

## REQUEST UNDER THE TEXAS PUBLIC INFORMATION ACT

January 21, 2014

Kathryn Symank  
Public Information Officer  
Texas A&M University  
1255 TAMU  
College Station, Texas 77843-125

### VIA EMAIL: [open-records@tamu.edu](mailto:open-records@tamu.edu) -- REQUEST FOR PUBLIC RECORDS

Dear President Loftin, via Ms. Symank:

The Free Market Environmental Law Clinic (“FMELC”) respectfully submits this request for public records (“Request”) from Texas A&M University (“A&M”) pursuant to Texas’s Public Information Act, Chapter 552 (§ 552.001, et seq.) of the Texas Government Code, the Attorney General’s Public Information 2012 Handbook, and your Policy Statement on Public Information Act Compliance.

Please produce copies of records (“public information”) meeting the following description, terms derived from [The Texas A&M University System Records Retention Schedule](#).

1. All “destruction sign-offs (1.2.001)...[and] records disposition logs (1.2.010)”, as well as any related approvals, or submitted record disposition or [destruction forms](#), and/or record storage forms submitted by or approved on behalf of Professor Andrew Dessler of the A&M Department of Atmospheric Sciences during the period covered by this Request.

**Applicable dates for records requested cover approximately one and one half years, from July 15th, 2012 through January 21st, 2014, inclusive.**

In the event that the University's custodian of public records determines that a release of a given record would contain confidential or private information or otherwise seek to withhold information, it has a duty to ask for the opinion of the state’s attorney general pursuant to Sec. 552.301(a).

FMELC is a tax-exempt, 26 U.S.C. § 501(c)(3), non-profit public interest organization. As such, it does not seek these records for commercial purposes. Rather, FMELC seeks these records to examine whether Professor Dessler and/or the University has properly followed guidelines established pursuant to Texas law with regard to disposition of state records Prof. Dessler publicly claims to have destroyed.

We note with regard to this issue a recent interview given by Professor Dessler in which he indicated that he destroyed certain emails relating to compliance with Texas’s Public Information Act, with A&M’s record disposition policies, and otherwise relating to his responsibilities and

activities at A&M.<sup>1</sup> We understand that “State records, regardless of format, must be listed on the retention schedule and cannot be destroyed without prior approval from the University Records Officer”, including “electronic mail”, and that A&M counsels that staff exert caution when disposing of or destroying records as “transitory” information under the Texas A&M University System records retention schedule. We understand that this classification requires assignment, and destruction requires approval, by the public records officer, not individual employees, and therefore may not be subject to the deletion that Prof. Dessler describes.

Particularly given the publicly asserted details we therefore seek all forms indicating whether these policies have been followed as regards to the asserted document destruction.

In the interests of expediting the search and processing of this Request, FMELC is willing to pay fees up \$100. Please provide an estimate of anticipated costs in the event that fees for processing this Request will exceed \$100.

Furthermore, as this matter involves a significant issue of public interest, please produce responsive records as they become available on a rolling basis but consistent with the Public Information Act’s prescribed timelines.

To keep costs and copying to a minimum please provide copies of all responsive records in electronic format to the email used to send this request.

To expedite matters please direct all other disclosures to my attention at the following address:

1489 Kinross Lane  
Keswick, VA 22947

If you have any questions, or would like to discuss this matter further, do not hesitate to contact me by email.

Thank you for your attention to this matter.

Sincerely,



Christopher C. Horner, Esq.

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<sup>1</sup> ““What he learned was that he can legally delete as many emails as he wants, and after that, they are no longer subject to public records requests. Now, he said, he deletes most of his emails after reading them. When ATI’s Horner realized ‘Frontline’ had picked up Dessler’s story, he submitted another records request. This one sought emails from ‘Frontline’ and other journalists Dessler had communicated with, including reporters at The New York Times, the Associated Press and The Guardian. But this time, Dessler was ready. ‘When they asked for my emails from “Frontline,” there were none. Those were all gone,’ he said.” Stephanie Paige Ogburn, "Climate scientists, facing skeptics' demands for personal [sic] emails, learn how to cope", E&E News, January 21, 2014, <http://www.eenews.net/climatewire/2014/01/21/stories/1059993161>.