



April 28, 2020

VIA EMAIL

Yessica Del Rincon
Public Information Reservist
Arizona Department of Emergency & Military Affairs
5636 E. McDowell Road
Phoenix, AZ 85008
yessica.delrincon@azdema.gov

Re: Public Records Request

Dear Public Records Officer:

Pursuant to the Arizona Public Records Law, A.R.S. §§ 39-121 et seq., American Oversight makes the following request for records.

Requested Records

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

All email communications (including complete email chains, email attachments, calendar invitations, and attachments thereto) sent by any of the officials listed below regarding Fisher Sand and Gravel's plans to build a span of border barrier along the Cabeza Prieta National Wildlife Refuge.

Arizona Department of Emergency and Military Affairs Officials:

- Major General Michael T. McGuire, DEMA Director, or anyone communicating on his behalf
- Wendy Smith-Reeve, DEMA Deputy Director & Emergency Management Director, or anyone communicating on her behalf

For this request, American Oversight believes that records containing the terms below are likely to be responsive records, and American Oversight requests that your agency, at a minimum, employ these search terms to identify responsive records.

- Fisher (as it relates to "Fisher Industries," "Fisher Ind," "Fisher Sand and Gravel," etc.)
- "Tommy Fisher"



- fisherind.com
- fishersandandgravel.com
- “Kevin Cramer”
- kevincramer.org
- cramer.senate.gov
- “Scott Sleight”
- scott.sleight@acslawyers.com
- “We Build The Wall”
- WBTW
- Kolfage
- “Border Wall”
- “Border Barrier”
- “Barrier Building”
- “Barrier Construction”
- “Wall Building”
- “Wall Construction”
- “Chad Wolf”
- “Cabeza Prieta”
- “Wildlife Refuge”

Please provide all responsive records from September 1, 2019, through the date of the search.

In an effort to accommodate your office and reduce the number of responsive records to be processed and produced, American Oversight has limited its request to emails sent by the specified individuals. To be clear, however, American Oversight still requests that complete email chains be produced, displaying both the sent messages and the prior received messages in each email chain. This means, for example, that both a listed custodian’s response to a responsive email and the initial received message are responsive to this request and should be produced.

This request includes all prior messages (whether incoming or outgoing) reflected in the responsive correspondence and any attachments thereto.

Statement of Noncommercial Purpose

This request is made for noncommercial purposes. American Oversight seeks records regarding the construction of a border wall, and the public has a significant interest in ensuring that related contracts are not being awarded because of political favors. Records with the potential to shed light on this question would contribute significantly to public understanding of operations of the federal government including whether and to what extent the President has personally intervened in a federal government procurement process as well as the degree to which said process intersects with the operations of

government.¹ American Oversight is committed to transparency and makes the responses agencies provide to FOIA 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. Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the government, including whether and to what extent certain private interests exert influence over government operations.

Because American Oversight is a 501(c)(3) nonprofit, this request 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.²

Because this request is made for noncommercial purposes, American Oversight requests that any fees charged in connection with processing this request be limited to copying and postage charges, if applicable.³ Please notify American Oversight of any anticipated fees or costs in excess of \$100 prior to incurring such costs or fees.

Guidance Regarding the Search & Processing of Requested

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.

¹ Nick Miroff & Josh Dawsey, *North Dakota Company that Trump Touted Gets \$400 Million Border Wall Contract*, WASH. POST, Dec. 2, 2019, https://www.washingtonpost.com/immigration/north-dakota-company-that-trumptouted-gets-400-million-border-wall-contract/2019/12/02/9c661132-1568-11ea-bf81-ebe89f477d1e_story.html.

² American Oversight currently has approximately 15,500 page likes on Facebook and 102,200 followers on Twitter. American Oversight, FACEBOOK, <https://www.facebook.com/weareoversight/> (last visited Apr. 6, 2020); American Oversight (@weareoversight), TWITTER, <https://twitter.com/weareoversight> (last visited Apr. 6 2020).

³ A.R.S. § 39-121.01(D)(1); *see also Hanania v. City of Tucson*, 128 Ariz. 135, 624 P.2d 332 (Ct. App. 1980). Furthermore, because this request is for noncommercial purposes, additional fees provided for under A.R.S. § 39-121.03(A) are not applicable and should not be assessed.

- 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.
- If any records are withheld in full or in part, pursuant to A.R.S. § 39-121.01(D)(2), please provide an index of records or categories of records that have been withheld and the reasons the records or categories of records have been withheld.
- 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. If a request is denied in whole, please state specifically why it is not reasonable to segregate portions of the record for release.
- 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 Hart Wood at records@americanoversight.org or (202) 873-1743.

Sincerely,

A handwritten signature in blue ink, appearing to read "Austin R. Evers", with a long horizontal flourish extending to the left.

Austin R. Evers
Executive Director
American Oversight