

CREW | citizens for responsibility and ethics in washington

October 4, 2017

BY E-Mail: FOIA-Central@hq.doe.gov

Alexander Morris
FOIA Officer
U.S. Department of Energy
100 Independence Avenue, S.W.
Mail Stop MA-46
Washington, D.C. 20585

Re: Freedom of Information Act Request

Dear Freedom of Information Officer:

Citizens for Responsibility and Ethics in Washington (“CREW”) makes this request for records pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and U.S. Department of Energy (“DOE”) regulations.

Specifically, CREW requests:

- (1) Copies of Secretary Rick Perry’s address at the National Mining Association meeting at the Trump International Hotel – Washington, D.C. on October 4, 2017; and
- (2) Copies of all documents received by Secretary Perry and/or his staff during the October 4, 2017 meeting at the Trump International Hotel – Washington, D.C.; and
- (3) Copies of all documents describing the attendees at the October 4, 2017 meeting at the Trump International Hotel – Washington, D.C., the agenda of the meeting, and/or any planned follow up actions by DOE; and
- (4) Copies of all photos and/or video from the October 4, 2017 National Mining Association meeting at the Trump International Hotel – Washington, D.C.; and
- (5) Copies of all records documenting payments made by DOE to the Trump International Hotel – Washington, D.C., in relation to Secretary Rick Perry’s October 4, 2017 address to the National Mining Association at the Trump hotel as well as all records seeking reimbursement for expenses incurred at the Trump International Hotel – Washington, D.C.; and
- (6) Copies of all communications to or from Secretary Perry that mention or relate to his October 4, 2017 appearance at the National Mining Association meeting held at the Trump International Hotel – Washington, D.C.

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Please search for responsive records regardless of format, medium, or physical characteristics. We seek records of any kind, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical material. Our request includes without limitation all correspondence, letters, emails, text messages, facsimiles, telephone messages, voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request also includes any attachments to emails and other records.

If it is your position any portion of the requested records is exempt from disclosure, CREW requests that you provide it with an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). If some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. See 5 U.S.C. § 552(b). If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document. See *Mead Data Central v. U.S. Dep't of the Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A) and Energy Department regulations, CREW requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures likely will contribute to a better understanding of relevant government procedures by CREW and the general public in a significant way. See 5 U.S.C. § 552(a)(4)(A)(iii). Moreover, the request primarily and fundamentally is for non-commercial purposes. See, e.g., *McClellan Ecological v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987).

On the morning of October 4, 2017, Secretary Perry addressed a meeting of board of directors of the National Mining Association held at the Trump International Hotel – Washington, D.C., which is still majority owned by President Trump through a revocable trust.¹ The National Mining Association is a trade association representing the coal and mineral industries.² In 2017 so far, the National Mining Association has reported spending more than \$950,000 on federal lobbying, which includes a focus on DOE.³ On Twitter, Secretary Perry wrote that he was “honored to speak to the National Mining Assn this morning,” adding “Our ‘all of the above’ approach to #AmericanEnergy must include everything below!”⁴

The requested records would shed light on what Secretary Perry discussed with the mining executives at the National Mining Association and increase public knowledge about how

¹ Hannah Northey and Dylan Brown, *Perry to Meet with Mining Execs at Trump Hotel*, *E&E News*, October 3, 2017, available at <https://www.eenews.net/eenewspm/2017/10/03/stories/1060062477>.

² See <http://nma.org/about-nma/mission-objectives/>.

³ See <https://www.opensecrets.org/lobby/clientsum.php?id=D000000308>;
<https://www.opensecrets.org/lobby/clientagns.php?id=D000000308&year=2017>.

⁴ See <https://twitter.com/SecretaryPerry/status/915569911266779136>.

DOE communicates with industry stakeholders in private about public policy. A few days before Secretary Perry addressed the National Mining Association, Secretary Perry sent a letter to the Federal Energy Regulatory Commission asking the independent agency to “adopt new regulations that would ensure coal and nuclear plants that add to the grid’s reliability can [recover] fully allocated costs and thereby continue to provide the energy security on which our nation relies.”⁵ The National Mining Association quickly praised Secretary Perry’s effort. “We urge FERC to act swiftly on this important proposal,” Hal Quinn, the trade association’s president, said. “Secretary Perry’s action today is a long-overdue and necessary step to address the vulnerability of America’s energy grid.”⁶

In addition, since President Trump has refused to divest from his private business interests, ethics experts and lawmakers have raised concerns about taxpayer funds being used at his private businesses, particularly in light of President Trump’s frequent trips to his for-profit properties.⁷ The requested records would shed light on whether DOE funds were used to pay for any part of Secretary Perry’s visit to the Trump International Hotel in Washington, DC and whether any taxpayer funds ended up in the coffers of the president’s private business.

CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the public’s right to be aware of the activities of government officials, to ensuring the integrity of those officials, and to highlighting and working to reduce the influence of money on politics. CREW uses a combination of research, litigation, and advocacy to advance its mission. CREW intends to analyze the information responsive to this request and to share its analysis with the public through reports, press releases, or other means. In addition, CREW will disseminate any documents it acquires from this request to the public through its website, www.citizensforethics.org. The release of information obtained through this request is not in CREW’s financial interest.

CREW further requests that it not be charged search or review fees for this request pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) because CREW qualifies as a member of the news media. *See Nat’l Sec. Archive v. U.S. Dep’t of Defense*, 880 F.2d 1381, 1386 (D.C. Cir. 1989) (holding non-profit a “representative of the news media” and broadly interpreting the term to

⁵ Chris Mooney and Steven Mufson, [Rick Perry Just Proposed Sweeping New Steps to Help Struggling Coal and Nuclear Plants](https://www.washingtonpost.com/news/energy-environment/wp/2017/09/29/rick-perry-proposes-sweeping-new-moves-to-support-coal-and-nuclear-plants/?utm_term=.e7bfc0f130be), *Washington Post*, September 29, 2017, available at https://www.washingtonpost.com/news/energy-environment/wp/2017/09/29/rick-perry-proposes-sweeping-new-moves-to-support-coal-and-nuclear-plants/?utm_term=.e7bfc0f130be.

⁶ John Siciliano, [Rick Perry Urges FERC Protect Coal, Nuclear Power Plants](http://www.washingtonexaminer.com/rick-perry-urges-ferc-protect-coal-nuclear-power-plants/article/2636085), *Washington Examiner*, September 29, 2017, available at <http://www.washingtonexaminer.com/rick-perry-urges-ferc-protect-coal-nuclear-power-plants/article/2636085>.

⁷ Drew Harwell and Amy Brittain, [Taxpayers Billed \\$1,092 for an official’s two-night stay at Trump’s Mar-a-Lago Club](https://www.washingtonpost.com/politics/taxpayers-billed-1092-for-an-officials-two-night-stay-at-trumps-mar-a-lago-club/2017/09/15/e3e5dfdc-97c6-11e7-82e4-f1076f6d6152_story.html?utm_term=.262bbef51888), *Washington Post*, September 15, 2017, available at https://www.washingtonpost.com/politics/taxpayers-billed-1092-for-an-officials-two-night-stay-at-trumps-mar-a-lago-club/2017/09/15/e3e5dfdc-97c6-11e7-82e4-f1076f6d6152_story.html?utm_term=.262bbef51888; Julie Bykowitz, [Democratic lawmakers seek federal payments to Trump Business](http://www.pbs.org/newshour/rundown/democratic-lawmakers-seek-federal-payments-trump-business/), *Associated Press*, August 8, 2017, available at <http://www.pbs.org/newshour/rundown/democratic-lawmakers-seek-federal-payments-trump-business/>.

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include "any person or organization which regularly publishes or disseminates information to the public").

CREW routinely and systematically disseminates information to the public in several ways. CREW's website receives tens of thousands of page views every month. The website includes a blog that reports on and analyzes newsworthy developments regarding government ethics, corruption, and money in politics, as well as numerous reports CREW has published to educate the public about these issues. In addition, CREW posts documents it receives under the FOIA on its website, and those documents have been visited hundreds of thousands of times.

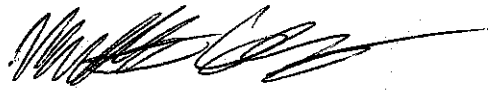
Under these circumstances, CREW satisfies fully the criteria for a fee waiver.

Conclusion

If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact me at (202) 408-5565 or mcorley@citizensforethics.org. Also, if CREW's request for a fee waiver is not granted in full, please contact our office immediately upon making such a determination.

Where possible, please produce records in electronic format. Please send the requested records to me either at mcorley@citizensforethics.org or at Matt Corley, Citizens for Responsibility and Ethics in Washington, 455 Massachusetts Ave., N.W., Washington, D.C. 20001. Thank you for your assistance in this matter.

Sincerely,



Matthew Corley
Chief Investigator