

STATE OF NEW MEXICO
OFFICE OF THE ATTORNEY GENERAL



HECTOR H. BALDERAS
ATTORNEY GENERAL

June 20, 2019

Marcos Valdez
District Manager
East Rio Arriba County Soil and Water Conservation District
19283 U.S. Hwy 84/285 Suite 112
Hernandez, NM 87537
Email: marcos.valdez@nm.nacdnet.net

Re: Inspection of Public Records Complaint- East Rio Arriba County Soil and Water Conservation District

Dear Mr. Valdez:

Thank you for your response to our April 22, 2019 inquiry letter regarding the complaint submitted to the Office of the Attorney General's Open Government Division ("OGD") by Ms. Leanne Salazar Montoya alleging that the East Rio Arriba County Soil and Water Conservation District (the "District") violated the Inspection of Public Records Act ("IPRA"), NMSA 1978, Sections 14-2-1 to -12 (1947, as amended through 2018). Specifically, Ms. Salazar Montoya alleges that the custodian of public records for the District did not post an IPRA notice in a conspicuous location at the administrative office, and on a publicly available website, as required by NMSA § 14-2-7(E). Additionally, Ms. Salazar Montoya alleges that the District did not permit inspection within three days or provide a "three day" letter indicating when the records would be available.

With regard to the allegation related to the required IPRA posting, it appears that the District has not complied with this notice requirement. The District has no information related to public records in any location on its website. During a conversation with you on May 15, 2019, you acknowledged the deficiency, but indicated that the District does have a notice regarding IPRA posted at its administrative office in a conspicuous location.

Additionally, after a review of the documents related to the initial request and complaint, we conclude that the District did not comply with the "three day" letter requirement pursuant to Section 14-2-8(D) due to the absence of the custodian or records at the time of the request. However, the District sent an email to Ms. Salazar Montoya 4 days after the initial request indicating when the documents would be available and made the documents

available to Ms. Salazar Montoya within 15 days of the initial request, in accordance with IPRA.

Hence, while it appears that the District has substantially complied with IPRA by providing all available records to Ms. Salazar Montoya, we urge the District to update its website as soon as practicable to include a notice, in a conspicuous location, regarding IPRA to ensure future compliance with Section 14-2-7(E). If it has not already done so, the District also should post a similar notice in a conspicuous location at its administrative office. Furthermore, if, in the future, the District requires more time to produce responsive records, the District is required to provide a date when the records will be available within three days of the request. Additionally, the custodian of record should designate a substitute custodian when unavailable to respond to requests in a timely manner.

For your reference, a copy of the IPRA Guide is available on the website of the Office of the Attorney General at www.nmag.gov. If you have any questions regarding this determination or IPRA in general, please let me know. Otherwise this matter is considered closed and will not be further reviewed by OGD.

Sincerely,



Miguel Lozano
Assistant Attorney General

Enclosure

CC: Leanne Salazar Montoya

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Electronic Complaint Submission

Submission Detail

ECS Reference Number	NMOAG-ECS-20190208-08a5
Final Submit Date	2/8/2019 5:53:00 PM

Disclosure of your complaint: This complaint is a public record, thus available under provisions of the NM Inspection of Public Records Act.

Disclosure to other entities: This complaint, its content, and other information may be disclosed to other law enforcement and regulatory agencies.

I understand this complaint and any submitted documents are public record and may be shared with other law enforcement and regulatory agencies.

DECLARATION: By submitting this form, I attest that the information in this complaint is true and accurate to the best of my knowledge. I further understand that by submitting this form I may be called to testify as a witness in this matter.

I understand declaration statement.

The New Mexico Office of the Attorney General cannot give legal advice regarding this complaint and will not act as your personal attorney. If you have questions regarding your rights please contact a private attorney.

Submission of this complaint is not confirmation that an investigation will be initiated.

Complaint Detail

Complaint Type Inspection of Public Records (IPRA) Complaint

Retained Attorney

Parties

Complainant

Leanne Salazar Montoya

Person

Address

[REDACTED]

Contact information

[REDACTED]

Complaint against

East Rio Arriba County Soil and Water Conservation - Marcos Valdez

Public Body (Government Entity)

Address

19283 US Hwy 84/285 Suite 112
Hernandez, New Mexico 87537

Contact information

Marcos.Valdez@nm.nacdnet.net

(505) 753-3508 104

<https://www.eraswcd.net>

Complaint Specifics

Format of IPRA request:	Written
Date IPRA request was submitted to the public body:	02/04/2019
Date of all responses received from the public body:	02/08/2019
Records	No records were provided.
Notice	Public body did not post in a conspicuous location at its administrative office or on the public body's website a notice setting forth: the rights of any person to inspect the public body's public records, the public body's responsibility to make public records available for inspection, the procedures for requesting inspection of public records, the procedures for requesting copies of public records, and/or reasonable fees for copying public records.
Deadlines (For purposes of deadlines imposed by the IPRA, the date the request is received is not counted)	Inspection was not allowed within three (3) business days and the public body did not timely send a written "three-day letter" to the requester explaining when the records would be available or when the public body would respond to the request.

Transaction

Documents



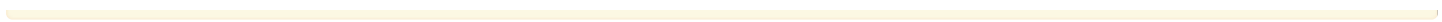
REQUEST TO INSPECT PUBLIC RECORDS.pdf

IPRA Request

Comments

I made a request due to my concerns of the board of supervisors ethical violations of the law. One member is utilizing the organization for his own personal benefit and the attorney to handle his personal business. These are written requests to inspect and determine if this is indeed happening. An opening for the board was also made less than one week after a member passed and I will also request a copy of the board meeting where the board decided to open it up as it was filled one week after the deceased passed which is also a violation of the OMA. This board has no legal oversight.

*** END OF COMPLAINT ***



REQUEST TO INSPECT PUBLIC RECORDS

February 4, 2019

TO: RECORDS CUSTODIAN
Records Custodian
East Rio Arriba Soil and Water Conservation
19283 Hwy 84
Hernandez, NM

FROM:
LeAnne Salazar-Montoya
PO BOX 977
Española, NM 87532

(505) 927-6797

I would like to inspect and copy the following records:

- The name and addresses of all of your Board of Supervisors and Dates of Term
- The name and address of the Attorney that represents East Rio Arriba Soil and Water Conservation and a copy of his/her contract and dates of hire
- A list of all recipients/parciantes who have received services/benefits and/or grant money from 2010-present and the amount of the award or services rendered on their project..

If your agency does not maintain these public records, please let me know who does, and include the proper custodian's name and address.

I will provide a USB drive so that the requested records may be electronically provided or you may email them to me at eeanmontoya@gmail.com. Thank you for your prompt attention to this matter.

Sincerely,

LeAnne C. Salazar-Montoya

Rio Arriba Resident and Taxpayer