

EXHIBIT 13

From: Burton, Luke
Sent: Friday, May 3, 2024 3:16 PM
To: 'Proctor, Kimberlee A - MSHA' <Proctor.Kimberlee@dol.gov>
Cc: Thacker, Casey E. - MSHA <Thacker.Casey@DOL.GOV>; Williams, Meekness S - MSHA <williams.meekness@dol.gov>
Subject: RE: [EXT] FOIA-2023-F-13135

Thank you for the update.

All responsive documents must be produced by **May 31, 2024**. I originally sent the FOIA request on August 24, 2023, and MSHA responded to the FOIA Request on September 22, 2023. Therein, MSHA stated that, due to the unusual circumstances of the FOIA Request, it estimated it would take 60 working days from September 22, 2023 to process the request. I received no responsive within the 60 working-day period and I did not hear from MSHA regarding the need for any additional time.

I followed up on January 2, 2024. MSHA responded the next day, and said it “anticipate[d] finalizing the response and completing the clearance process” for the FOIA Request by February 29, 2024.

That date came and went with no response from MSHA. I followed up again on March 13, 2024, inquiring about the timing of MSHA’s response. MSHA again followed up the next day, requesting a time to speak about the request. On a call regarding the FOIA Request, we discussed the requests and I offered to agree to rolling production of records in order to speed up the process. I followed up the next week, asking for an update on the timing of production.

MSHA did not respond. I followed up again on March 28, 2024. MSHA responded and said it was “checking on the status of [the] request” and would “get back with [me] by tomorrow with an anticipated completion date.” MSHA did not follow up the next day due to an “unexpected absence,” but promised to provide at update as soon as possible.

I never heard back from MSHA, so I followed up again on April 16, 2024. Thereafter, MSHA responded with the below email.

At this point, absent a complete production on May 31, 2024, MSHA will be in clear violation of the statutory and regulatory requirements regarding the FOIA Request. MSHA’s failure to respond to the request, after all reasonable efforts to accommodate the agency with additional time, are a denial of the rights created by FOIA.

MSHA’s failure to respond within the statutory time limitations means that the administrative remedies have been constructively exhausted, *see* 5 U.S.C. § 552(a)(6)(C)(i), and, assuming MSHA fails to respond in full to the request by the date above, I will seek to enforce my FOIA rights in federal court.

Sincerely,

Luke Burton



Luke Burton
Senior Associate
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From: Proctor, Kimberlee A - MSHA <Proctor.Kimberlee@dol.gov>

Sent: Monday, April 22, 2024 5:51 PM

To: Burton, Luke <luke.burton@squirepb.com>

Cc: Thacker, Casey E. - MSHA <Thacker.Casey@DOL.GOV>; Williams, Meekness S - MSHA <williams.meekness@dol.gov>; Proctor, Kimberlee A - MSHA <Proctor.Kimberlee@dol.gov>

Subject: RE: [EXT] FOIA-2023-F-13135

Mr. Burton,

Thank you for your patience. As I mentioned when we talked in March, this FOIA request required coordination with multiple offices to search for responsive documents. One of the offices that we were waiting for their search completion has recently provided us with potential responsive documents. We are in the process of reviewing the documents for responsiveness and application of the appropriate FOIA exemption, if applicable. Once that is done, we will need to go through our internal review and clearance process.

I anticipate this will take until May 31, 2024, for completion.

We will keep you informed if issues come up as we are processing your FOIA request.

Thank you,

Kimberlee

From: Burton, Luke <luke.burton@squirepb.com>

Sent: Tuesday, April 16, 2024 1:37 PM

To: Proctor, Kimberlee A - MSHA <Proctor.Kimberlee@dol.gov>

Subject: RE: [EXT] FOIA-2023-F-13135

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Kimberlee – following up on this again. Please let me know when I can expect a response to our FOIA request.



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From: Burton, Luke
Sent: Monday, April 1, 2024 9:42 AM
To: 'Proctor, Kimberlee A - MSHA' <Proctor.Kimberlee@dol.gov>
Subject: RE: [EXT] FOIA-2023-F-13135

Thank you



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From: Proctor, Kimberlee A - MSHA <Proctor.Kimberlee@dol.gov>
Sent: Monday, April 1, 2024 8:57 AM
To: Burton, Luke <luke.burton@squirepb.com>
Cc: Proctor, Kimberlee A - MSHA <Proctor.Kimberlee@dol.gov>
Subject: RE: [EXT] FOIA-2023-F-13135

Mr. Burton,

There was an unexpected absence, so I was not able to follow-up. I will do so today and will provide an update as soon as possible.

Thank you,

Kimberlee

From: Proctor, Kimberlee A - MSHA
Sent: Thursday, March 28, 2024 10:12 AM
To: Burton, Luke <luke.burton@squirepb.com>
Cc: Proctor, Kimberlee A - MSHA <Proctor.Kimberlee@dol.gov>
Subject: RE: [EXT] FOIA-2023-F-13135

Hi Mr. Burton,

Thank you for the follow-up message. I am checking on the status of your request and will get back with you by tomorrow with an anticipated completion date.

Kimberlee

From: Burton, Luke <luke.burton@squirepb.com>
Sent: Thursday, March 28, 2024 9:17 AM
To: Proctor, Kimberlee A - MSHA <Proctor.Kimberlee@dol.gov>
Subject: RE: [EXT] FOIA-2023-F-13135

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Kimberlee – following up again on this. Please let me know the status and when I can expect a response. DOL/MSHA's FOIA response is well past due.

Best,

Luke



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From: Burton, Luke
Sent: Thursday, March 21, 2024 9:25 AM
To: 'Proctor, Kimberlee A - MSHA' <Proctor.Kimberlee@dol.gov>
Subject: RE: [EXT] FOIA-2023-F-13135

Kimberlee,

I hope your week is going well. I wanted to follow-up on our conversation from last week to see what updates you have for me regarding my FOIA request.

Thank you,

Luke



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From: Burton, Luke
Sent: Friday, March 15, 2024 3:40 PM
To: 'Proctor, Kimberlee A - MSHA' <Proctor.Kimberlee@dol.gov>
Subject: RE: [EXT] FOIA-2023-F-13135

No worries! 4pm will work fine.



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From: Proctor, Kimberlee A - MSHA <Proctor.Kimberlee@dol.gov>
Sent: Friday, March 15, 2024 3:39 PM
To: Burton, Luke <luke.burton@squirepb.com>
Cc: Proctor, Kimberlee A - MSHA <Proctor.Kimberlee@dol.gov>
Subject: RE: [EXT] FOIA-2023-F-13135

Hi Mr. Burton,

I apologize for the delay, are you available for me to call you at 4pm today?

Kimberlee

From: Burton, Luke <luke.burton@squirepb.com>
Sent: Thursday, March 14, 2024 5:38 PM
To: Proctor, Kimberlee A - MSHA <Proctor.Kimberlee@dol.gov>
Cc: Williams, Meekness S - MSHA <williams.meekness@dol.gov>; Thacker, Casey E. - MSHA <Thacker.Casey@DOL.GOV>
Subject: Re: [EXT] FOIA-2023-F-13135

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Yes. That time works great. Thanks so much and look forward to talking to you then.

Luke Burton

On Mar 14, 2024, at 5:11 PM, Proctor, Kimberlee A - MSHA <Proctor.Kimberlee@dol.gov> wrote:

Hi Mr. Burton,

Thank you for following up on the status of your FOIA request. Yesterday, Ms. Washington left a voice message for you on (513-361-1274) for us to talk with you briefly regarding the request.

If you are available tomorrow (Friday, March 15, 2024) at 3:30pm, Ms. Washington and I would like to touch base with you. If that time does not work, please let me know some available dates and times and I will send a meeting request for a call.

Thank you,

Kimberlee

From: Burton, Luke <luke.burton@squirepb.com>
Sent: Wednesday, March 13, 2024 8:57 AM
To: Williams, Meekness S - MSHA <williams.meekness@dol.gov>
Cc: Thacker, Casey E. - MSHA <Thacker.Casey@DOL.GOV>
Subject: RE: [EXT] FOIA-2023-F-13135

You don't often get email from luke.burton@squirepb.com. [Learn why this is important](#)

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Hello,

I wanted to touch base on the status of the below FOIA request. Thank you for your assistance.

Best,

Luke

<image001.jpg>

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From: Williams, Meekness S - MSHA <williams.meekness@dol.gov>
Sent: Wednesday, January 3, 2024 11:22 AM
To: Burton, Luke <luke.burton@squirepb.com>
Cc: Thacker, Casey E. - MSHA <Thacker.Casey@DOL.GOV>; Williams, Meekness S - MSHA <williams.meekness@dol.gov>
Subject: RE: [EXT] FOIA-2023-F-13135

Hello Mr. Burton and Happy New Year!

Thank you for your patience, as we work through the multiple FOIA requests received in MSHA Enforcement. We anticipate finalizing the response and completing the clearance process to issue your request by February 29, 2024.

If you have any questions, please contact me at williams.meekness@dol.gov or at (202) 693-9485.

Kind regards,

Meekness S. Williams
DOL/MSHA/Mine Safety & Health Enforcement
Government Information Specialist
williams.meekness@dol.gov
Desk Phone-202-693-9485

<image002.jpg>

From: Burton, Luke <luke.burton@squirepb.com>
Sent: Tuesday, January 2, 2024 12:24 PM
To: Thacker, Casey E. - MSHA <Thacker.Casey@DOL.GOV>
Cc: Williams, Meekness S - MSHA <williams.meekness@dol.gov>
Subject: RE: [EXT] FOIA-2023-F-13135

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Hello and Happy New Year,

I wanted to touch base on the status of this response, as I believe the 60-working-day-response estimate has now passed. Happy to discuss by phone (513-906-0077) as well.

Thank you,

Luke

<image001.jpg>

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From: Thacker.Casey@DOL.GOV <Thacker.Casey@DOL.GOV>
Sent: Friday, September 22, 2023 10:43 AM
To: Burton, Luke <luke.burton@squirepb.com>
Cc: williams.meekness@dol.gov
Subject: [EXT] FOIA-2023-F-13135

Hello,

Attached you will find the acknowledgment letter for your request.

We continue to process your request.

Thank you,

Casey E. Thacker

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