

GWEN GRAHAM
2ND DISTRICT, FLORIDA

HOUSE ARMED SERVICES COMMITTEE
COMMITTEE ON AGRICULTURE

1213 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-5235

300 SOUTH ADAMS STREET SUITE A-3
TALLAHASSEE, FL 32301
(850) 891-8610

840 WEST 11TH STREET SUITE 2250
PANAMA CITY, FL 32401
(850) 785-0812

Congress of the United States
House of Representatives
Washington, DC 20515-1902

November 4, 2016

Honorable Rick Scott, Governor
Office of the Governor
400 S Monroe St.
Tallahassee, FL 32399

Governor Scott:

Today marks six weeks since I have requested electronic communications pertaining to the sinkhole at Mosaic's New Wales facility in Polk County from the Florida Department of Environmental Protection (DEP) and thirty-five days since I have requested the records from your Office of Open Government.

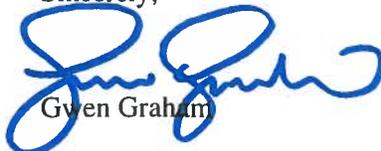
For weeks, employees from the DEP and your office have repeatedly told my office the requested documents are in legal review. Now, DEP employees are claiming the records must also be reviewed by members of the department's communications team, before being released.

As you are aware, Florida courts have ruled that an agency's unjustified delay in producing public records constitutes an unlawful refusal to provide access to the requested records, in violation of chapter 119, Fla. Stat. The only delay in releasing public records permitted by law "is the limited reasonable time allowed the custodian to retrieve the record and delete those portions of the record the custodian asserts are exempt." *Promenade D'Iberville, LLC v. Sundry*, 145 So.3d 980, 983 (Fla. 1st DCA 2014).

Because this request does not involve an ongoing criminal investigation and the requested communications are unlikely to include exempt or confidential information (such as local residents' Social Security numbers), there should be very little information to redact from these records. There is no excuse for this process to take longer than a few days – certainly not six weeks.

I am requesting an immediate written reply as to: (1) when you believe the public records request will be completed; (2) an explanation as to why the six weeks already passed does not represent an unjustified delay in releasing the records; (3) a list of all records that are found to be exempt or confidential from the request, together with the specific statutory basis for each exemption; and (4) the particular reasons for the conclusion that each such record is exempt or confidential.

Sincerely,



Gwen Graham

Enclosure: Public Records Request sent on September 29, 2016
CC: Jack Reid, Director of Open Government

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Congress of the United States
House of Representatives
Washington, DC 20515-1902

November 4, 2016

Honorable Jon Steverson, Secretary
Florida Department of Environmental Protection
3900 Commonwealth Boulevard M.S. 49
Tallahassee, FL 32399

Secretary Steverson:

Today marks six weeks (forty-two days) since I have requested public records from the Florida Department of Environmental Protection (DEP) for electronic communications pertaining to the sinkhole at Mosaic's New Wales facility in Polk County.

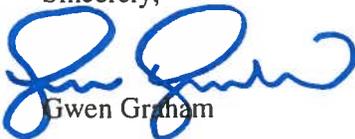
For weeks, DEP employees have repeatedly told my office the requested documents are in legal review. Now, DEP employees are claiming the records must also be reviewed by members of the department's communications team before being released.

As you are aware, Florida courts have ruled that an agency's unjustified delay in producing public records constitutes an unlawful refusal to provide access to the requested records, in violation of chapter 119, Fla. Stat. The only delay in releasing public records permitted by law "is the limited reasonable time allowed the custodian to retrieve the record and delete those portions of the record the custodian asserts are exempt." Promenade D'Iberville, LLC v. Sundry, 145 So.3d 980, 983 (Fla. 1st DCA 2014).

Because this request does not involve an ongoing criminal investigation and the requested communications are unlikely to include exempt or confidential information (such as local residents' Social Security numbers), there should be very little information to redact from these records. There is no excuse for this process to take longer than a few days – certainly not six weeks.

I am requesting an immediate written reply as to: (1) when you believe the public records request will be completed; (2) an explanation as to why the six weeks already passed does not represent an unjustified delay in releasing the records; (3) a list of all records that are found to be exempt or confidential from the request, together with the specific statutory basis for each exemption; and (4) the particular reasons for the conclusion that each such record is exempt or confidential.

Sincerely,



Gwen Graham

Enclosure: Public Records Request sent on September 23, 2016

CC: Frederick L. Aschauer, Jr., General Counsel;

Harringer, Matt

From: Harringer, Matt
Sent: Friday, September 23, 2016 12:59 PM
To: 'DEP_CD@dep.state.fl.us'
Cc: Woodward, Julia
Subject: Public Records Request - Sinkhole

To whom it may concern,

On behalf of Congresswoman Gwen Graham, I'd like to request all electronic communication (email and text messages) related to the sinkhole at Mosaic's New Wales facility in Polk County.

Please include all electronic communication related to the sinkhole and any electronic communication using the word "sinkhole" from August 20, 2016, to today.

Thank you,

--

Matt Harringer
Communications Director
Rep. Gwen Graham (FL-02)
1213 Longworth House Office Building
Washington, DC 20515
T: 202-225-5235



Harringer, Matt

Subject: FW: Request a Public Record

-----Original Message-----

From: Scott Open Government [<mailto:scottopengov@eog.myflorida.com>]

Sent: Thursday, September 29, 2016 12:51 PM

To: Harringer, Matt

Subject: RE: Request a Public Record

The Governor's Office of Open Government is in receipt of your request for records as stated in your email below. A search for responsive records will be initiated and someone from this office will be back in touch with you soon. If the search produces a volume of records which indicates that there will be a fee associated with your request, you will be provided with a fee estimate for your review. Thank you for contacting the Executive Office of the Governor.

Sincerely,

Amanda Gorman
Office of Open Government
Executive Office of the Governor
1604 The Capitol
Tallahassee, Florida 32399
850.717.9248

-----Original Message-----

From: matt.harringer@mail.house.gov [<mailto:matt.harringer@mail.house.gov>]

Sent: Thursday, September 29, 2016 12:15 PM

To: Scott Open Government <scottopengov@eog.myflorida.com>

Subject: Request a Public Record

FIRST_NAME: Gwen

LAST_NAME: Graham

STREET_ADDRESS: 300 S Adams Street

STREET_ADDRESS_2: A-3

CITY: Tallahassee

STATE: FL

ZIP: 20515

PHONE_NUMBER: 202-225-5235

EMAIL_ADDRESS: matt.harringer@mail.house.gov

ORGANIZATION: Congresswoman Gwen Graham

EMAIL_SEARCH: checked

DATE_RANGE: 8/20/16 - 9/29/16

REQUESTED_DOCUMENTS: Point of contact for this request will be Rep. Gwen Graham's communications director, Matt Harringer, who can be reached at matt.harringer@mail.house.gov or 202-225-5235.

We would like all electronic communication (email and text message) to or from the governor's office to/from other governmental agencies, including the Environmental Protection Agency, Florida Department of Environmental Protection and Florida Department of Health, concerning the sinkhole at Mosaic's New Wales facility in Polk County. We would also like any electronic communications between Mosaic employees and the governor's office.

REQUESTED_EMAILS: Executive Office of Governor Employees

SEARCH_TERMS: Sinkhole, Mosaic