

From: Chris Horner <chris@govoversight.org>
Sent: Monday, August 20, 2018 9:33 AM
To: AGO - Info <AGO.Info@vermont.gov>
Subject: REQUEST UNDER VERMONT'S PUBLIC RECORDS LAW

Please see the attached.

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REQUEST UNDER VERMONT'S PUBLIC RECORDS LAW

August 20, 2018

Vermont Office of the Attorney General
Public Records Act Request
109 State Street
Montpelier, VT 05609

By Electronic mail: ago.info@vermont.gov

RE: Certain Records relating to correspondence with NYU

To Whom it May Concern:

On behalf of Energy Policy Advocates (EPA), a non-profit public interest group incorporated under the laws of the State of Washington (<http://epadvocates.org>; EPA is awaiting approval as a 501(c)3 by the Internal Revenue Service), pursuant to to Vermont Public Records Law, §315 *et seq.*, we request that your custodian of records provide us within the statutorily prescribed time copies of all correspondence and other records dated from **September 15, 2017 through the date you process this request**, inclusive, **and its accompanying information, including also any attachments**, which was 1) sent to, from or copying (whether as cc: or bcc:) **Natalie Silver**, Communications Director for your office, which 2) is also to, from or copies (again whether as cc: or bcc:) a) any email address ending with **@nyu.edu** (prioritizing, but not limited to that with **chris.moyer@nyu.edu**), and/or b) any email address ending with **@resource-media.org** (no such terms are 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. Given the nature of the records responsive to this request, all should be in electronic format, and therefore there should be no photocopying costs. If there is any cost associated with the searching, copying or production of these records, however, please also notify us in writing immediately. Please provide an estimate of anticipated costs in the event that there are fees for processing this Request. To keep costs and copying to a minimum **please provide copies of all productions to the email used to send this request.** Given the nature of the records responsive to this request, all should be in electronic format, and therefore there should be no photocopying costs (see discussion, *infra*).

To further help narrow the population of potentially responsive records and reduce the review required in order to complete processing of this request, **requester does not seek correspondence that merely forwards press clippings, such as news accounts or opinion pieces, if that correspondence has no comment or no substantive comment added by a party** in the thread (an electronic mail message that includes any expression of opinion or viewpoint would be 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”).

We request records on your system, e.g., its backend logs, and do *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.¹ 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 if there are different custodians of the information requested.

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

¹ <https://www.sec.gov/divisions/enforce/datadeliverystandards.pdf>

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.

In the context of our experience with responsive agencies taking the effort to physically print, then (often, poorly) scan electronic mail into (typically, non-searchable) PDF files, we note that production of electronic records necessitates no such additional time, effort or other resources, and no photocopying expense. Any such effort as described is most reasonably viewed as an effort to frustrate the requester's use of the public information.

If you have any questions, or would like to discuss this matter further, do not hesitate to contact me by email. We look forward to your timely response.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Chris Horner", with a long horizontal flourish extending to the right.

Chris Horner
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for Energy Policy Advocates
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