



FEDERAL LABORATORY CONSORTIUM
FLC
FOR TECHNOLOGY TRANSFER

A Tour of CRADA Case Law

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Chem Service, Inc. vs. EPA, 1993 ("Chem Service I")

- ❑ **CRADA = Contract**
- ❑ **APA review**
- ❑ **FTTA legislative intent**





Chem Service, Inc. vs. EPA, 1993 ("Chem Service II")

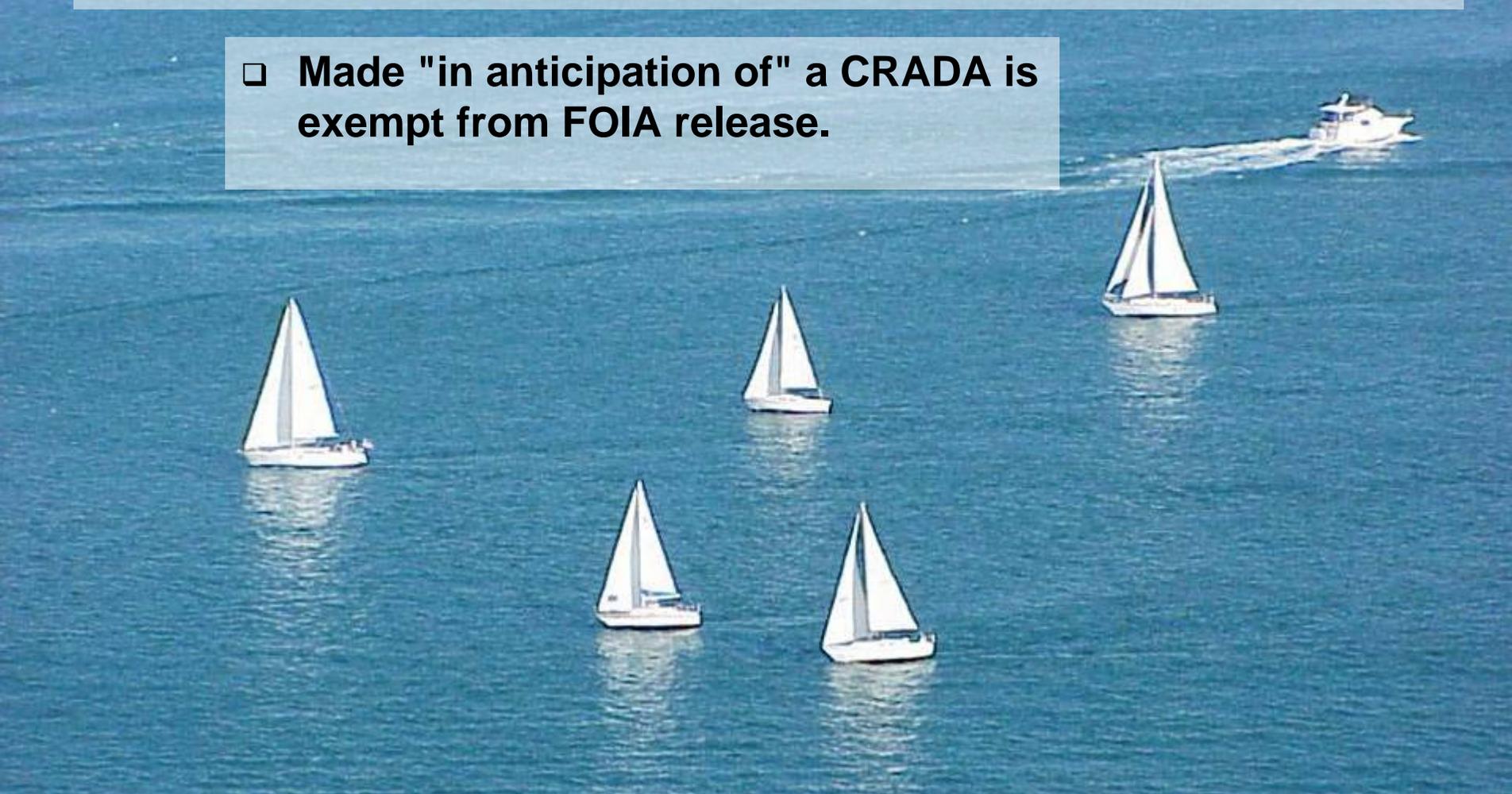
- ❑ **Don't circumvent federal procurement laws!**





Delorme Publishing Company, Inc. vs. NOAA, 1996

- ❑ **Made "in anticipation of" a CRADA is exempt from FOIA release.**





Edmonds Institute, et al., vs. Bruce Babbitt, Secretary of the Interior, 2000

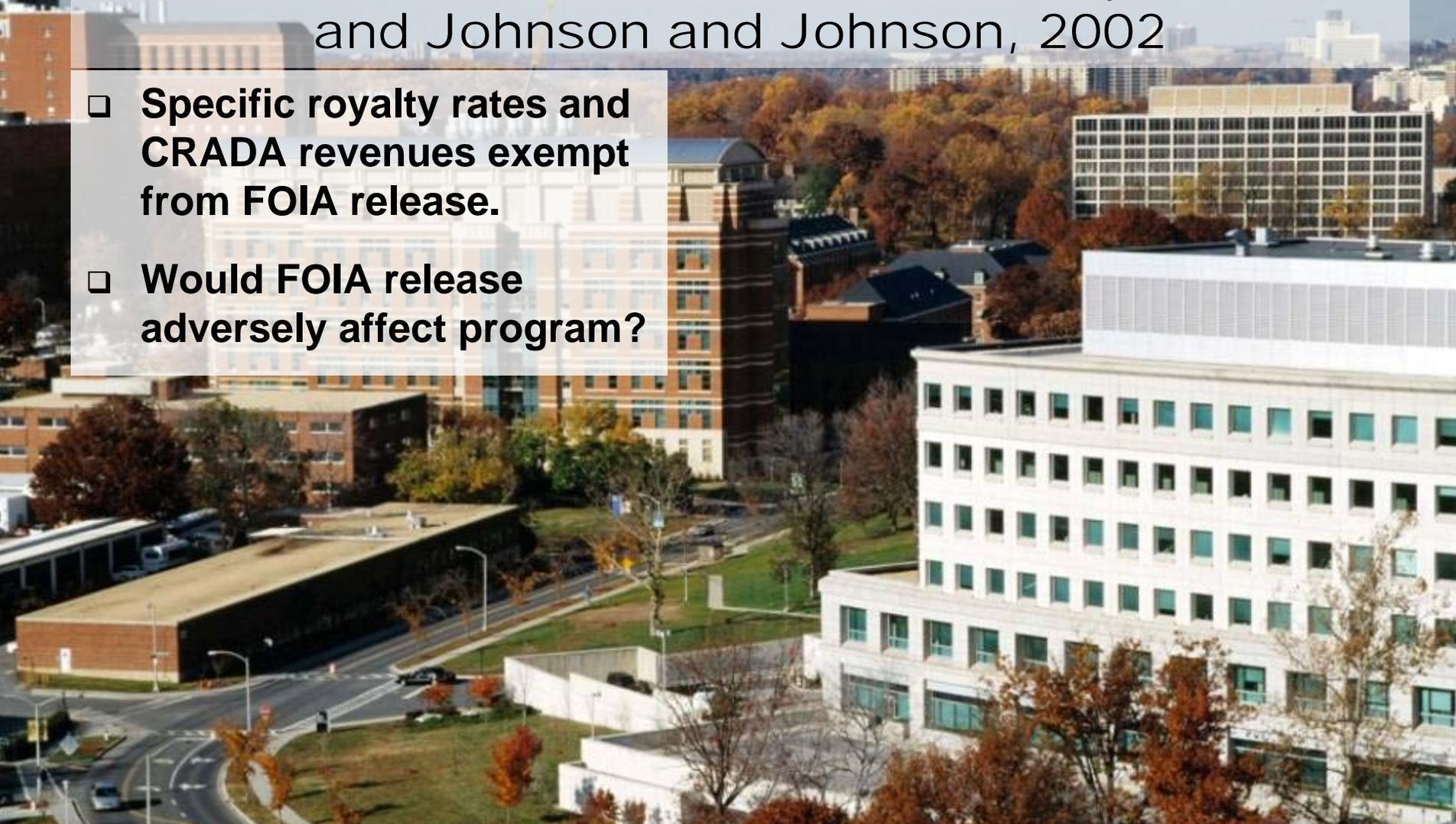


- ❑ **Laboratory:** “facility owned ... or otherwise used by a Federal agency,” a “substantial purpose of which is the performance of research, development or engineering by employees of the Federal government.”
- ❑ **At the time:** 43 scientists, center to coordinate research, wet/dry lab with laboratory equipment



Public Citizen Health Research Group vs. NIH and Johnson and Johnson, 2002

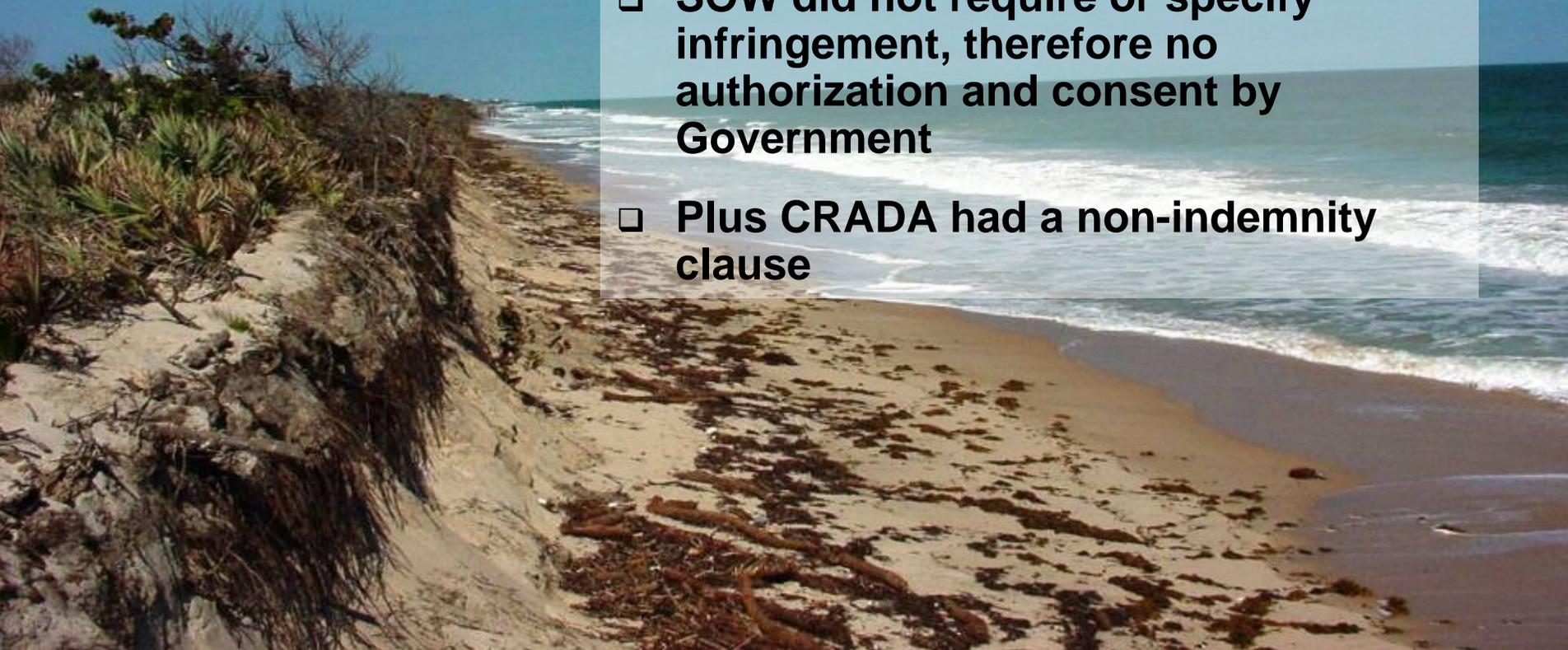
- ❑ **Specific royalty rates and CRADA revenues exempt from FOIA release.**
- ❑ **Would FOIA release adversely affect program?**





Parker Beach Restoration, Inc. vs. The United States, 2004

- ❑ **Third party intellectual property at issue**
- ❑ **SOW did not require or specify infringement, therefore no authorization and consent by Government**
- ❑ **Plus CRADA had a non-indemnity clause**





Glassey vs. Amano Corp., Williams, Hudson, Goldberg, and NIST, 2006

- ❑ **Dissolution of CRADA Collaborator and lots of litigation by Mr. Glassey**
- ❑ **State-law breach of contract claim applied to CRADA**
- ❑ **Dispute resolution clause protected NIST**



Conclusions

- ❑ **No litigation between collaborators**
- ❑ **Strong FOIA protection**
- ❑ **Great tool for labs**

