	Memo re: Gateway Industries Ltd. & Blank, Sheldon - 36(3) & 37(1) - Fisheries Act - Pulp and Paper Effluent Regulations (P.P.E.R.) re: M. Minuk	Litigation privilege - information prepared for anticipated litigation by or Justice officials and Legal advice provided by counsel
45	98-09-17	To C. Bond from D. Davis	Memo re: Gateway Industries Ltd. & Blank, Sheldon - 36(3) & 37(1) - Fisheries Act - Pulp and Paper Effluent Regulations (P.P.E.R.) re: trial preparation	Litigation privilege - information prepared for anticipated litigation by Justice officials and Legal advice provided by counsel
50 - 51	98-09-22	To C. Bond from D. Davis	Memorandum re: Gateway Industries Ltd. & Blank, Sheldon - 36(3) & 37(1) - Fisheries Act - Pulp and Paper Effluent Regulations (P.P.E.R.) re: trial preparation	Litigation privilege - information prepared for anticipated litigation by Justice officials and Legal advice provided by counsel
52	98-09-24	To the file from D. Davis	Memo re: Gateway Industries Ltd. & Blank, Sheldon - 36(3) & 37(1) - Fisheries Act - Pulp and Paper Effluent Regulations (P.P.E.R.) - appointment of M. Minuk	Litigation privilege - information prepared for anticipated litigation by Environment Canada or Justice officials
53 - 55	Undated	To file	Hand-written notes from D. Davis re: agent and trial preparation	Litigation privilege - information prepared for anticipated litigation by Justice officials and Legal advice provided by counsel
58	Undated	To file	Hand-written notes from D. Davis re: M. Minuk	Litigation privilege - information prepared for anticipated litigation by Justice officials
61 - 80	April 1998	To the file from D. Davis	Hand-written notes from D. Davis - counsel's notes at trial	Litigation privilege - information prepared for anticipated litigation by Justice officials

EXHIBIT 45 (A-1999-0044)

RATIONALE

PAGE	DATE	ADDRESSEE / ADDRESSOR	TITLE	RATIONALE
81 - 82	98-12-23	To D. Davis from M. Minuk	Email re: Gateway - Draft letter to R. Flett	Legal advice provided by counsel and Litigation privilege - information prepared for anticipated litigation by Justice officials
83	98-12-23	To M. Minuk from D. Davis	Email re: Gateway - Legal advice to counsel about jurisdiction	Litigation privilege - information prepared for anticipated litigation by Justice officials and Legal advice provided by counsel
84	99-05-10	To P. Gavrel and G. Hopky from S. Waters	Email re: mou - DFO & DOE	Litigation privilege - information prepared for anticipated litigation by Environment Canada and Justice officials
85	99-05-07	To S. Waters from A. Davis	Email re: mou - DFO & DOE	Litigation privilege - information prepared for anticipated litigation by Environment Canada or Justice officials
	99-05-10	To A. Davis from S. Waters		Litigation privilege - information prepared for anticipated litigation by Justice officials
	99-05-07	To S. Waters from A. Davis		Litigation privilege - information prepared for anticipated litigation by Justice officials and Legal advice provided by counsel
90	97-11-03	To D. Davis and G. Joyal from C. Bond	Email re: Gateway - Discussion about obstruction	Litigation privilege - information prepared for anticipated litigation by Justice officials
95 - 100	99-03-22	To M. Minuk from G. Murray	Email enclosing Witness List	Litigation privilege - information prepared for anticipated litigation by Justice officials
102	99-04-08	To M. Minuk from G. Murray	Email re: Gateway - Disclosure	Litigation privilege - information prepared for anticipated litigation by Justice officials
106	99-04-14	To M. Minuk from G. Murray	Email re: Gateway - Witness K. Stewart	Legal advice sought by client and Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
107	99-04-14	To M. Minuk from G. Murray	Email re: Gateway - Lab analysis	Legal advice sought by client and Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
108	99-04-15	To M. Minuk and G. Murray from T. Youmans	Email re: Canada-Manitoba Accord	Litigation privilege - information prepared for anticipated litigation by Justice officials
109	99-04-15	To M. Minuk from G. Murray	Email re: F. Tanner	Litigation privilege - information prepared for anticipated litigation by Justice officials
110	99-04-19	To M. Minuk from G. Murray	Email re: Gateway - J. Zihruil's subpoena	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
113	99-04-28	To M. Minuk from G. Murray	Email re: Gateway - Telephone call from P. Lee	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials

28

EXHIBIT 45 (A-1999-0044)
TITLE

RATIONALE

PAGE DATE ADDRESSEE / ADDRESSOR

PAGE	DATE	ADDRESSEE / ADDRESSOR	TITLE	RATIONALE
114	99-04-29	To M. Minuk and G. Murray from T. Youmans	Email re: Witness schedule and testimony	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
115	99-05-13	To D. Davis and M. Rayner from P. Gavrel	Email re: s. 82 - Fisheries Act - Legal issue re: Minister's Certificate	Legal advice sought by client and Legal advice provided by counsel
116 - 117	99-05-12 to 99-05-18	To/from M. Gervais, M. Farquhar, P. Gavrel, D. Davis, D. Brock	Series of Emails re: s. 82 - Fisheries Act - Legal issue re: Minister's Certificate	Legal advice sought by client, legal advice provided by coun and Litigation privilege - information prepared for anticipate litigation by Environment Canada and Justice officials
139 - 153	99-04-06	To R. Flett and K. Durkin from M. Minuk	Draft letter with attachments re: Gateway Industries Ltd. and Sheldon Blank about disclosure obligations (not sent)	Litigation privilege - litigator's drafts (work in progress)
154	99-04-07	To file	Hand-written notes from M. Minuk	Litigation privilege - information prepared for anticipated litigation by Justice officials
208	99-04-07	To M. Minuk from G. Murray	Fax header sheet with attachment re: Gateway Industries re: outfall pipe tables	Legal advice sought by client and Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
219	99-04-08	To M. Minuk from G. Murray	Email re: Gateway - Disclosure	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
237 - 243	99-04-13	To G. Murray from M. Minuk	Prosecutor's fax cover - asks client (EC) to review enclosed documents list	Litigation privilege - information prepared for anticipated litigation by Justice officials
244	99-04-13	To Chris from T. Youmans	Email re: Preparation for an upcoming trial, discuss MOU	Legal advice sought by client
252	99-04-14	To M. Minuk from G. Murray	Email re: Gateway - witness K. Stewart	Legal advice sought by client and Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
253	99-04-14	To M. Minuk from G. Murray	Email re: Gateway - Lab analysis	Legal advice sought by client and Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
261	99-04-14	To M. Minuk from G. Murray	Email re: DOE/DFO Memorandum of Understanding related to the administration of s.36(3) of the Fisheries Act	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
262	99-04-15	To M. Minuk from T. Youmans	Email re: Canada-Manitoba Accord for the Protection and Enhancement of Environmental Quality	Litigation privilege - information prepared for anticipated litigation by Environment Canada or Justice officials and L

RESERVED

RESERVED

EXHIBIT 45 (A-1999-0044)

29

RATIONALE

TITLE

ADRESSEE / ADDRESSOR

DATE

PAGE

PAGE	DATE	ADRESSEE / ADDRESSOR	TITLE	RATIONALE
269	99-04-19	To M. Minuk from G. Murray	Letter re: Gateway Industries - Disclosure - EC's response to prosecutor's questions	advice provided by counsel Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
310	99-04-28	To M. Minuk from G. Murray	Email re: Gateway re: telephone call from P. Lee	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
367 - 368	99-05-11	To M. Minuk from G. Murray	Faxed copy of "Item Description / Time Frame" - things to be searched for at Gateway	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
369	99-05-14	To M. Minuk from T. Youmans	Note re: L. Lockhart - witness	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
390	99-10-22	To file	Hand-written notes from D. Davis - prosecutor's notes re: tapes	Litigation privilege - information prepared for anticipated litigation by Justice officials
391	Undated	To file	Hand-written notes from D. Davis - prosecutor's notes re: disclosure	Litigation privilege - information prepared for anticipated litigation by Justice officials
404	97-12-03	To D. Davis from G. Murray	Second page of a faxed letter re: G. Murray's comments on disclosure	Legal advice sought by client and Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
405	97-12-09	To D. Davis from G. Murray	Faxed letter re: Gateway Industries update	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
407 - 408	97-12-17	To D. Davis from G. Murray	Letter re: Gateway Industries	Legal advice sought by client
409 - 412	Undated	To file	Hand-written notes from D. Davis re: disclosure and trial preparation	Litigation privilege - information prepared for anticipated litigation by Justice officials
414 - 417	Undated	To file	Hand-written notes from D. Davis re: trial preparation	Litigation privilege - information prepared for anticipated litigation by Justice officials
418	98-01-15	To the file from D. Davis	Memorandum to file re: Gateway Industries Ltd. - Pre-Trial Conference - January 13, 1998	Litigation privilege - information prepared for anticipated litigation by Justice officials
431	98-03-12	To P. Gavrel from D. Davis	Email re: Gateway Industries - Minister's Certificate and case law citations	Legal advice provided by counsel and Litigation privilege - information prepared for anticipated litigation by Justice officials
432	98-03-11	To D. Davis from T. Youmans	Email re: Release of PPER Information	Litigation privilege - information prepared for anticipated litigation by Environment Canada officials
448	98-04-06	To the file from D. Davis	Memorandum to file re: Gateway Industries Ltd. - Minister's Certificate	Litigation privilege - information prepared for anticipated litigation by Justice officials and Legal advice provided by

RESERVED

RESERVED

EXHIBIT 45 (A-1999-0044)
TITLE

RATIONALE

PAGE	DATE	ADRESSEE / ADDRESSOR	TITLE	RATIONALE
449 - 451	Undated	To file	Hand-written notes from D. Davis re: trial preparation, citations of case law, Charter issues	counsel Litigation privilege - information prepared for anticipated litigation by Justice officials
504 - 505	99-03-03	To M. Minuk from D. Davis	Series of Emails re: Gateway - Substances - Draft letter to A. Bryant (not sent)	Litigation privilege - information prepared for anticipated litigation by Justice officials and Litigation privilege - litigator's drafts (work in progress)
528 - 531	99-03-04	To R. Flett and K. Durkin from M. Minuk	Draft letter re: Intention of the Prosecution to amend Count # 1 of the Information against Gateway Industries and Sheldon Blank (not sent)	Litigation privilege - information prepared for anticipated litigation by Justice officials
543 - 548	Undated	To file	Hand-written notes from D. Davis re: Charter motion, citations, case law	Legal advice sought by client
549	99-03-17	To M. Minuk from G. Murray	Fax header sheet re: Laboratory analysis of Environment Canada with questions by EC	Litigation privilege - information prepared for anticipated litigation by Justice officials
586	99-03-29	To C. Bond from M. Minuk	Memorandum enclosing Gateway correspondence by DOJ and EC	Litigation privilege - information prepared for anticipated litigation by Justice officials
598 - 604	99-04-01	To the file from T. Akerman	Memo re: Gateway Industries Ltd. & Blank, Sheldon - 36(3) & 37(1) - Fisheries Act - Pulp and Paper Effluent Regulations (P.P.E.R.) - Witnesses	Litigation privilege - information prepared for anticipated litigation by Justice officials
612	98-06-09	To D. Martineau from H. Gliner	Faxed letter re: Gateway Industries Limited - File update	Litigation privilege - information prepared for anticipated litigation by Justice officials
620	97-11-16	To Z. Manki and B. Briscoe from P. Gavrel	Email re: Gateway - Legal advice about inspections	Legal advice provided by counsel
634	97-12-16	To N. Robertson and D. Law from H. Gliner	Faxed letter re: Gateway Industries Limited and The Attorney General of Canada et al. re: retainer	Litigation privilege - information prepared for anticipated litigation by Environment Canada or Justice officials

DISCLOSED

DISCLOSED

30

FEDERAL COURT OF CANADA
TRIAL DIVISION
NAMES OF SOLICITORS AND SOLICITORS OF RECORD

DOCKET: T-2073-00

STYLE OF CAUSE: Sheldon Blank v. The Minister of Justice

PLACE OF HEARING: Winnipeg, Manitoba

DATE OF HEARING: April 15, 2003

REASONS FOR ORDER AND ORDER OF
MR. JUSTICE CAMPBELL
DATED APRIL 17, 2003

APPEARANCES

Sheldon Blank	on his own behalf
Christopher Rupar East Memorial Building Department of Justice Civil Litigation Section 2287 - 284 Wellington Street Ottawa, ON K1A 0H8	for the Respondent

SOLICITORS OF RECORD

Sheldon Blank	on his own behalf
Morris Rosenberg Deputy Attorney General of Canada	for the Respondent