

TO: Riley-Purgatory-Bluff Creek Watershed District Board of Managers
FROM: Terry Jeffery, administrator; Michael Welch, Smith Partners
RE: Larry Koch data request
DATE: October 28, 2022

As part of the November 2, 2022, regular meeting, the managers will discuss a September 26, 2022, data request from Larry Koch. The request is attached.

This memo addresses and pertains only to the September 26 request. As the managers are aware, Manager Koch has made 62 data requests this year. The burden on administrator and staff time has been considerable, and staff is requesting that the board provide direction to ensure that staff resources are spent in accordance with direction from the managers, pursuant to Riley-Purgatory-Bluff Creek Watershed District Governance Policy V.c, requiring the managers to authorize expenditures of staff time responding to individual and cumulative requests for information from a manager that require considerable staff time to fulfill. Further, as a matter of general governance, decisions on the devotion of critical RPBCWD resources such as administrator time are squarely with the board's authority.

The overarching question for the managers is whether the data requested should be provided to Larry Koch because he is a manager, or whether he must request the data as a citizen under the Data Practices Act. A key underlying question is whether Larry Koch needs the data to fulfill his role as a manager (in which case he would be provided with or could inspect the data at no cost) or not (in which case the response to his data request would be administered under the Data Practices Act and the RPBCWD data policy, including provisions allowing RPBWD to require reimbursement of staff time for the costs of providing data). In addition, if the board determines that Larry Koch's duties as a manager require access to certain not-public and private data he is asking for, he may be provided with or inspect such data. If his duties do not require such access, he may not receive or inspect such data. Staff is requesting that the managers provide answers to the following questions:

1. Do you find that Manager Koch's duties require access to public data responsive to the attached data request?
2. If yes, do you direct the administrator to spend time on responding to Manager Koch's request for public data?
3. Do you find that Manager Koch's duties require that he have access to private personnel data on the current and former administrator?

4. If yes, do you direct the administrator to spend time on responding to Manager Koch's request to have recordings provided to him?

With answers to these questions, the administrator and staff hope to have clear direction on how to respond to the September 26 request.

From: lakrpbcc@gmail.com
To: [Terry Jeffery](#)
Subject: Minnesota Data Practices Act etc. and Mn Stat 103D.315, subds. 3 and 5, request for data pertaining Minutes and Resolutions and recordings and responses to data requests
Date: Monday, September 26, 2022 3:18:13 PM
Attachments: [em fm ls 8-3-22 re Summary of Data Requests and Response.pdf](#)

Assuming that you are the responsible authority under the MDPA, or otherwise responsible for the providing access to the records of the District pursuant to Mn Stat. 103D.315 subds. 3 and 5, pursuant to those acts, please make available for review and inspection or provide me with electronic copies at no expense, all data pertaining the following:

1. All final minutes of the District BOM meetings, the Personnel Committee Meetings and the Audit and Finance Committee meetings during 2021 and 2022 to date. References to the board packets are not compliant to my request as no board packet contains the final minutes.
2. All final signed resolutions passed by the BOM in 2021 and 2022 to date.
3. All recordings of all closed sessions of the BOM during 2021 and 2022 including but not limited to the closed sessions pertaining to the review of Dr. Blesser and Terry Jeffery. I was not able to locate the recordings of the all of the closed sessions regarding Dr. Blesser or Terry Jeffery in the links previously provided. Providing links to folders containing multiple nonresponsive recordings without clear designation of recordings of the closed session will be considered noncompliant with my request.
4. All communications pertaining to any data requests I have made during 2021 and 2022 other than communications from or to me in response to my data requests.
5. All communications with any person, public employee, county commissioner, city council member or any other person regarding me in 2021 and 2022 to date other than communications to or from me.
6. Those items set forth in my data request addressed to Mr. Smith, a copy of which is attached, which have not been provided, as well as the basis for any claimed charge. Mr. Smith's table is less than clear as to what was provided and not provided and what charges if any are being required prior to providing such information.
 - a. Proof that the data alleged by Mr. Smith to have been provided to me in response to my data requests has actually been provided to me. In particular have no record of having received a copy of Exhibit 14 to Ms. Schwie's report.
7. All data requests made by any other person or entity during 2021 and 2022 and all responses to and actions taken in connection therewith including but not limited to any charges with respect thereto and the basis for such charges..

Please note that I will consider any response to the effect that I may have in my possession certain data responsive to my request as noncompliant with the law. If you believe you have already provided the data requested in response to a data request from me, please provide proof.

If you are not the responsible authority under the MDPA and/or are not the person responsible for providing access to the records of the district pursuant to Mn. State 103D.315, please forward this email to the appropriate person or provide me with the contact information for such person.

Sincerely,

Larry A. Koch

Resident within Riley Purgatory Bluff Creek Watershed District

VP and Manager, RPBCWD

Member, Governance Committee, RPBCWD

612-210-5001

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Please note that communications through this email account may be subject to the Minnesota Data Practices Act and may be disclosed to third parties pursuant to such laws.