



Ohio Department of Natural Resources

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Division of Oil and Gas Resources Management
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April 22, 2021

Ms. Lea Harper
P.O. Box 473
Grand Rapids, OH 43522
(419) 450-7042
wewantcleanwater@gmail.com

Re: **Public Records Request #5121**

Dear Ms. Harper,

The Ohio Department of Natural Resources, Division of Oil and Gas Resources Management ("Division") is responding to your email dated February 10, 2021, wherein you requested the following:

Can you please provide all referrals to the Ohio Attorney General's office from the ODNR regarding cases involving operators of the UIC program in Ohio? The USEPA cited cases of referrals by the ODNR in 2016. Please provide all referrals for investigation by the Ohio AG of the Class II injection well program in Ohio from 2011 until the present, including original documentation of possible violations and any responses received in return from the AG's office.

Pursuant to Ohio Revised Code ("R.C.") 149.43(B)(2), your request for the entire engineering file is denied as overly broad and ambiguous. In order to be proper, a request must fairly and specifically describe what records the requester is seeking. *State ex rel. Carr v. London Corr. Inst.*, 144 Ohio St.3d 211, 2015-Ohio-2363, ¶¶ 21-31. "[I]t is the responsibility of the person who wishes to inspect and/or copy records to identify with reasonable clarity the records at issue." *State ex rel. Morgan v. New Lexington*, 112 Ohio St.3d 33, 2006-Ohio-6365, ¶29 quoting *State ex rel. Fant v. Tober*, 68 Ohio St.3d 1176, 1993-Ohio-154, 623 N.E.2d 1202 (1993). A governmental office has no duty to "seek out and retrieve those records which would contain the information of interest to the requestor." *State ex rel. Fant v. Tober*, No. 63737, 1993 Ohio App. LEXIS 2591 at *3-4 (8th Dist. Apr. 28, 1993); *aff'd* 68 Ohio St.3d 117 (1993); *see also State ex rel. Dillery v. Icsman*, 92 Ohio St.3d 312, 315 (2001) (finding a public records request for all records containing a particular name was overbroad). To the extent your request does not seek specific records and would require the Division to search for information within its records containing selective information, your request is being denied as ambiguous and overly broad pursuant to R.C. 149.43(B)(2).

Turning to your specific request, the Division does not maintain and access its referral records in the ordinary course of its duties by program area. Rather, they are sorted by owner/operator name. Notwithstanding the above, the Division would like to assist you in your inquiry. As a courtesy, records are being provided with this letter that *may* be responsive to your denied request.

Enclosed please find copies of referral letters for enforcement to the Ohio Attorney General regarding cases involving violations of Ohio's UIC program. Your request for "all referrals for investigation by the Ohio AG of the Class II injection well program in Ohio from 2011 until the present, including original documentation of possible violations and any responses received in return from the AG's office." is subject to a variety of exemptions for "Confidential law enforcement investigatory records" pursuant to Ohio Revised Code ("RC") 149.43(A)(1)(h).

Investigatory case files are being withheld under R.C. 149.43(A)(2)(a) and (c) so as not to disclose the identity of an uncharged suspect and specific investigatory work product in an ongoing confidential law enforcement investigation. *State ex rel. Musial v. N. Olmsted*, 106 Ohio St.3d 459, 2005-Ohio-5521, ¶ 23; *State ex rel. Steckman v. Jackson*, 70 Ohio St.3d 420, 431-432 (1994). Documents have also been withheld pursuant to R.C. 149.43(A)(1)(g) and (A)(4), being trial preparation records containing information that is specifically compiled in reasonable anticipation of, or in defense of a civil or criminal action or proceeding. Privileged information pursuant to Ohio Revised Code Section 149.43(1)(v) and *State ex rel. Lanham v. DeWine*, 135 Ohio St.3d 191, 2013-Ohio-199, ¶¶ 26-31 has also been withheld, being information protected by attorney-client privilege.

If you wish to revise your request, you may benefit from reviewing the Department's records retention schedules, which can be accessed and searched electronically at <https://apps.das.ohio.gov/RIMS/GeneralSchedule>. This link will take you to the DAS General Schedule list. Department Specific Schedules may be located using the Agency Schedule Search tab at the top of the page and selecting DNR from the drop-down menu. In addition, Department General Schedules may be located using the Agency-Adopted General Schedule Search tab located at the top of the page and selecting DNR from the drop-down menu. To narrow down to Division Specific Schedules, you may use the Agency/Division/Section tab located at the top of the page to select DNR and the Division from the drop-down menus.

Your patience in receiving these responses is most appreciated as ODNR continues to work remotely. This correspondence and records production concludes the Division's response to Public Records Request No. 5121. We hope this information is of assistance to you and thank you for the opportunity to be of service.

Sincerely,

s/Sandra H. Ramos

Sandra H. Ramos
Legal Counsel, ODNR - Division of Mineral Resources Management