

/s/ Thomas Wilson 5/31/2017

**STATE OF NEW MEXICO
COUNTY OF TORRANCE
SEVENTH JUDICIAL DISTRICT**

AUBREY L. DUNN,

Plaintiff,

v.

No. D-722-CV-2017-00104

Reynolds, Matthew G.

**NEW MEXICO DEPARTMENT
OF GAME AND FISH,**

Defendant.

**COMPLAINT FOR DECLARATORY JUDGMENT
ORDERING PRODUCTION OF CERTAIN RECORDS AND INFORMATION**

COMES NOW, Plaintiff Aubrey L. Dunn, through undersigned counsel, and states the following:

GENERAL ALLEGATIONS

1. Plaintiff Aubrey L. Dunn is a resident of Torrance County, New Mexico.
2. Defendant New Mexico Department of Game and Fish (NMDGF) is the hunting and fishing regulation agency for the State of New Mexico.
3. This action is brought by Plaintiff, a resident of Torrance County, New Mexico against the New Mexico Department of Game and Fish to enforce the provisions of the New Mexico Inspection of Public Records Act, NMSA 1978 § 14-2-1 (“IPRA”).
4. The IPRA provides that, with only certain, specified limitations, “Every person has a right to inspect public records of the state.” *Id.*
5. By email dated January 3, 2017, (See Exhibit A – Email Request) Plaintiff through counsel requested the opportunity to inspect, examine, or be provided the list of names with email addresses for the hunters currently on file that applied in 2015 and 2016.

6. By email dated January 4, 2017, Defendant's response to the request was that the Department would be redacting the personal identifiers, which would include the requested email addresses. (Exhibit B – Email Response)

7. By email dated January 4, 2017, Plaintiff through counsel requested a formal denial with explanation of the exception. (Exhibit B)

8. January 9, 2017, Defendant responded with a formal letter. (Exhibit C)

9. This letter from the Records Custodian of Defendant stated that the request is not denied, but the contact information requested would not be provided as the New Mexico Department of Game and Fish does not believe it to be a public record, and that the file would be closed.

10. NMDGF has provided no citation or basis for this denial. Email addresses when collected by a state agency are in fact public records.

COUNT I

VIOLATION OF THE NEW MEXICO INSPECTION OF PUBLIC RECORDS ACT

11. Plaintiff incorporates by reference the claims, facts, and allegations set forth in the above paragraphs.

12. Pursuant to NMSA 1978 § 14-2-1 Defendant has violated the New Mexico Inspection of Public Records Act by failing to provide the requested public records.

13. Because Defendants have violated the IPRA by failing to produce to Plaintiff the public records requested by Plaintiff without justification under the law, Plaintiff is entitled to an injunction ordering the Defendants to produce all relevant documents in the Defendants possession.

WHEREFORE, Plaintiff respectfully requests that this Court exercise its jurisdiction and enter, pursuant to this Court's original jurisdiction, and the New Mexico Inspection of Public Records Act:

- A. A declaratory judgment adjudicating that the denial of the public records requested by Plaintiff is in violation of the New Mexico Inspection of Public Records Act, or if necessary, a writ of mandamus requiring the Defendants to produce the requested records;
- B. Judgment in favor of Plaintiff on Defendant's violation of the Inspection of Public Records Act;
- C. An injunction to enforce the provisions of the New Mexico Inspection of Public Records Act;
- D. An Order awarding Plaintiff statutory damages for violation of the Inspection of Public Records Act;
- E. An Order awarding Plaintiff his costs and reasonable attorneys' fees as provided by law;
- F. Such other and further relief as the Court deems just.

Respectfully submitted;

LAW OFFICES OF MARSHALL J. RAY

/s/ Marshall J. Ray
Marshall J. Ray, Esq.
201 12th St. NW
Albuquerque, NM 87102
(505) 312-7598

From: A. Blair Dunn [mailto:abdunn@ablairdunn.esq.onmicrosoft.com]

Sent: Tuesday, January 03, 2017 5:58 PM

To: IPRA, DGF, DGF

Subject: IPRA REQUEST

Please provide to me on behalf of my client Aubrey L. Dunn, Esq., the list of names with email addresses for the hunters currently on file that applied in 2015 and 2016.



Tammy Pelletier

From: A. Blair Dunn <abdunn@ablairdunnesq.onmicrosoft.com>
Sent: Wednesday, January 4, 2017 10:39 AM
To: IPRA, DGF, DGF
Cc: Richards Dori; Tammy Pelletier
Subject: RE: Dunn IPRA - RE: IPRA REQUEST

I would request a formal denial with explanation of the exception GFD believes allows you to withhold public records. We intend to file suit if GFD persists in an improper denial. Thank you.

A. Blair Dunn, Esq.
Western Agriculture, Resource
and Business Advocates, LLP
CALENDARING EMAIL
(505)750-3060

From: [IPRA, DGF, DGF](#)
Sent: Wednesday, January 4, 2017 8:41 AM
To: [A. Blair Dunn](#)
Subject: Dunn IPRA - RE: IPRA REQUEST

Good Morning Mr. Dunn,

We are in receipt of your January 3, 2016 IPRA request in which you requested the list of names with email addresses for the hunters currently on file that applied in 2015 and 2016.

Please note that as of April 1, 2016 the Department will be redacting the hunter/fishermen applicant's personal identifiers, including contact information, contained in documents responsive to IPRA request. Therefore, we will only provide the hunters first and last names and not the email addresses. Please let me know if you would like me to move forward with our IPRA request.

Thank you.



Melissa Salas

Records Custodian
P.O. Box 25112 | Santa Fe, NM 87504
One Wildlife Way | Santa Fe, NM 87507
Dgf.ipra@state.nm.us
505.476.8123 Fax

CONSERVING NEW MEXICO'S WILDLIFE FOR FUTURE GENERATIONS

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GOVERNOR
Susana Martinez



DIRECTOR AND SECRETARY
TO THE COMMISSION
Alexandra Sandoval

DEPUTY DIRECTOR
Donald L. Jaramillo

STATE OF NEW MEXICO
DEPARTMENT OF GAME & FISH

One Wildlife Way, Santa Fe, NM 87507
Post Office Box 25112, Santa Fe, NM 87504
Tel: (505) 476-8000 | Fax: (505) 476-8123
For information call: (888) 248-6866

www.wildlife.state.nm.us

STATE GAME COMMISSION

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Cimarron
ELIZABETH A. RYAN
Roswell
THOMAS "DICK" SALOPEK
Las Cruces

January 9, 2017

EXHIBIT C

Blair Dunn
WARBA, LLP
1005 Marquette Ave. NW
Albuquerque, NM 87102
abdunn@ablairdunnesq.onmicrosoft.com

RE: Request for Inspection of Records

Dear Mr. Treadwell:

On January 4, 2017, the New Mexico Department of Game and Fish received your request to inspect public records pursuant to the New Mexico Inspection of Public Records Act, NMSA 1978 14-2-1 et seq. concerning *your request for the list of names and email addresses for the hunters currently on file that applied in 2015 and 2016*. We responded to you via email the same day stating that the Department would provide the hunters first and last names, but not the email addresses; to which you requested a formal denial.

The Department has not denied your request but is prepared to provide the public records you have requested, specifically, the names of hunters for 2015 and 2016.

Concerning the associated contact information you have requested, this information is not a public record and therefore not subject to disclosure.

Please see the enclosed material provided in response to your request.

Having provided this response, the Department will close its file on your January 4, 2017 request.

Sincerely,

Melissa Salas
Records Custodian

Enclosure(s)