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Affiliations appear only for purposes of identification.

February 5, 2025

Mr. Trey Davis
Open Records Division
Oklahoma Corporation Commission
2401 N. Lincoln Blvd.
Oklahoma City, OK 73105
trey.davis@occ.ok.gov

Re: Nick Bowlin Public Records Requests

VIA EMAIL

Dear Mr. Davis,

I represent reporter Nick Bowlin, who has been in contact with you in your capacity as open records custodian for the Oklahoma Corporation Commission (“OCC”). Mr. Bowlin has five pending requests to the OCC under the Oklahoma Open Records Law (“ORA”), Okla. Stat. tit. 51, § 24A.1 *et seq.* Although some of these requests are over six months old, the OCC has yet to fulfill any of these requests—a blatant violation of the ORA.

Mr. Bowlin submitted his first request (the “**First Request**”)¹ on July 31, 2024, asking for, among other things, all records relating to purges, seeps, and contamination of water wells as well as pressure/over-pressure issues in injection wells including the Healdton 4 area and all wells in the Bayou region of Oklahoma.

On August 5, 2024, you responded to the First Request and notified Mr. Bowlin that the OCC uses Deloitte to conduct open record searches and that Mr. Bowlin would be charged Deloitte’s full search costs at a range of between \$149,640.32 and \$227,890.25. That response is attached as Exhibit A.

On August 13, 2024, Mr. Bowlin submitted two requests (the “**Second Request**” and “**Third Request**”) narrowing the First Request, attached as Exhibits B and C. On August 19, 2024, the OCC responded to the Second Request with cost estimates, again purporting to pass on Deloitte’s search costs, of approximately \$3,000.00 to \$5,000.00. You asked Mr. Bowlin whether he would accept pollution incident reports related to his requests and he responded that he would accept the reports and wanted to keep his ORA Requests open. The OCC’s response to the Second and Third Requests and Mr. Bowlin’s response is attached as Exhibit D.

¹ The OCC acknowledged receipt of the First Request, but Mr. Bowlin lacks a complete copy of the request due to a scrivener’s error when entering his email into the OCC’s online ORR submission form.

On September 11, 2024, Mr. Bowlin filed additional requests for all open and recently closed water pollution complaints received by the OCC and all materials related to a water pollution case on the property of Tammy and Chris Boarman. On November 1, 2024, Mr. Bowlin submitted a new request (the “**Fourth Request**”), further defining the records sought relating to Tammy and Chris Boarman’s pollution case and indicated that request superseded his request of September 11, 2024. The Fourth Request is attached as Exhibit E.

On December 20, 2024, Mr. Bowlin submitted one additional request (the “**Fifth Request**”) for all records relating to the Fittstown purges from January 1, 2019 to present. The Fifth Request is attached as Exhibit F. While the OCC acknowledged that request on that same day, as of the writing of this letter, the request remains unfulfilled and no updates have been provided to Mr. Bowlin.

I understand from your December 6, 2024 email to Mr. Bowlin, attached as Exhibit G, that the OCC was “close to completing gathering documents responsive to [the Second and Third Requests] for review by our Office of General Counsel.” However, nearly two months after that email, those records have not been provided to Mr. Bowlin. In that email, you also noted that the related “investigation/litigation file is not subject to disclosure until the matter is closed.” Ex. G. Yet, as you know, “[a]ccess to records which, under the [ORA], would otherwise be available for public inspection and copying, shall not be denied because a public body or public official is using or has taken possession of such records for investigatory purposes or has placed the records in a litigation or investigation file.” Okla. Stat. Ann. tit. 51, § 24A.20.

The ORA requires the OCC to provide “prompt, reasonable access to its records.” Okla. Stat. Ann. tit. 51, § 24A.5(6). Any delay “shall be limited solely to the time required for preparing the requested documents and the avoidance of excessive disruptions of the public body’s essential functions.” *Id.* To date, you have provided Mr. Bowlin no reason for the months-long delay in production of the requested records.

Furthermore, no fees should be charged to Mr. Bowlin. “[A] public body may charge a fee only for recovery of the reasonable, direct costs of record copying, or mechanical reproduction.” Okla. Stat. Ann. tit. 51, § 24A.5(4). The statute is clear that “[i]n no case shall a search fee be charged when the release of records is in the public interest, including, but not limited to, release to the news media... seeking to determine whether those entrusted with the affairs of the government are honestly, faithfully, and competently performing their duties as public servants. The fees shall not be used for the purpose of discouraging requests for information or as obstacles to disclosure of requested information.” *Id.*

To summarize, we request that records responsive to Mr. Bowlin’s Requests be produced without further delay. Those records include (but are not limited to):

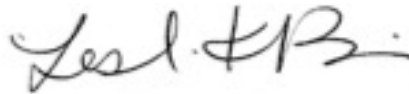
1. All records relating to purges, seeps, and contamination of water wells and pressure/overpressure issues in injection wells relating to the Healdton 4 area and Bayou region;
2. All records relating to the pollution of Tammy and Chris Boarman's water well from September 10, 2024 to present;
3. All records relating to the Fittstown purges from January 1, 2019 to present;
4. All records showing all currently open and recently closed pollution cases.

Continued failure to produce these records, whether due to dilatory processing or because the records have been placed in a litigation or investigation file, is a direct violation of the ORA. Mr. Bowlin would be well within his right to pursue legal action compelling disclosure of the records and seeking attorney fees.

If you believe that the volume of responsive documents is more extensive than I presume, please contact me to discuss how we can work together to get the necessary records as promptly as possible. Mr. Bowlin can make himself available at your offices in mid-February to examine and/or obtain the records in person.

I look forward to hearing from you.

Regards,

A handwritten signature in black ink that reads "Leslie K. Briggs". The signature is written in a cursive style with a colon at the end.

Leslie K. Briggs, OBA 33845

lbriggs@rcfp.org

(918) 255-0060

Reporters Committee for Freedom of the Press

P.O Box 471094

Tulsa, OK 74147

EXHIBIT A

On Aug 5, 2024, at 4:48 PM, Nick Bowlin
<npbowlin@gmail.com> wrote:

Ah I should have known it was my own user error, thank you for checking.

Nick

On Aug 5, 2024, at 4:47 PM, Trey Davis
<Trey.Davis@occ.ok.gov> wrote:

Hi Nick,

I think we've solved the mystery of the email confirmation receipt. The system is able to automatically provide the confirmation receipt. It looks like you typed .con and not .com on the email address you entered on the online form. So, the system was unable to respond. Still, I appreciate the opportunity to ensure everything is working as expected on our end.

<image001.png>

Thank you,

Trey Davis

Office of Public Information
Communications/Chief Public Information Officer

Phone – 405-522-0059

Mobile – 405-397-7490

Email – trey.davis@occ.ok.gov

2401 N. Lincoln Blvd
Oklahoma City, OK 73105

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<image002.png> <image003.png> <image004.png>

<image006.jpg>

From: Nick Bowlin
<npbowlin@gmail.com>
Sent: Monday, August 5, 2024 3:43 PM
To: Trey Davis <Trey.Davis@occ.ok.gov>
Cc: Jack Money
<Jack.Money@occ.ok.gov>; Kelsey Schwartz <Kelsey.Schwartz@occ.ok.gov>
Subject: Re: [EXTERNAL] OCC records request

Trey,

Many thanks for the update – you're right, that's far too much money and data. Let me consider and I will revise and narrow this request shortly. Also, I appreciate you looking into the receipt issue and for passing along the SEEP slides.

All best, and more soon,
Nick

On Aug 5, 2024, at 1:51 PM,
Trey Davis
<Trey.Davis@occ.ok.gov>
wrote:

Nick,

Thank you for the follow up email. As Jack noted, we are in receipt of your email and have already submitted a request to Deloitte, the firm we use to fully search all agency records, including emails (even deleted) to identify records possible responsive to your request. It can be an expensive process depending on the initial pull of records and the extent to which Deloitte personnel are utilized to help cull relevant records actually responsive to the

request. At the moment, your request has resulted in more than 1.2 terabytes of information initially identified as possibly responsive. This may include photos and videos (helping to account for the size). Deloitte has estimated the cost range of pulling the records at between \$149,640.32 and \$227,890.25. Obviously, this request is cost prohibitive to the agency and exceeds the public interest language of the Open Records Act. Would you please consider narrowing your request to something more manageable? Even if we were willing to pay the cost of pulling this data, it would take months (literally) to comb through the records identifying duplicate records/hosts and only those records that are actually responsive to your request.

I am concerned you did not receive a receipt email from the system after submitting an online Open Records Request. These should be automatically generated. I will inquire as to whether something occurred to prevent that automated response from occurring.

We are taking an active approach to address the SEEP issue. Here's a slide from our FY25 budget hearing before the legislature during which we both apprised and reported on the SEEP Project's status.

<image001.jpg>

Please let us know how you would like to proceed

Sincerely,

Trey Davis

Office of Public Information
Communications/Chief
Public Information Officer

Phone – 405-522-0059
Mobile – 405-397-7490
Email –
trey.davis@occ.ok.gov

2401 N. Lincoln Blvd
Oklahoma City, OK 73105

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

From: Nick Bowlin
<npbowlin@gmail.com>
Sent: Monday, August 5, 2024 11:34 AM
To: Trey Davis
<Trey.Davis@occ.ok.gov>;
Jack Money
<Jack.Money@occ.ok.gov>;
Kelsey Schwartz
<Kelsey.Schwartz@occ.ok.gov>
Subject: [EXTERNAL] OCC records request

Dear Trey, Jack and Kelsey,

EXHIBIT B



Open Records Request Form

Please select from this agency's responsibilities *

Oil & Gas Well Information (includes injection wells)

Requester Type *

Media

Media Affiliation *

ProPublica/Capital & Main

Name of Requester *

Nick Bowlin

Email *

npbowlin@gmail.com

Address

Street Address

623 N. Colorado

Address Line 2

City

Gunnison

Postal / Zip Code

81230

State / Province / Region

CO

Country

Gunnison

Phone Number *

XXX-XXX-XXXX

970-316-2249

Information Requested *

Please state with specificity the nature of your request, the records you seek, and the applicable time frames.

Under the Oklahoma Open Records Act, 51 §24A.1 et seq., I am requesting an opportunity to inspect or obtain copies of the following records: All written communication by employees of the commission, including commissioners, complaints from landowners, emails, memos, electromagnetic surveys, notes, field notes, lab reports, environmental assessment reports regarding information on purges, seeps or contaminated water wells in the Bayou region of Oklahoma. This request should cover January 1, 2019 to the date that this request was filed.

If there are fees for searching or copying these records, please inform me if the cost will exceed \$50. If it will, please inform me at that time, so we could discuss the potential for a fee waiver because I am a credentialed member of the news media. As a member of the news media working for nonprofit news outlets, I am submitting this request in the process of news gathering. As such, the information provided in response to this request will not be used for commercial purposes and will instead be published without a paywall to the public. Since this request will help greatly in the public's understanding of how government agencies regulate water pollution from Oklahoma's largest economic sector – the energy industry – it is firmly in the public interest.

Purpose of Request

Public Interest

Signature*

By completing and submitting this form, I am requesting the above records under the Oklahoma Open Records Act, 51 O.S. §§ 24A.1 – 24A.30. I acknowledge that if the records are available in electronic form, they may be provided to me by email or other electronic means. I further acknowledge there might be a search fee for records, a fee for copies of records if I prefer to receive the records as paper copies or on a disk or thumb drive, and a fee if I request certified copies. I also may request to inspect the records in person instead of being provided with a copy.



NICK POWLIN

Date

08/13/2024

EXHIBIT C



Open Records Request Form

Please select from this agency's responsibilities *

Oil & Gas Well Information (includes injection wells)

Requester Type *

Media

Media Affiliation *

ProPublica/Capital & Main

Name of Requester *

Nick Bowlin

Email *

npbowlin@gmail.com

Address

Street Address

623 N. Colorado St.

Address Line 2

City

Gunnison

Postal / Zip Code

81230

State / Province / Region

CO

Country

USA

Phone Number *

XXX-XXX-XXXX

970-316-2249

Information Requested *

Please state with specificity the nature of your request, the records you seek, and the applicable time frames.

Under the Oklahoma Open Records Act, 51 §24A.1 et seq., I am requesting an opportunity to inspect or obtain copies of the following records: All written communication by employees of the commission, including commissioners; complaints from landowners; reports; memos; electromagnetic surveys; notes and field notes; lab reports; environmental assessments; and correspondence with state or federal agencies such as DEQ, EPA and NRC regarding radioactive source concerns in the Healdton 4 area. This request should cover January 1, 2019 to the date that this request was filed.

If there are fees for searching or copying these records, please inform me if the cost will exceed \$50. If it will, please inform me at that time, so we could discuss the potential for a fee waiver because I am a credentialed member of the news media. As a member of the news media working for nonprofit news outlets, I am submitting this request in the process of news gathering. As such, the information provided in response to this request will not be used for commercial purposes and will instead be published without a paywall to the public. Since this request will help greatly in the public's understanding of how government agencies have responded to a potential public health thread, it is firmly in the public interest.

Purpose of Request

Public Interest

Signature*

By completing and submitting this form, I am requesting the above records under the Oklahoma Open Records Act, 51 O.S. §§ 24A.1 – 24A.30. I acknowledge that if the records are available in electronic form, they may be provided to me by email or other electronic means. I further acknowledge there might be a search fee for records, a fee for copies of records if I prefer to receive the records as paper copies or on a disk or thumb drive, and a fee if I request certified copies. I also may request to inspect the records in person instead of being provided with a copy.

A handwritten signature in black ink that reads "Nick Powlin". The signature is written in a cursive style with some capitalization and is centered within a light gray rectangular box.**Date**

08/13/2024

EXHIBIT D

From: NICK BOWLIN <npowlin@gmail.com>
Sent: Wednesday, October 9, 2024 4:20 PM
To: Trey Davis <Trey.Davis@occ.ok.gov>
Subject: Re: [EXTERNAL] OCC records request

Hi Trey,

I know these specific requests have been idle for a bit, but I'd like to circle back to them now. I have some questions and requests related to the cost estimates.

The Oklahoma ORA states that: "charges for providing copies of electronic data to the news media for a news purpose shall not exceed the direct cost of making the copy." According to the law, that cost is 25 cents per page.

Using the higher end document estimate you provided to me, that would come out to approx \$43 and \$1,818 respectively, well less than half of the records fee quoted to me initially.

The bulk of the elevated records fees appears to come from data costs accumulated by the consulting firm that handles these requests. The Oklahoma ORA also states that: "In no case shall a search fee be charged when the release of records is in the public interest, including, but not limited to, release to the news media, scholars, authors and taxpayers seeking to determine whether those entrusted with the affairs of the government are honestly, faithfully, and competently performing their duties as public servants."

It seems to me that these data fees are associated with identifying the relevant documents -- search fees in other words -- and should not apply to me. As you know, I am a media member, seeking these documents for public interested and non-commercial purposes. I'd like to request that the ORR fees be waived entirely, or, at minimum, reduced to the direct cost of making copies of the documents, as laid out by the ORA. If, as part of this process, you need me to formally make a case why my work meets the public interest standard laid out in the above clause, I'd be more than happy to do so.

All best,
Nick

On Mon, Aug 19, 2024 at 10:25 AM Trey Davis <Trey.Davis@occ.ok.gov> wrote:

Hi Nick,

We heard back from Deloitte regarding its search for records responsive to your two follow up Open Records Requests related to the agency's SEEP Project. The cost estimate and the two ORRs are attached.

Below are the search parameters:

OCC-0001262-00001 - Healdton 4
Custodian(s) @occ.ok.gov
Search conditions "Radioactive" AND "Healdton 4"(c:c)(date=2019-01-01..2024-07-31)(- recipients:@occ.ok.gov)
Status The search is completed 114 item(s) (792.42 MB) 16 mailbox(es)

OCC-0001262-00002 - Bayou Regions
Custodian(s) @occ.ok.gov
Search conditions ("purges" OR "seeps" OR "contaminated water wells") AND "Bayou"(c:c)(date=2019-01-01..2024-08-16)
Status The search is completed 4,849 item(s) (11.54 GB) 291 mailbox(es)

While the cost is considerably less expensive, you might still find it to be a bit prohibitive. Would you be open to us initially providing you with the 1085s (incident reports) related to the Healdton 4 and the Bayou Region? You could look those over and then let us know if you need additional internal communication or information on action taken to mitigate the SEEP as well as action taken or scheduled to remediate the land.
Thank you,

Trey Davis

Office of Public Information
Communications/Chief Public Information Officer

Phone – 405-522-0059
Mobile – 405-397-7490
Email – trey.davis@occ.ok.gov

2401 N. Lincoln Blvd
Oklahoma City, OK 73105

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<image007.png>

EXHIBIT E

Trey Davis
Will Rogers Memorial Building,
2401 N. Lincoln Blvd
Oklahoma City, OK 73105

01/11/2024

Dear Mr. Davis

Under the Oklahoma Open Records Act, 51 §24A.1 et seq., I am requesting an opportunity to inspect or obtain copies of public records related to a water pollution case related to the water well of Tammy and Chris Boarman.

Specifically, I am seeking all correspondence sent or received by OCC staff, employees, personnel, commissioners and contractors/consultants that mention the Boarmans, their pollution case or that discuss potential sources of pollution in the Boarman's water well. For emailed correspondence, this should include emailed attachments.

In addition to correspondence, I also request notes, reports, water test samples, well test results and recordings of online staff meetings that discuss the Boarman's case or potential sources of pollution in the Boarman's water well.

This request should cover September 10, 2024 to November 1, 2024.

If you are not the custodian of records for this request, please forward this letter to the appropriate person or let me know which person(s) has custody of these records. If there are fees for searching or copying these records, please inform me if the cost will exceed \$50. If it will, please inform me at that time, so we could discuss the potential for a fee waiver because I am a credentialed member of the news media.

As a member of the news media working for a nonprofit news outlet — Grist — I am submitting this request in the process of news gathering. As such, the information provided in response to this request will not be used for commercial purposes and will instead be published without a paywall to the public, which will help greatly citizens of Oklahoma understand the environmental and human impacts of water pollution from oil and gas extraction

I would request a prompt response to this request. If you expect a significant delay in responding to or in fulfilling this request, please contact me with information about when I might expect copies or the ability to inspect the requested records. I ask that records available in electronic format be transmitted by email to npbowlin@gmail.com

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures

available to me under the law.
Please contact me with any questions about my request.

Thank you for your time.
Sincerely,
Nick Bowlin
npbowlin@gmail.com
970-316-2249

EXHIBIT F

Dear Mr Davis,

Under the Oklahoma Open Records Act, 51 §24A.1 et seq., I am requesting an opportunity to inspect or obtain copies of public records.

Specifically, I am seeking documents related to the Fittstown Purges in Pontotoc County: the Mid Fitts, East Fitts and West Fitts purges. For each of these pollution incidents — as well as “Fittstown” as a broad search term — I ask that you provide:

- written communication by employees of the commission, including commissioners.
- complaints from landowners.
- reports; memos; EM surveys, lab reports, environmental assessments, notes and field notes from commission staff and employees.
- This request should cover January 1, 2019 to the date that this request is completed.

If you are not the custodian of records for this request, please forward this letter to the appropriate person or let me know which person(s) has custody of these records. If there are fees for searching or copying these records, please inform me if the cost will exceed \$50. If it will, please inform me at that time, so we could discuss the potential for a fee waiver because I am a credentialed member of the news media.

As a member of the news media working for a nonprofit news outlet — [Grist](#) — I am submitting this request in the process of news gathering. As such, the information provided in response to this request will not be used for commercial purposes and will instead be published without a paywall to the public, which will help greatly citizens of Oklahoma understand the environmental and human impacts of water pollution from oil and gas extraction


I would request a prompt response to this request. If you expect a significant delay in responding to or in fulfilling this request, please contact me with information about when I might expect copies or the ability to inspect the requested records. I ask that records available in electronic format be transmitted by email to npbowlin@gmail.com

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law.

Thank you for your time.

Sincerely,
Nick Bowlin
npbowlin@gmail.com
970-316-2249

EXHIBIT G

From: Trey Davis Trey.Davis@occ.ok.gov 
Subject: RE: [EXTERNAL] OCC records request
Date: December 6, 2024 at 3:56 PM
To: Nick Bowlin npbowlin@gmail.com
Cc: Pat Franz Pat.Franz@occ.ok.gov, Mark Willingham Mark.Willingham@occ.ok.gov, Daniel Boyle Daniel.Boyle@occ.ok.gov

Hello Nick,

At this point, and as noted on the 1085s provided to you previously, the operators in the Bayou and Healdton regions are largely cooperating with OCC. The potential for litigation exists if the operator ceases to cooperate or refuses to cooperate and the division determines violations exist on the part of the operator and bring an action/case before the Commission. This is part of the process at the Commission. If the Commissioners, after hearing the testimony and reviewing the evidence, issue an order (like a district court order) it is only appealable to the Oklahoma Supreme Court by the individual or business subject to the order. Those 1085s provide notice to the operator of the ongoing investigation and provide guidance for the operator to achieve compliance with state law and/or agency rules. Deadlines to achieve compliance are established in each 1085 and follow up inspections are conducted to determine compliance or the degree of compliance achieved by the operator. While the data is subject to release in accordance with the Oklahoma Open Records Act, the investigation/litigation file is not subject to disclosure until the matter is closed.

As for your request, I believe we are close to completing gathering documents responsive to that request for review by our Office of General Counsel.

Thank you,

Trey Davis
Communications
Human Resources
Administration

Phone – 405-522-0059
Mobile – 405-397-7490
Email – trey.davis@occ.ok.gov

2401 N. Lincoln Blvd
Oklahoma City, OK 73105

oklahoma.gov/occ



From: Nick Bowlin npbowlin@gmail.com
Sent: Friday, December 6, 2024 4:44 PM
To: Trey Davis Trey.Davis@occ.ok.gov
Subject: Re: [EXTERNAL] OCC records request

Hi Trey,

I did have some follow up questions about the litigation you mention. Can you give me any details about the nature of the case? Case number? Parties in the case? Which court? I'd really be interested in any details at all that you can provide.

Many thanks,
Nick

On Dec 3, 2024, at 3:27 PM, Trey Davis Trey.Davis@occ.ok.gov wrote:

Absolutely. Thank you Nick.

Trey

From: Nick Bowlin npbowlin@gmail.com
Sent: Tuesday, December 3, 2024 1:40 PM
To: Trey Davis Trey.Davis@occ.ok.gov
Subject: Re: FW: [EXTERNAL] OCC records request

Hi Trey,

Thanks for the update. Let me know when you are ready to begin providing those records.

All best,
Nick