

**From:** McDougall, Robert

**Sent:** Monday, December 23, 2019 1:52 PM

**To:** 'MatthewDHardin@protonmail.com' <[MatthewDHardin@protonmail.com](mailto:MatthewDHardin@protonmail.com)>

**Subject:** Vermont Public Records Act Request

Dear Mr. Hardin:

Please see the attached.

Sincerely,

Robert F. McDougall  
Assistant Attorney General

THOMAS J. DONOVAN, JR.  
ATTORNEY GENERAL

JOSHUA R. DIAMOND  
DEPUTY ATTORNEY GENERAL

SARAH E.B. LONDON  
CHIEF ASST. ATTORNEY GENERAL



TEL: (802) 828-3171

<http://www.ago.vermont.gov>

STATE OF VERMONT  
OFFICE OF THE ATTORNEY GENERAL  
109 STATE STREET  
MONTPELIER, VT  
05609-1001

December 23, 2019

Matthew D. Hardin  
Executive Director  
Energy Policy Advocates

By e-mail to: [MatthewDHardin@protonmail.com](mailto:MatthewDHardin@protonmail.com)

Re: Vermont Access to Public Records Act Request

Dear Mr. Hardin:

I write in response to your Vermont Access to Public Records Act request dated December 8, 2019 and received by this office on December 9, 2019. The request seeks:

*...all correspondence, and any accompanying information ... including also any attachments, a) sent to or from or copying (whether as cc: or bcc:) Scot Kline and/or Nick Persampieri, that b) includes Pawa, including but not limited to [mp@pawalaw.com](mailto:mp@pawalaw.com), anywhere, whether as sent to or from or copying (again whether as cc: or bcc:) or otherwise, including in any attachments, and c) is dated from January 1, 2016 through December 31, 2016, inclusive.*

By e-mailed letter dated December 12, 2019 this office invoked its right to additional time to respond.

Please be advised that a preliminary search has identified over 400 potentially responsive records, nearly 200 of which contain attachments. This large number of documents may be due to the fact that during the time period covered by your request, i.e. the year 2016, Matt Pawa was counsel to the State of Vermont in active litigation involving the gasoline additive MTBE (*State*

*of Vermont v. Atlantic Richfield Co. et al*, Vermont Superior Court, Washington Unit, Docket No. 340-6-14 Wncv). Additionally, it appears your request is broader than just correspondence to/from/cc-ing Matt Pawa, and therefore, for example, an internal e-mail between AAGs that has an attachment relating to the MTBE litigation which contains Pawa's name, e.g. on a signature block, may be responsive to your request. Please note that documents relating to the MTBE litigation would likely be exempt from production due to attorney-client or attorney work product privilege.

Knowing that there are around 400 potentially responsive records, and estimating that the roughly 200 records without attachments are, on average, two pages each, and those with attachments, also roughly 200 records, may be at least five pages (but very likely more due to the large filings that were common in the MTBE litigation), we arrive at a total, conservative estimate of 1400 pages. We estimate that the review and possible redactions of these records may take two or more minutes per page. Using this conservative estimate, the time necessary to process 1400 pages of potentially responsive records is likely to be 2,800 minutes. 2,800 minutes, minus the first 30 minutes, billed at the lowest possible rate under the Secretary of State's fee schedule (\$.33 per minute) is  $2,770 \times \$.33 = \mathbf{\$914.10}$ .

By way of this letter, we are asking that you either (a) confirm your willingness to pay the above costs before we proceed further with processing your request, or (b) consider narrowing your request. We believe that, for example, omitting any MTBE litigation-related documents and/or clarifying that your request is intended to seek *correspondence* to/from/cc-ing Matt Pawa, rather than any mention of his name, would significantly reduce the pool of potentially responsive documents.

We hope that the above information is helpful to you and we will wait to hear from you before proceeding further with this request.

Sincerely,

A handwritten signature in blue ink that reads "RFD McDougall". The signature is written in a cursive, slightly slanted style.

Robert F. McDougall  
Assistant Attorney General