

Nicholas Maxwell

April 12, 2024

Subject: Urgent Concern Over Continued Delays and Lack of Leadership in Public Records Access

I am writing to follow up on my previous letter concerning serious issues in accessing the Administrative Record (AR) necessary for an informed participation in the public hearing regarding the solid waste transfer station permit. Despite the urgency and clarity of my initial inquiry, I have not received any acknowledgment or response, which not only exacerbates my concerns but also directly reflects on the leadership of the New Mexico Environment Department under Secretary Kenney.

Ever since the Urenco discharge permitting proceeding, I have taken note of a troubling pattern of mismanagement and a disconcerting disregard for robust public participation under this Secretary's tenure. The delay in providing access to crucial documents and the lack of communication seem symptomatic of a broader issue of opacity within this department. It is concerning that this approach to governance not only undermines the democratic process but also appears to be a recurring example of poor leadership.

Moreover, operating in the shadows does not seem like a legacy any leader would aspire to—the lack of transparency and responsiveness raises significant doubts about the commitment of this department to uphold the principles of fairness and accountability expected in public administration.

Given these recurring issues, it is crucial that there be immediate improvements in how requests for public records are managed, particularly in cases where the documents should already be systematically organized but are, apparently, in disarray. This not only casts a poor light on the Secretary's leadership but also reflects unfavorably on Governor Michelle Lujan Grisham's choice in leadership for this crucial role. I urgently demand a prompt response to my previous letter and an expedited release of the Administrative Record (AR). This situation impacts not only my rights as an intervenor to participate fully in environmental governance but also the overall integrity of the department itself.

In light of the ongoing challenges and lack of response, I will be formally submitting these comments into the public record. It is deeply concerning that the department continues to operate without the transparency and accountability that are fundamental to its function and to public trust. This formal record of my grievances underscores my profound dissatisfaction with the department's failure to adhere to these essential principles. I trust that this action will highlight the urgency of rectifying these issues and restoring integrity to the department's operations.

Mr. Maxwell

On 2024-04-11 21:58, Nick Maxwell wrote:

> Greetings,

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> I am writing to express my concerns about accessing public records crucial for participating in the public hearing concerning the permit for a new solid waste transfer station. I have become aware that the counsel responsible for overseeing the state's interests in that permitting process has previously and very recently acted as counsel for the public records custodian. Just this month, I received a letter from her denying my records request, which is not the first denial I have encountered from her this year.

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> Although I am not currently aware of the specific individual who may be serving as counsel for the public records custodian in this particular request, the recent involvement of aforementioned counsel in IPRA-related matters gives me sufficient reason to be concerned about potential conflicts of interest. Her overlapping roles may potentially be impacting my timely access to the requested files of the Administrative Record (AR), which is critical for my participation in the hearing. While some documents such as the application and notices are immediately accessible online, the AR is not, and my request for access has been met with a notification of the potential of a 15-day delay.

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> While perhaps being technically within legal boundaries, any arbitrary application of an undue delay in a situation involving a straightforward and unburdensome request would be an incorrect interpretation of the law's intent. The law is designed to ensure "immediate" access to public records. Given that the records in question are already numerically indexed, as evidenced in the state's technical testimony for this case, the actual delay being incurred at this time seems to be stretching that intent, to say the least. I believe that what I am seeing is more akin to bureaucratic foot-dragging than a genuine effort to facilitate my access to government records.

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> In conclusion, I express my genuine dissatisfaction with any undue delay in my access of the AR, seemingly exacerbated by conflicts of interest. Given the public policy of the state emphasizes the public's right to extensive information about government actions (14-2-5, IPRA), each day of delay diminishes my opportunity to prepare for said hearing on equal ground as the state, underscoring an unfair power dynamic that undermines the principles of representative government and transparency.

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> Sincerely,

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> Mr. Maxwell

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> On 2024-04-05 12:45, Records, Environment, ENV wrote:

>> Good afternoon,

>> Attached is a letter regarding your request.

>> Thank you,

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>> Christina Espinoza

>> Records Custodian

>> New Mexico Environment Department

>> Office of General Counsel

>> 1109 S. Saint Francis Drive, Suite North 4050

>> Santa Fe, New Mexico 87501

>> 505-469-0922 mobile

>> <https://www.env.nm.gov/>

>> Pronouns: she, her, hers

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>> -----Original Message-----

>> From: Nick Maxwell

>> Sent: Wednesday, April 3, 2024 1:08 PM

>> To: Records, Environment, ENV ; inspector@sunshineaudit.com

>> Subject: [EXTERNAL] IPRA: SWB 24-08 AR

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>> CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

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>> Greetings,

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>> I wish to inspect the following public records:

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>> 1) All records contained within the Administrative Record for Docket Number SWB 24-08.

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>> Thanks,

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>> Mr Nicholas R. Maxwell

>> P.O. Box 1064

>> Hobbs, New Mexico 88241

>> Telephone: (575) 441-3560

>> Email: inspector@sunshineaudit.com