



DAKOTA RESOURCE COUNCIL

1200 Missouri Ave, Suite 201, Bismarck ND 58504

701-224-8587 • www.drcinfo.org

TO: Dr. Terry Dwelle, State Health Officer
David Glatt, Environmental Health Section

FROM: Don Morrison, Dakota Resource Council
Darrell Dorgan, North Dakota Energy Industry Waste Coalition

DATE: August 31, 2015

RE: Request for records

We are hereby making a joint request for records under the North Dakota Open Records law. Our formal request is in bold face below.

As you are aware, the Health Council had a meeting on Tuesday, August 11, starting at 9 a.m. This meeting was posted to the Secretary of State's public meeting data base at 9:50 a.m. on Thursday, August 6, 2015. Despite open records requests for any information regarding radioactive waste, some people with key concerns over the policies scheduled for discussion did not find out about the meeting until Friday, August 7

While the Open Meeting law does not have a required minimum advance notice, we do not think the time allowed here was sufficient for the public and the press. While a very small number of our interested members were able to attend the August 11, 2015, Health Council meeting, we are convinced that more of our members, and more press (including national press), would have come with more notice.

State Open Meetings law requires that members of the governmental body (such as the Health Council) cannot be given notice of the date, time, or place of a meeting in advance of notice being provided to the public and to people or entities that have requested notification. Frankly, we were (and remain) incredulous that a meeting that entailed important public health business -- the election of officers of the Health Council, the radioactive waste storage regulations and other significant business -- was provided with less than three full business days' notice. We feel it is highly doubtful that members of the Health Council would have been able to make a quorum in Bismarck on August 11, 2015, if they had received notice of the meeting at the same time as the public received notice of the meeting.

State law says that four of the Health Council members must come from the health-care provider community (and health-care providers are notorious for being tightly scheduled), one from the energy industry and one from the manufacturing and process industry. Presumably, industry representatives are professionals with obligations and commitments at their places of work which would require reasonable advance notice of an upcoming, all-day Health Council meeting in Bismarck.

Further, the law says that the Governor must appoint five members from the public sector (also described as "consumer members") and these appointees presumably will have professional, familial and community obligations in their daily lives. Further, we would expect that Health Council members are expected to prepare for meetings in advance so as to provide meaningful oversight to the Department. Under these circumstances, it simply does not seem believable that the very short advance notice provided to the public (Thursday morning for a Tuesday meeting) could realistically have been the same advance notice provided to the Health Council members.

Accordingly, we, Dakota Resource Council and the North Dakota Energy Industry Waste Coalition, are making a supplemental Open Records request for all records of telephone calls, emails, letters, instructions, questions on availability and other communications to members of the Health Council (Gordon Meyerchin, Wade Peterson, Mike Jones, Greg Allen, Howard C. Anderson, Genny Dienstmann, Jerry Jurena, Leona Koch, Duane Pool, Jeffier Schaeffer, and Dennis E Wolf, MD) from the staff of the Health Department (in particular Linda Rodahl and Terry Dwelle) with regard to actual or potential scheduling for the August 11 meeting, the draft and final agendas of the August 11 meeting, potential and actual topics to be discussed at the August 11 meeting, and regarding Health Council's travel arrangements (e.g. hotel reservations) for the August 11 meeting.

We also request the draft and final (if any) minutes of the April 15, 2015 and August 11, 2015 Health Council meetings, which will reflect, inter alia, the members who constituted a quorum at those meetings.

We further request information as to which persons are officers of the Health Council. As of Friday, August 28, 2015, the Health Department's website asserts that Gordon Meyerchin is the Chair; Wade Peterson is the Vice Chairman, Mike Jones is the Secretary. On the other hand, the Governor's Boards and Commissions website asserts that Wade Peterson is the chair; Genny Dienstmann is the Vice Chairman, and Leona Koch is the Secretary. Please provide all documents that indicate which slate of officers is the accurate slate and information on when these officers were elected.

This request does not supplant or cancel our prior requests for records, but serves as a supplement to these prior requests. Please remember that our organizations have a standing request for notifications of any meetings of the Health Council further, the North Dakota Energy Industry Waste Coalition has a standing FOIA request for records regarding "any and all action, either anticipated or taken, in regards to the storage, levels of radioactivity, transportation and siting of facilities dealing with radioactive and other toxic waste."

Because of the narrow scope of this supplemental request, we trust that we will receive a response quickly and that action to forward the recommendations on radioactive waste storage to the Attorney General and the Legislative Council will be delayed until the Health Department satisfactorily responds to this supplemental request.