



citizens for responsibility
and ethics in washington

February 11, 2019

BY EMAIL: usoge@oge.gov

OGE FOIA Officer
Office of Government Ethics
Suite 500
1201 New York Avenue, NW
Washington, DC 20005-3917

Re: Freedom of Information Act Request

Dear FOIA 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 OGE regulations at 5 C.F.R. part 2604.

This FOIA request seeks records related to Peter Wright, who now serves as Assistant Administrator of the Office of Land and Emergency Management in the Environmental Protection Agency (EPA) but who has also served in one or more other positions in EPA.

First, CREW requests copies of all records regarding Peter Wright’s ownership of a financial interest in The Dow Chemical Company, DowDupont, Inc., or its subsidiaries.

Second, CREW requests copies of all records describing or mentioning any responsibilities or duties that Mr. Wright performed in any official capacity during the period from July 1, 2018 through March 12, 2019.

Third, CREW requests all records related to OGE’s requests to EPA, Mr. Wright, any representative of Mr. Wright, or the White House—and any responses OGE received—regarding “information from EPA concerning any possible conflict in light of the agency’s functions and Mr. Wright’s duties at EPA.”¹

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.

¹ Letter from OGE General Counsel David Apol to Chairman of the Senate Committee on Environment and Public Works John Barrasso at 1, Aug. 8, 2019, available at <https://bit.ly/2OBeYwA> (“Apol Letter”).

If it is your position that 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 agency 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 July 9, 2019, OGE Director Emory Rounds sent a letter to the Senate committee considering Mr. Wright's nomination to be an Assistant Administrator at EPA to alert them that Peter Wright "continued to hold an equity interest in DowDuPont at the time he filed his nominee financial disclosure report, and continued to do so until March 12, 2019."² According to the letter, Mr. Wright held the interest while he was Senior Counsel to the EPA Administrator.³ As a result, OGE sought information from EPA to determine whether there were any conflicts of interest between Mr. Wright's financial interest in DowDupont and the duties he performed prior to divestiture of the asset.⁴ In a follow-up letter OGE sent to the Senate a month later, however, OGE General Counsel David Apol advised that "[t]he information OGE has received to date is not sufficient for OGE to confirm that Mr. Wright was in compliance with all applicable laws and regulations governing conflicts of interest while he held DowDuPont."⁵

The requested records are of significant interest to the public as they will shed light on whether Mr. Wright may have violated conflict of interest laws or regulations during the course of his duties as Senior Counsel to the EPA Administrator.

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

² Letter from OGE Director Emory Rounds, III to Chairman of the Senate Committee on Environment and Public Works John Barrasso at 4-5, July 9, 2019, available at <https://bit.ly/2OBeYwA>.

³ *Id.*

⁴ Apol Letter.

⁵ *Id.*

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 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 blogposts that report on and analyze 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 its website, which has 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) 897-1845 or mlerner@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 mlerner@citizensforethics.org or at Meredith Lerner, Citizens for Responsibility and Ethics in Washington, 1101 K Street, N.W., Suite 201, Washington, D.C. 20005. Thank you for your assistance in this matter.

Sincerely,



Meredith Lerner
Research Associate