

from:	MI LARA FOIA Center <michiganlara@govqa.us>
to:	"kevin@beyondnuclear.org" <kevin@beyondnuclear.org>
date:	Nov 29, 2022, 11:29 PM
subject:	FOIA Request :: R101293-112922



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

Dear Radioactive Waste Specialist (BN), and Board of Directors Member (DWM) Kevin Kamps:

Thank you for your interest in public records of the Department of Licensing and Regulatory Affairs of Michigan. Your 11/29/2022 request has been received in this office and given the reference number R101293-112922 for tracking purposes. A written request made by facsimile, electronic mail, or other electronic transmission is not received by a public body's FOIA coordinator until one (1) business day after the electronic transmission is made. (MCL15.235(1))

Records Requested: "Dear MI LARA FOIA Officer, and other State of Michigan offices/agencies FOIA Officers, In addition to the Michigan Public Service Commission (MPSC), I am also requesting records from the Office of the Governor of the State of Michigan, the Michigan Agency for Energy, and Michigan EGLE (Environment, Great Lakes, and Energy). I am hereby making a request under the Michigan Freedom of Information Act (FOIA). As detailed below, I hereby request any documents or other items in the possession of MI LARA, MPSC, the Office of the Governor of the State of Michigan, Michigan Agency for Energy, and Michigan EGLE, which have been generated, received, or maintained by one or more of these various State of Michigan agencies and/or offices, about the application submitted by Holtec International, LLC, or any subsidiary of Holtec International, for the receipt of payments and benefits under the U.S. Department of Energy (DOE) Civil Nuclear Credit Program (Program) in 2022. To expedite provision of these records, I request, first, that you provide a copy of any communication originating from DOE to any party listed above, wherein the Department of Energy stated that it will not subsidize with Program benefits the operations of the Palisades Nuclear Generating Station located in Covert Township, Van Buren County, Michigan. Such documents need not be identified by title or "draft"/"final" designations if to do so would compromise the FOIA decision-making process by MI LARA and/or the other State of Michigan agencies/offices. In such cases, I ask that you merely delete such revealing designations and release the balance. There has been ongoing and contentious public policy controversy regarding this matter, so I

thus note that time is of the essence for your provision of the above-identified decision document(s). Since November 18, 2022, there has been considerable media reportage that DOE has rejected a request from Holtec International for funding under the Program, but no publication of, or quotation from, the DOE communication rejecting Holtec's application. Likewise, there has been no public disclosure by Holtec International or its subsidiary or subsidiaries, nor from the Office of the Governor of the State of Michigan or any involved state agencies, regarding why DOE declined the application. There is a great need for prompt disclosure so that the released information may more adequately inform the public debate. Second, I request that the Office of the Governor of the State of Michigan, and/or the various State of Michigan agencies, provide a copy of all files generated from and/or about the Holtec International request for benefits under the Program, including communications received by Michigan state agencies/offices from Holtec International, DOE, or any other source. While we are not waiving the statutory response deadlines under FOIA, we anticipate that the decision document(s) identified above should be provided within the standard, legally required five (5) days of this request, with the potential of a 10 (ten) day extension if notification by MI LARA is issued, with the requested file(s) to be provided shortly thereafter. I am making this request on behalf of Don't Waste Michigan (DWM), a nonprofit public advocacy and education organization in Michigan, and also for Beyond Nuclear (BN), a national nonprofit public advocacy and education organization based in Takoma Park, Maryland, near Washington, D.C. Each organization actively informs the public on matters affecting commercial nuclear power plants and their operation and other nuclear power infrastructure, plans and policies. Both organizations achieve these aims through publications, commentary to the press, sponsorship of educational programs and events, public appearances of their members, litigation and the development of institutional expertise regarding nuclear power plans and policies. Both organizations have educated, litigated, and publicly commented on federal and State of Michigan actions affecting the operations, decommissioning, and contemplated restart of the Palisades Nuclear Generating Station located in Covert Township, Van Buren County, Michigan. The documents sought by DWM and BN will illuminate in a clear and direct way, the formal request by Holtec International and/or its subsidiaries, advocacy by State of Michigan offices and/or agencies, and processing by DOE and deliberations concerning whether to commit federal funds from the Program to restoring the Palisades power plant to operability. Deliberations concerning whether State of Michigan funds -- including but not limited to a Power Purchase Agreement scheme -- could well also be revealed, and certainly any such demands/requests made by Holtec International and/or its subsidiaries to the Governor of Michigan, or other State of Michigan officials, including but not limited to the MPSC. Likewise, offers to Holtec and/or its subsidiaries, by the Governor of Michigan, MPSC, and/or other State of Michigan offices, agencies, and/or officials, of state funding (including but not limited to a Power Purchase Agreement), could also be revealed. As such, their release will significantly contribute to public understanding and oversight of the DOE's implementation of the Program and the efficacy of both Congressional directives and DOE policies and regulations relating to the Infrastructure Investment and Jobs Act (IIJA) by which Congress authorized the Program. And the release of the documents will also provide needed transparency regarding actions contemplated and/or taken by State of Michigan officials related to these matters, involving state funding, state policies, and/or state regulatory decisions. The information State of Michigan offices/agencies provide in response to this FOIA request will not be used for commercial gain. It will be published on the BN website (which averages hundreds of hits per week), as well as in BN's

weekly newsletter, subscribed to by 12,000 persons in Michigan and across the country, and likely will be disseminated to the media, Congress, Michigan state legislators, etc., as a component of DWM's and BN's involvement in nuclear power issues. These affirmative steps to make the DOE and State of Michigan information available to the general public will foster openness in government and facilitate the education of the public concerning the IJA policies and regulations, as well as concerning State of Michigan policies, including but not limited to the allocation of state funds to simultaneously subsidize Palisades' restart, alongside the sought federal funding. This request is not meant to be exclusive of any other records which, though not specifically requested, would have a reasonable relationship to the subject matter of this request. In the event that access to any of the requested records is denied, please note that the FOIA provides that if only portions of a requested file are exempted from release, the remainder must still be released. I therefore request that I be provided with all non-exempt portions which are reasonably segregable. I further request that the aforementioned State of Michigan offices/agencies describe the deleted material in detail and specify the statutory basis for the denial as well as their reasons for believing that the alleged statutory justification applies in this instance. I ask that the State of Michigan offices/agencies please separately state their reasons for not invoking their discretionary powers to release the requested documents in the public interest. Such statements will be helpful in deciding whether to appeal an adverse determination, and in formulating arguments in case an appeal is taken. The State of Michigan offices'/agencies' written justification might also help to avoid unnecessary litigation. I reserve my right to appeal the withholding or deletion of any information, and expect that you, and/or the other State of Michigan offices/agencies, will list the office and address where such an appeal can be sent. Because we anticipate that you will make the requested materials available within the statutorily prescribed period of five days, perhaps to be extended by an additional ten days with proper notification, we also request that you waive any applicable fees since disclosure meets the statutory standard for waiver of fees in that it is clearly in the public interest because furnishing the information can be considered as primarily benefiting the general public. As stated above, I have no intention of using the information disclosed for financial gain. If for some reason the fee waiver request is denied, while reserving our right to appeal such a decision, in light of our nonprofit status, our organizations are willing to pay up to \$25.00 to cover costs of document search and duplication. Access to the requested records should be granted within five (5) working days from the date of their receipt by the various State of Michigan offices/agencies, or a very short extension of ten (10) additional days, if the offices/agencies determine it is needed, and provide the required notification. Failure to respond in a timely manner will be treated as a denial of this request and I may immediately file an administrative appeal. Thank you for your prompt consideration and assistance. Sincerely, Kevin Kamps Radioactive Waste Specialist, Beyond Nuclear Board Member, Don't Waste Michigan (Kalamazoo Chapter)"

In accordance with the Michigan Freedom of Information Act (FOIA), MI LARA provides copies of its public records. Records which are exempt from disclosure by state or federal law will not be provided.

The FOIA does not require governmental bodies to create new records or answer questions. A request must ask for records or information already in existence. A person has the right to subscribe to future issuance of public records that are created, issued or disseminated on a regular basis.

Michigan LARA will respond within five business days to a request. If needed, the agency may issue a notice extending for up to 10 additional business days the time it has to respond to your request.

You can monitor the progress of your request at the link below and you'll receive an email when your request has been completed.

[FOIA Request Center](#)

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Department of Licensing and Regulatory Affairs