

Copy of email sent 8/27/14

From: **Ron Huber** <coastwatch@gmail.com>

Date: Wed, Aug 27, 2014 at 6:11 PM

Subject: FOAA - filing a formal complaint of willful deception.

To: Brenda Kielty <Brenda.Kielty@maine.gov>

Dear Ms. Kielty

I am writing to express FOPB's extreme concern with what appear to be evasive and deceptive responses by Eastern Maine Regional Office director Susanne Miller to our requests made pursuant to the Freedom of Access Act.

We are asking that you investigate the responses of Director Miller and determine whether her repeated denial of the existence of telephone records responsive to our FOAA request, until finally asked specifically for "cellphone" records, constitutes a willful deception in violation of MRSA 1 §410. Violations.

MRSA 1 §410. Violations For every willful violation of this subchapter, the state government agency or local government entity whose officer or employee committed the violation shall be liable for a civil violation for which a forfeiture of not more than \$500 may be adjudged. Attached is a pdf file of the relevant emails of Miller and her staffer.

The fact that Miller only produced some cellphone record after denying their existence, and in a later email Miller admits to the existence of wallphone records responsive to our FOAA, suggests a willful effort at concealing information that was responsive to our FOAA request.

*Had we accepted her initial FOAA response as truthful, we would have been deceived as to the existence of the phone records.

* Had we accepted her subsequent denial of responsive phone records, we would again have been deceived as to their existence.

* Had we not persisted with a 3rd request for the phone records, specifying "cellphone" we would have been willfully deceived.

Miller has finally turned over some cellphone records, but has also also admitted to possessing landline records responsive to our request. Suggests she was willfully filing a deceptive response.

In her most recent email correspondence, Miller appears to be blaming a member of her staff for failing to produce Miller's landline records. Miller is trained as an environmental law attorney. It is highly improbable that she didn't realize her cellphone calls about GAC constitute phone records. Nor does it pass the straight face test for her to blame her staff.

Finally, Miller has informed us that we must file a Freedom of Access request ***if we want any kind of information at all*** from her or her staff in the future. Is this an overuse of FOAA on the part of the agency? E.g. Isn't this ***requiring serial FOAA filing?***

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Overall Director Miller has been a proponent of opacity rather than transparency. For that reason we are very worried that she has asked to become information manager for the Maine Ocean Acidification Commission. If she cannot be trusted to truthfully answer a very simple, very limited FOAA request, how can she be trusted to be an accurate gatekeeper for this information?

For that matter, how believe that anything she supplies in response to a Freedom Of Access Act request is complete?

While her position on the Maine ocean acidification commission is of course outside your jurisdiction, we wanted to be on the record with our concerns, since the company that is the object of our concerns is both a significant acid waste leaker and a company with close ties to the LePage Administration.

We ask that the attorney general's office take our concerns very seriously. Without strict obedience by public officials to at least the letter of the law, the Freedom Of Access Act will not offer citizens the transparency necessary to oversee the doings of our state public servants.

We are prepared to submit whatever additional information you need in order to most fully review our concerns, including emails and responses that also may not meet the "truth" standard.

We look forward to hearing from you about our concerns. You can reach me by email or by telephone or snail mail Contact info below

Sincerely,

Ron

Ron Huber
executive director
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