

Wendling-Richards, Christy (AG)

From: Matthew Hardin <matthewdhardin@gmail.com>
Sent: Tuesday, February 12, 2019 4:25 PM
To: AG-FOIA
Subject: Records Request
Attachments: MI_AG_Feb12.pdf

Please see the attached request for records.

Thank you,

Matthew D. Hardin
324 Logtrac Rd.
Stanardsville, VA 22973
(804) 240-6773

REQUEST UNDER MICHIGAN FREEDOM OF INFORMATION ACT

February 12, 2019

Department of Attorney General
Attn. FOIA Coordinator
P.O. Box 30754
Lansing, MI 48909

BY ELECTRONIC MAIL: AG-FOIA@michigan.gov
RE: Certain records regarding special counsel

Dear Sir or Madam:

On behalf of Energy Policy Advocates, recognized by the Internal Revenue Service as a non-profit public policy institute under § 501(c)(3) the Internal Revenue Code, pursuant to MCL § 15.231- 15.246, please provide us within five business days, copies of the following records, and their *accompanying information*,¹ including also any attachments. Records responsive to this request will have been dated from January 1, 2019 through the present, inclusive:

- I. all opinions, analyses and/or or determinations concluding that a) your Office has the legal authority to hire or otherwise bring into the Office, under any title whether Special Assistant Attorney General, Special Counsel, or otherwise, an NYU Fellow or otherwise a privately funded attorney; b) a Special Assistant Attorney General/Counsel, or anything else offered or provided by NYU, does or does not constitute an impermissible gift under applicable law, code or regulation; and/or that c) a Special Assistant Attorney General/Counsel, or anything else

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

provided by NYU, does or does not comply with or violate applicable ethics, professional conduct or anti-corruption law, code or regulation; also,

- II. all correspondence i) sent to, from, or copying (whether as cc: or bcc:) a) Eric Restuccia, b) Kelly Rossman-McKinney, and/or c) Mary Beth Seppala that ii) includes, anywhere, "NYU", be it in an email address (e.g., @nyu.edu), Subject field, body of an email or any attachments.

These terms are not case sensitive.

Please consider as responsive entire email "threads" containing any information responsive to this request, regardless whether any part of that thread falls outside the cited search parameters.

We understand that a public body may charge a fee for the cost of the search, examination, review, copying, separation of exempt from nonexempt information, and mailing costs but only if the failure to charge a fee for that request would result in unreasonably high costs to the public body, and the public body specifically identifies the nature of these unreasonably high costs. See MCL 15.234. Given the nature of the records responsive to this request, all should be in electronic format, and there should be no photocopying costs.

If your Office expects to seek a charge associated with the searching, copying or production of these records, however, please provide an estimate of anticipated costs in the event that there are fees for processing this Request.

EPA 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 Standards²**. 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).

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

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

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 timely response within a reasonable time, as required by law. If you have any questions, or would like to discuss this matter further, do not hesitate to contact me by email. I look forward to your timely response.

Sincerely,

A handwritten signature in black ink that reads "Matthew D. Hardin". The signature is written in a cursive style with some loops and flourishes.

Matthew D. Hardin
Executive Director
Energy Policy Advocates