

NEW MEXICO INSPECTION OF PUBLIC RECORDS ACT REQUEST

September 26, 2019

Susan Sita
Energy, Minerals and Natural Resources Department
1220 S. St. Francis Dr.
Santa Fe, NM 87505

By Electronic Mail: susan.sita@state.nm.us

Re: Certain Correspondence

Dear Ms. Sita:

On behalf of the public policy group Energy Policy Advocates (EPA), recognized by the Internal Revenue Service as a non-profit public policy institute under § 501(c)(3) of the Internal Revenue Code, and pursuant to the New Mexico Inspection of Public Records Act, NMSA 1978, §14-2-1 *et seq.*, please provide copies of the following records: all correspondence, and any accompanying information¹, including also any attachments, a) sent to or from or copying (whether as cc: or bcc:) Sarah Cottrell Propst, that b) includes, anywhere, be it in an e-mail address, subject line, text, or attachment, “Tabor” and is c) dated from July 1, 2019 through August 31, 2019, inclusive.

We request entire threads of which any responsive correspondence is a part, regardless whether any portion falls outside of the above time parameter. To narrow this request, please consider as non-responsive electronic correspondence that merely receives or forwards press clippings, such as news services or stories or opinion pieces, if that correspondence has no comment or no substantive comment added by a party other than the original sender in the thread (an electronic mail message that includes any expression of opinion or viewpoint would be

¹ See discussion of SEC Data Delivery Standards, *infra*.

considered as including substantive comment; examples of non-responsive emails would be those forwarding a news report or opinion piece with no comment or only “fyi”, or “interesting”). Additionally, please consider all published or docketed materials, including pleadings and/or news articles, as non-responsive.

We understand that a public body may charge a fee for the cost of the search, examination, review, copying, separation of confidential from nonconfidential information, and mailing costs. If your Office expects to seek a charge associated with the searching, copying or production of these records, please provide an estimate of anticipated costs. Given EPA’s non-profit and public interest nature and intention to broadly disseminate relevant findings, EPA requests a waiver or reduction of any applicable fees.

Energy Policy Advocates requests records on your system, e.g., its backend logs, and does not seek only those records which survive on an employee’s own machine or account. We do not demand your office produce requested information in any particular form, instead **we request records in their native form**, with specific reference to the U.S. Securities and Exchange Commission Data Delivery Standards.² The covered information we seek is electronic information, this includes electronic *records*, and other public *information*.

To quote the SEC Data Delivery Standards, “Electronic files must be produced in their native format, i.e. the format in which they are ordinarily used and maintained during the normal course of business. For example, an MS Excel file must be produced as an MS Excel file rather than an image of a spreadsheet. ***(Note: An Adobe PDF file is not considered a native file unless the document was initially created as a PDF.)***” (emphases in original).

² <https://www.sec.gov/divisions/enforce/datadeliverystandards.pdf>.

In many native-format productions, certain public information remains contained in the record (e.g., metadata). Under the same standards, to ensure production of all information requested, if your production will be de-duplicated it is vital that you 1) preserve any unique metadata associated with the duplicate files, for example, custodian name, and, 2) make that unique metadata part of your production.

Native file productions may be produced without load files. However, native file productions must maintain the integrity of the original meta data, and must be produced as they are maintained in the normal course of business and organized by custodian-named file folders. A separate folder should be provided for each custodian.

In the event that necessity requires your office to produce a PDF file, due to your normal program for redacting certain information and such that native files cannot be produced as they are maintained in the normal course of business, in order to provide all requested information each PDF file should be produced in separate folders named by the custodian, *and* accompanied by a load file to ensure the requested information appropriate for that discrete record is associated with that record. The required fields and format of the data to be provided within the load file can be found in Addendum A of the above-cited SEC Data Standards. All produced PDFs must be text searchable.

We look forward to your response. If you have any questions, do not hesitate to contact me by email at MatthewDHardin@protonmail.com.

Sincerely,

Matthew D. Hardin
Executive Director
Energy Policy Advocates