

From: astringham@utah.gov on behalf of [SHWGrama SHWGrama](#)
To: [Phil Rutherford](#)
Cc: astringham@utah.gov; openrecordsadmin@utah.gov; [Otis Willoughby III](#); djhansen@utah.gov; [Stevie Norcross](#); [Arlene Lovato](#)
Subject: Re: FW: GRAMA Records Request Phil Rutherford - Division of Waste Management and Radiation Control
Date: Friday, February 9, 2024 2:12:48 PM
Attachments: [grama-request-form.pdf](#)

Mr. Rutherford,

Your appeal will be directed to the Division's Chief Administrative Officer.

I'm very sorry that the emails didn't make it to your inbox! We've found that it's best to have one GRAMA email inbox so all of the Division's records officers can all have delegated access to it and be able to work on incoming requests and responses in the same place, and that way they don't get stranded in an individual's inbox during an absence. Hopefully now that you've added the address, there won't be any more issues receiving them.

Given the amount of time that's passed since the response, I recommend that you submit a second records request. I've attached DEQ's GRAMA request form, and after you've filled it out you can submit the completed form to wmcgrama@utah.gov.

I also want to apologize for the confusion about the statement "*Pursuant to GRAMA, Utah Code § 63G-2-201(8)(a), a governmental entity is not required to create a record in response to a request. Therefore, with the attached records, the Division considers your records request to be granted and fulfilled.*" This was intended to address that the Division had not created additional records in order to have more records to be considered responsive to your request, such as a memo or note to file to serve as "documentation of DWMRC investigation resulting from my February 9, 2023 letter," especially since I didn't identify any records beyond the ones that were already provided by you or to you. It was not intended to omit records that already existed in the Division's possession, and I'm sorry it came across that way.

If there had been records identified in the records search that were not provided to you, my typical process as the Record's Officer is to deny those records to you and then identify those denied records to you with the following information for each: a brief description of the responsive record that has either been withheld or redacted in part, the reason for the denial/redaction, and the applicable GRAMA citation for the denial/redaction. Then, I would acknowledge the denial in the response to you and provide information for you to appeal any determinations the Division made regarding your request. As stated in the response, "The Division's search did not identify any records responsive to this request..." therefore there were no records to be denied to you.

Thank you,

Alyssa Stringham

Honorific / Pronouns: Ms. / she/her
GRAMA Records Officer

Division Name

Division of Waste Management and Radiation Control

P: (801) 536-0200

F: (801) 536-0222

wasteandradiation.utah.gov



Emails to and from this email address may be considered public records and thus subject to Utah GRAMA requirements.

Statements made in this email do not constitute the official position of the Director of the Division of Waste Management and Radiation Control. If you desire a statement of the Division Director's position, please [submit a written request to the Director](#), including copies of documents relevant to your request.

On Fri, Feb 9, 2024 at 1:05 PM Phil Rutherford <email@philrutherford.com> wrote:

Dear Ms. Stringham,

Thank you for your prompt response. Your resending of the June 6, 2023 email from SHWGramma SHWGramma <wmcgrama@utah.gov> did indeed end up in my spam folder, so I assume that the same happened when it was originally sent. In contrast, your emails from astringham@utah.gov; on behalf of; SHWGramma SHWGramma <wmcgrama@utah.gov> do appear in my inbox. I have subsequently flagged SHWGramma SHWGramma <wmcgrama@utah.gov> as being a safe email address, so hopefully possible future emails will not go to the spam folder.

The four attachments that were included were email and mail communications between myself and WMRC, which of course I already possess. The records request was for documentation on the complaint investigation itself. This was made plain in the public records request. I therefore do not regard the four communications as responsive.

I note your statement,

"Pursuant to GRAMA, Utah Code § 63G-2-201(8)(a), a governmental entity is not required to create a record in response to a request. Therefore, with the attached records, the Division considers your records request to be granted and fulfilled."

I respectfully disagree. The implication that Utah law does not "require" WMRC to "create

a record” does not imply that records were not generated and/or kept. Any organization, whether commercial or governmental, cannot function without a robust document management system. This is especially true for a regulatory agency. Your reluctance to provide documentation of the investigation belies the whole intent of an open and transparent public agency, and the very existence of Utah’s Public Records Portal. Please consider this email as a Notice of Appeal.

Subsequent to the original records request of May 20, 2023, a telephone conversation with Mr. Otis Willoughby and Mr. Larry Kellum occurred on May 23, 2023, in which I pointed out that WMRC’s decision to close the investigation, based on the fact that greater than Class A waste had not been transferred to EnergySolutions, was not at issue, and was not the basis of the complaint. The allegations of my complaint were not addressed at all. Mr. Willoughby committed to take a second look at the complaint and attempt to address the issues of the complaint. See attachment. Is it possible to extend the original records request from the original end date of May 20, 2023, to today’s date, in order to capture any investigation documentation subsequent to our May 23, 2023, telephone conversation? If I need to submit a second document request, I can do so.

Thank you for your assistance.

Sincerely,

Phil Rutherford

Mobile: +1 818-912-1501

email@philrutherford.com

8655 Delmonico Ave

West Hills, CA 91304

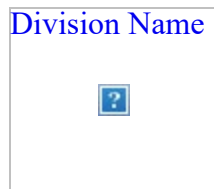
From: astringham@utah.gov <astringham@utah.gov> **On Behalf Of** SHWGramma SHWGramma
Sent: Friday, February 9, 2024 7:20 AM
To: Phil Rutherford <email@philrutherford.com>
Cc: astringham@utah.gov; openrecordsadmin@utah.gov; Otis Willoughby III <owilloughby@utah.gov>
Subject: Re: FW: GRAMA Records Request Phil Rutherford - Division of Waste Management and Radiation Control

Mr. Rutherford,

I forwarded the response from June 6, 2023 to your email address "email@philrutherford.com." Please check your junk mail, spam filter, email trash/recycle bin to make sure it wasn't filtered from your inbox. If you are unable to view it, please let me know immediately so we can find a way to send it to you asap.

If you need additional information or have any questions, please feel free to contact me.

Best,



Alyssa Stringham

Honorific / Pronouns: Ms. / she/her

GRAMA Records Officer

Division of Waste Management and Radiation
Control

P: (801) 536-0200

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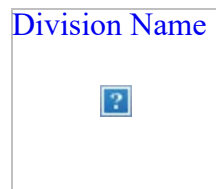
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On Fri, Feb 9, 2024 at 8:15 AM SHWGramma SHWGramma <wmrcgrama@utah.gov> wrote:

Good morning Mr. Rutherford,

I have that we responded to your request on Tuesday, June 6, 2023 from this email address "wmrcgrama@utah.gov." Give me just a moment and I will forward it to you again.

Thank you,



Alyssa Stringham

Honorific / Pronouns: Ms. / she/her

GRAMA Records Officer

Division of Waste Management and Radiation Control

P: (801) 536-0200

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wasteandradiation.utah.gov



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On Thu, Feb 8, 2024 at 8:10 PM Phil Rutherford <email@philrutherford.com> wrote:

After 8 months, I have yet to receive any response to this public records request.

Did my request slip through the cracks?

Phil Rutherford Consulting

Mobile: +1 818-912-1501

email@philrutherford.com

www.philrutherford.com

From: noreply@ut.accessgov.com <noreply@ut.accessgov.com>
Sent: Friday, June 2, 2023 10:00 AM
To: email@philrutherford.com
Subject: GRAMA Records Request Phil Rutherford - Division of Waste Management and Radiation Control

Phil Rutherford, Your public records (GRAMA) request, via the Open Records Portal, is being responded to outside of the portal. The Records Officer will contact you directly. Please see the attached PDF for a copy of your request.

Request Title: Investigation of Waste Shipments from ETEC

Submitted To: Division of Waste Management and Radiation Control

Records Officer Assigned: Alyssa Stringham

Comments From the Records Officer: The Division of Waste Management and Radiation Control is completing your GRAMA request outside of the Open Records Portal. You will receive a response to your request on or before Tuesday, June 6, 2023 from the Division's GRAMA email address: wmcgrama@utah.gov.

End of Comments

You should expect to hear from the government agency in charge of your record request through other channels using the Contact Information that you provided when submitting your request. Contact information for the records officer and agency involved may be found on the Open Records Portal by selecting your agency again from the Entity Type and then selecting your entity. We are working to improve this process to include the contact information for all appropriate individuals directly into this email.

Thank you,
Open Records Portal Team
openrecords.utah.gov

*** Do not respond to this email. For questions, email the Portal Administrator at openrecordsadmin@utah.gov ***