



April 23, 2021

VIA EMAIL

S.C. Attorney General's Office
FOIA Office
PO Box 11549
Columbia, SC 29211
FOIA@scag.gov

Re: Freedom of Information Act Request

Dear Freedom of Information Officer:

Pursuant to the South Carolina Freedom of Information Act, S.C. Code Ann. §§ 30-4-10 et seq., American Oversight makes the following request for records.

Requested Records

American Oversight requests that your office promptly produce the following records:¹

All email communications (including emails, complete email chains, email attachments, calendar invitations, and calendar attachments) sent by (a) Attorney General Alan Wilson, or anyone communicating on Wilson's behalf (such as a Chief of Staff, assistant, or secretary), to (b) any of the external entities listed below:

External Entities:

1. Anyone communicating from Devon Energy Corporation, including from an email address ending in @dvn.com
2. Anyone communicating from Peabody Energy, including from an email address ending in @peabodyenergy.com
3. Anyone communicating from Murray Energy Corporation, including from an email address ending in @murrayenergycorp.com
4. Anyone communicating from Southern Company, including from an email address ending in @southerncompany.com
5. Anyone communicating from American Fuel & Petrochemical Manufacturers, including from an email address ending in @afpm.org
6. Anyone communicating from America's Power, including from an email address ending in @americaspower.org
7. Anyone communicating from Western Energy Alliance, including from an email address ending in @westernenergyalliance.org

¹ Pursuant to S.C. Code Ann. § 30-4-30(C), please notify American Oversight of your final determination as to the public availability of the requested records within ten business days and produce the records within thirty calendar days after issuing your final determination.



8. Anyone communicating from American Petroleum Institute including from an email address ending in @api.org
9. Anyone communicating from Independent Petroleum Association of America, including from an email address ending in @ipaa.org
10. Anyone communicating from Koch Ag & Energy Solutions including from an email address ending in @kochind.com
11. Anyone communicating from the South Carolina Farm Bureau, including from an email address ending in @scfb.org
12. Georgia Attorney General Chris Carr or anyone communicating on Carr's behalf (such as a Chief of Staff, assistant, or scheduler)
13. Alabama Attorney General Steve Marshall, or anyone communicating on Marshall's behalf (such as a Chief of Staff, assistant, or scheduler)
14. Anyone communicating from the Republican Attorneys General Association, including from an email ending in @republicanags.com

Please provide all responsive records from January 20, 2021, through March 8, 2021.

In an effort to accommodate your office and reduce the number of potentially responsive records to be processed and produced, American Oversight has limited its request to emails sent by the officials listed above. To be clear, however, American Oversight still requests that complete email chains be produced, displaying both sent and received messages. This means, for example, that both Attorney General Wilson's response to an email from one of the external entities listed above and the initial received message are responsive to this request and should be produced.

Fee Waiver Request

In accordance with S.C. Code Ann. § 30-4-30(B), American Oversight requests a waiver of fees associated with processing this request for records. Disclosure of the requested records is in the public interest because it will likely contribute to a better understanding of relevant government procedures by the general public in a significant way. In addition, this request is primarily and fundamentally for non-commercial purposes.

A waiver of fees is "in the public interest because furnishing the information can be considered as primarily benefiting the general public."² The general public has a significant interest in understanding interactions Attorney General Wilson may have had with representatives of the energy industry and the extent to which those interactions may have affected actions by the Attorney General's Office.³ Records with the potential to shed light on this issue would contribute significantly to public understanding of operations of the government, including whether Attorney General

² S.C. Code Ann. § 30-4-30(B).

³ Sammy Fretwell, *SC Attorney General Joins Fight Against Biden's Recent Climate Change Order*, The State (Mar. 9, 2021, 6:24 PM), <https://www.thestate.com/news/local/environment/article249811238.html>.

Wilson is undertaking official actions to benefit South Carolinians or outside interests. American Oversight is committed to transparency and makes the responses agencies provide to public records requests publicly available, and the public's understanding of the government's activities would be enhanced through American Oversight's analysis and publication of these records.

Furthermore, American Oversight's work is aimed solely at serving the public interest. As a 501(c)(3) nonprofit, American Oversight does not have a commercial purpose and the release of the information requested is not in American Oversight's financial interest. American Oversight's mission is to promote transparency in government, to educate the public about government activities, and to ensure the accountability of government officials. American Oversight uses the information gathered, and its analysis of it, to educate the public through reports, press releases, or other media. American Oversight also makes materials it gathers available on its public website and promotes their availability on social media platforms, such as Facebook and Twitter.⁴

American Oversight has also demonstrated its commitment to the public disclosure of documents and creation of editorial content through regular substantive analyses posted to its website.⁵ Examples reflecting this commitment to the public disclosure of documents and the creation of editorial content include the posting of records and analysis related to the organization's investigations into misconduct and corruption in state governments;⁶ posting records and analysis of federal and state governments' responses to the Coronavirus pandemic;⁷ posting records received as part of American

⁴ American Oversight currently has approximately 15,700 page likes on Facebook and 106,200 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Apr. 12, 2021); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Apr. 12, 2021).

⁵ See generally *News*, American Oversight, <https://www.americanoversight.org/blog>.

⁶ See generally *State Investigations*, American Oversight, <https://www.americanoversight.org/states>; see, e.g., *State Government Contacts with Voting-Restriction Activists*, American Oversight, <https://www.americanoversight.org/investigation/state-government-contacts-with-voting-restriction-activists>; *Georgia's Voting Machines and Election Security*, American Oversight, <https://www.americanoversight.org/investigation/georgias-voting-machines-and-election-security>.

⁷ See, e.g., *The Trump Administration's Response to Coronavirus*, American Oversight, <https://www.americanoversight.org/investigation/the-trump-administrations-response-to-coronavirus>; *Tulsa Health Officials Initially Estimated Trump Rally Would Directly Lead to 2 to 9 Deaths*, American Oversight, <https://www.americanoversight.org/tulsa-health-officials-initially-estimated-trump-rally-would-directly-lead-to-2-to-9-deaths>; *Wisconsin Documents Offer Window into Early Uncertainty over COVID-19*, American Oversight, <https://www.americanoversight.org/wisconsin-documents-offer-window-into-early-uncertainty-over-covid-19>; *In the Documents: Florida Health Department Efforts to Suppress Release of Coronavirus Records*, American Oversight,

Oversight’s “Audit the Wall” project to gather and analyze information related to the Trump administration’s proposed construction of a barrier along the U.S.-Mexico border, and analyses of what those records reveal;⁸ and the posting of records related to an ethics waiver received by a senior Department of Justice attorney and an analysis of what those records demonstrated regarding the Department’s process for issuing such waivers.⁹

Accordingly, American Oversight qualifies for a fee waiver.

Guidance Regarding the Search & Processing of Requested Records

In connection with its request for records, American Oversight provides the following guidance regarding the scope of the records sought and the search and processing of records:

- Please search all locations and systems likely to have responsive records, regardless of format, medium, or physical characteristics.
- Our request for records includes any attachments to those records or other materials enclosed with those records when they were previously transmitted. To the extent that an email is responsive to our request, our request includes all prior messages sent or received in that email chain, as well as any attachments to the email.
- Please search all relevant records or systems containing records regarding agency business. Do not exclude records regarding agency business contained in files, email accounts, or devices in the personal custody of your officials, such as personal email accounts or text messages.
- In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records.¹⁰ If a request is denied in whole, please state specifically why it is not reasonable to segregate portions of the record for release.

<https://www.americanoversight.org/in-the-documents-florida-health-department-efforts-to-suppress-release-of-coronavirus-records>.

⁸ See generally *Audit the Wall*, American Oversight, <https://www.americanoversight.org/investigation/audit-the-wall>; see, e.g., *Border Wall Investigation Report: No Plans, No Funding, No Timeline, No Wall*, American Oversight, <https://www.americanoversight.org/border-wall-investigation-report-no-plans-no-funding-no-timeline-no-wall>.

⁹ *DOJ Records Relating to Solicitor General Noel Francisco’s Recusal*, American Oversight, <https://www.americanoversight.org/document/doj-civil-division-response-noel-francisco-compliance>; *Francisco & the Travel Ban: What We Learned from the DOJ Documents*, American Oversight, <https://www.americanoversight.org/francisco-the-travel-ban-what-we-learned-from-the-doj-documents>.

¹⁰ S.C. Code Ann. § 30-4-40(b).

- Please take appropriate steps to ensure that records responsive to this request are not deleted by the agency before the completion of processing for this request. If records potentially responsive to this request are likely to be located on systems where they are subject to potential deletion, including on a scheduled basis, please take steps to prevent that deletion, including, as appropriate, by instituting a litigation hold on those records.

Conclusion

If you have any questions regarding how to construe this request for records or believe that further discussions regarding search and processing would facilitate a more efficient production of records of interest to American Oversight, please do not hesitate to contact American Oversight to discuss this request. American Oversight welcomes an opportunity to discuss its request with you before you undertake your search or incur search or duplication costs. By working together at the outset, American Oversight and your agency can decrease the likelihood of costly and time-consuming litigation in the future.

Where possible, please provide responsive material in an electronic format by email. Alternatively, please provide responsive material in native format or in PDF format on a USB drive. Please send any responsive material being sent by mail to American Oversight, 1030 15th Street NW, Suite B255, Washington, DC 20005. If it will accelerate release of responsive records to American Oversight, please also provide responsive material on a rolling basis.

We share a common mission to promote transparency in government. American Oversight looks forward to working with your agency on this request. If you do not understand any part of this request, please contact Khahilia Shaw at records@americanoversight.org or (202) 539-6507.

Sincerely,

/s/ Khahilia Shaw
Khahilia Shaw
on behalf of
American Oversight