

Document Information Form

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To: DIVISION OF OIL, GAS AND MINING, COAL PROGRAM

From:

Person PATRICIA SMITH-MANSFIELD

Company STATE RECORDS

Date Received: OCTOBER 28, 2006

Explanation:

Decision And Order Regarding Southern Utah Willderness Alliance Access To Records And Waiver Of Fee Assessed By The Divison.

cc:

COA
Incorporated
2/007/0013

BEFORE THE STATE RECORDS COMMITTEE OF THE

STATE OF UTAH

SOUTHERN UTAH WILDERNESS ALLIANCE,	DECISION AND ORDER
Petitioner,	Case No. 06-10
vs.	
UTAH DIVISION OF OIL, GAS and MINING,	
Respondent.	

By this appeal, the Southern Utah Wilderness Alliance (SUWA) seeks access to records and a waiver of the fee assessed by the Division. The State Records Committee, having reviewed the materials submitted by the parties, having heard oral argument and testimony on October 12, 2006, now issues the following Decision and Order.

STATEMENT OF REASONS FOR DECISION

1. The Government Records Access and Management Act ("GRAMA") specifies that "all records are public unless otherwise expressly provided by statute." Utah Code Ann. § 63-2-201(2). Records that are not public are designated as either "private," "protected," or "controlled." See Utah Code Ann. § 63-2-302, -303 and -304. A governmental entity may charge a reasonable fee to cover the Governmental Agency's actual cost of compiling, search, retrieval, and other direct administrative and duplication costs. See Utah Code Ann. § 63-2-203. The Division of Oil, Gas and Mining denied SUWA copies of the records they seek on the grounds that per Utah Code Ann. §63-2-203, fees for the actual cost of staff not exceeding the salary of the lowest paid employee with the necessary skills to perform the request for

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summarizing, compiling, search, retrieval and other direct costs of compilation in complying with SUWA's request are not to be waived, but reduced by one half and must be paid prior to the release of copies of said records. The records remain available for onsite inspection by SUWA.

2. The Committee is persuaded that the fee is reasonable per Utah Code Ann. § 63-2-203 and there is no statutory requirement which provides for prior notice to a requestor of compilation fees. The Committee is further persuaded that inspection of said records is available per § 63-2-202, on site at any reasonable time.

3. The Utah Division of Oil, Gas and Mining has properly assessed fees for the actual cost of staff not exceeding the salary of the lowest paid employee with the necessary skills to perform the request for summarizing, compiling, search, retrieval and other direct costs of compilation of records complying with SUWA'S request. See Utah Code Ann. § 63-2-203 (1), (2)(a) and (2)(b).

ORDER

THEREFORE, IT IS ORDERED THAT the appeal of SUWA for a waiver of fees is denied. The Department's determination regarding the actual cost of staff time for summarizing, compiling, search, retrieval and other direct administrative costs for complying with SUWA'S request is affirmed. Said records shall be available for on site inspection by SUWA, but copies shall not be released to SUWA until such time as the fee is paid in full.

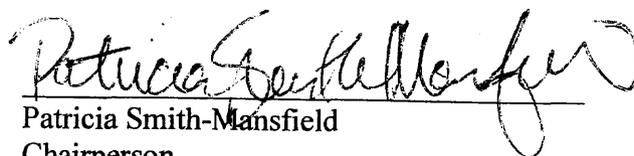
RIGHT TO APPEAL

Either party may appeal this Decision and Order to the District Court. The petition for review must be filed no later than thirty (30) days after the date of this order. The petition for

judicial review must be a complaint. The complaint and the appeals process are governed by the Utah Rules of Civil Procedure and Utah Code Ann. § 63-2-404. The court is required to make its decision de novo. In order to protect its rights on appeal, a party may wish to seek advice from an attorney.¹

Entered this 18th day of October, 2006

BY THE STATE RECORDS COMMITTEE



Patricia Smith-Mansfield
Chairperson
State Records Committee

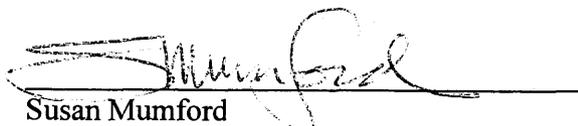
¹ This notice is required by Utah Code Ann. § 63-2-403(12)(d)

CERTIFICATE OF MAILING

I hereby certify that I mailed a true and correct copy of the foregoing Decision and Order, postage prepaid, this 18th day of October, 2006, to the following:

Steven F. Alder AAG
1596 West North Temple #300
Salt Lake City, Utah 84116

Stephen Bloch
SUWA
425 East 100 South
Salt Lake, Utah 84111



Susan Mumford
Executive Secretary
State Records Committee