

Our first FOIA March 2018, requested emails exchanged between McElmurry and his WSU collaborators, after he induced Dr. Faust to send McElmurry her complete Flint hydraulic model. We wanted to see whether McElmurry told his WSU collaborators, it was “his” hydraulic model, or whether he openly credited the model to Dr. Faust.

WSU denied our request, saying that the emails uncovered in their search were not responsive (i.e., WSU claims we do not want to see the emails). We appealed, and it went back and forth, in a petty fight over words, along the lines of arguing what the meaning of “is” is.

Finally, Mr. Wilcox said Edwards should resubmit the FOIA to WSU with revised wording, to stop the argument. Dr. Edwards did so, but then WSU then claimed they would not produce the emails in response to the new FOIA, because Edwards was now involved in litigation against WSU (i.e., the FOIA lawsuit about WSU withholding the same emails).

Upon further advice of Mr. Wilcox, Flintwaterstudy’s Dr. Roy submitted a FOIA for the withheld emails about the hydraulic model as follows:

<We request> All of the emails and attachments, produced in an electronic search between August 1 and November 1, 2015, between Dr. Shawn McElmurry and Dr. Paul Kilgore, and also between Dr. McElmurry and Dr. Carol Miller. Do not use any additional screening criteria or consideration by Wayne State as to whether these emails are responsive or not. **Please note that Wayne State has acknowledged that a search for these emails was already done in response to a prior FOIA request of Dr. Marc Edwards submitted March 3, 2018. Therefore, there should not be an additional search fee or search time for this request. The search has already been done. I <Dr. Roy> am simply asking that all emails revealed by that electronic search be produced.**

WSU’s response? They now insist they must do a new search for the emails, despite Dr. Roy’s specific instructions not to do so. And the cost for the new search and two other documents (i.e., another McElmurry presentation and an NSF proposal) would be.....**\$6,710.65.**

FOIA REQUEST sent electronically to foia@wayne.edu

To whom it may concern

I am requesting the following documents under the Freedom of Information Act (FOIA) from Wayne State University:

1. All of the emails and attachments, produced in an electronic search between August 1 and November 1, 2015, between Dr. Shawn McElmurry and Dr. Paul Kilgore, and also between Dr. McElmurry and Dr. Carol Miller. Do not use any additional screening criteria or consideration by Wayne State as to whether these emails are responsive or not.

Please note that Wayne State has acknowledged that a search for these emails was already done in response to a prior FOIA request of Dr. Marc Edwards submitted March 3, 2018. Therefore, there should not be an additional search fee or search time for this request. The search has already been done. I am simply asking that all emails revealed by that electronic search be produced.

2. Dr. McElmurry's winning National Science Foundation proposal #1832692 CRISP 2.0 Type 2: Collaborative Research: Water and Health Infrastructure Resilience and Learning (WHIRL)
3. Slides used in the following presentation given November 18, 2016 by Dr. McElmurry:

Environmental Engineering Seminar Series:

**The Flint Water Crisis:
An Engineering Perspective**

Presented By:

Shawn McElmurry, Ph.D.

*Associate Professor, Department of Civil & Environmental Engineering
Wayne State University*

Date: Friday, November 18, 2016

Time: 1:30 p.m. to 2:30 p.m.

Location: McDonnell Douglas Engineering Auditorium (MDEA)

I am willing to pay normal fees for this.

Thank you in advance for honoring my request.

Siddhartha Roy

**Office of the
Vice President and
General Counsel**

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Detroit, Michigan 48202
(313) 577-2268 Tel
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**WAYNE STATE
UNIVERSITY**

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Vice President and
General Counsel**

Associate General Counsel,
Intellectual Property

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Linda M. Galante**

Assistant General Counsel

**Pamela R. Galloway
Amy Stirling Lammers
Thomas F. Cavalier
Julie A. Rajzer
Kristen L. Cook**

March 8, 2019

Mr. Siddhartha Roy

Re: Your Freedom of Information Act Request Dated February 14, 2019

Dear Mr. Roy:

I am writing on behalf on the University's FOIA Coordinator, who is unavailable today, in response to your February 14, 2019 Freedom of Information Act Request. Your request consists of three parts. The University's response to each part is set forth below.

1. All of the emails and attachments, produced in an electronic search between August 1 and November 1, 2015, between Dr. Shawn McElmurry and Dr. Paul Kilgore, and also between Dr. McElmurry and Dr. Carol Miller. Do not use any additional screening criteria or consideration by Wayne State as to whether these emails are responsive or not.

Response: This request is granted as to all responsive non-exempt information that exists in the University's public records. We disagree, however, with your assertion that there "should not be any additional search fee or search time for this request" because "a search for these emails was already done in response to a prior FOIA request of Dr. Marc Edwards submitted March 3, 2018." A new search must be done because your request is significantly broader than Dr. Edwards's March 3, 2018 FOIA request. Dr. Edwards' request was limited to certain topics, whereas yours is open-ended. Dr. Edwards' request did not ask for email attachments; you ask for those materials. As a result, the University must conduct a different and significantly broader email search. Moreover, the retrieved material – emails and attachments – must be reviewed for information that is exempt under the FOIA. The University is permitted to charge a fee for the cost of the labor for the search and review. Our estimate of that cost, along with our estimate of the cost to process the remaining parts of your request, are reflected in the itemized fee statement attached to this letter.

2. Dr. McElmurry's winning National Science Foundation proposal #1832692 CRISP 2.0 Type 2: Collaborative Research: Water and Health Infrastructure Resilience and Learning (WHIRL).

Response: This request is granted as to all responsive non-exempt information that exists in the University's public records.

3. Slides used in the following presentation given November 18, 2016 by Dr. McElmurry:

Environmental Engineering Seminar Series:
The Flint Water Crisis: An Engineering Perspective

Presented by:
Shawn McElmurry, Ph.D.
Associate Professor, Department of Civil & Environmental Engineering
Wayne State University

Date: Friday, November 18, 2016
Time: 1:30 p.m. to 2:30 p.m.
Location: McDonnell Douglas Engineering Auditorium (MDEA)

Response: This request is granted as to all responsive non-exempt information that exists in the University's public records.

Under University policy and the FOIA, the University is permitted to charge a fee for certain labor and out-of-pocket costs that it incurs in responding to a FOIA request and to require a 50% deposit of the estimated fee if it exceeds \$50. The estimated fee for processing your request is \$6,710.65. An itemization of the estimated charge is attached. To proceed with your request, we require a deposit in the amount of \$3,355.32. Please forward to my attention a check payable in that amount to Wayne State University. The University must receive your deposit within 48 days from the date that this response is sent to you. We estimate that it will take six weeks from receipt of your deposit to fully process your request, including collecting and examining the requested records, identifying applicable exemptions and redacting or otherwise removing exempt material. Exempt information may include, among others, information that is protected by the Family Educational Rights and Privacy Act of 1974, information of a personal nature which, if disclosed, would constitute an invasion of a person's privacy, trade secrets, and intellectual property. When the records are ready we will notify you of the final fee, which may exceed the estimate. The records will be sent to you upon our receipt of the balance due.

To the extent that the above response constitutes a final determination to deny your request, you may appeal such final determination by (1) submitting to the Office of the President of the University a written appeal specifically stating the word "appeal" and identifying the reasons for reversal of the disclosure denial or (2) seeking judicial review in the Michigan Court of Claims. You have the right to receive attorneys' fees and damages as provided in Section 10 of FOIA, if, after judicial review, the court determines that the University has not complied with Section 5 of FOIA and orders disclosure of all or a portion of a public record.

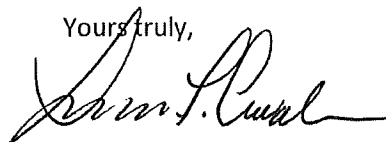
Mr. Siddhartha Roy

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March 8, 2019

Please note that the University's FOIA Guidelines and Procedures are posted on the University's website at <http://generalcounsel.wayne.edu/legal/foia.php>.

Yours truly,

A handwritten signature in black ink, appearing to read "Tom F. Cavalier", written in a cursive style.

Thomas F. Cavalier
Assistant General Counsel

TFC:k

Enclosure

FOIA FEE ESTIMATE ITEMIZATION FORM - SIDDHARTHA ROY FOIA DATED 2/14/2019

<i>Category of Costs/Description</i>	<i>Hourly Wage</i>	<i>Benefits % Multiplier Used*</i>	<i>Hourly Wage with Benefits</i>	<i>Estimated Time (Hours)</i>	<i>Amount</i>
Searching for, locating and examining responsive records <ul style="list-style-type: none"> Charged at hourly wage of lowest-paid employee capable of searching for, locating and/or examining the public record, regardless of who performs the labor Estimated and charged in increments of 15 minutes or more, with all partial time increments rounded down 	\$77.11	0.257	\$96.93	0.5	\$48.46
			\$0.00		\$0.00
			\$0.00		\$0.00
Review directly associated with the separating and deleting of exempt from nonexempt information <ul style="list-style-type: none"> Charged at hourly wage of lowest-paid employee capable of separating and deleting exempt from nonexempt information, regardless of who actually performs the labor Labor costs under this subdivision estimated and charged in increments of 15 minutes or more, with all partial time increments rounded down Does not include a charge for a known previously FOIA-redacted public record that is still in the University's possession 	\$77.11	0.257	\$96.93	42.5	\$4,119.41
	\$60.51	0.293	\$78.24	32.5	\$2,542.78
Duplication or publication <ul style="list-style-type: none"> Includes making paper copies, making digital copies, or transferring digital public records to be given to requestor on nonpaper media or electronically Charged at hourly wage of lowest-paid employee capable of necessary duplication or publication, regardless of who performs the labor Estimated and charged in time increments of the University's choosing, with all partial time increments rounded down 					
Nonpaper physical media costs <ul style="list-style-type: none"> Actual and most reasonably economical cost of computer discs, computer tapes, or other digital or similar media 					
Cost of paper copies (not including labor)					
Cost of mailing <ul style="list-style-type: none"> Actual cost of mailing, for sending records in a reasonably economical and justifiable manner and for least expensive form of postal delivery confirmation Does not include charge for expedited shipping or insurance unless stipulated by requestor 					
ESTIMATE TOTAL					\$6,710.65
<p><i>*The University may add up to 50% to the applicable labor charge amount to cover or partially cover the cost of fringe benefits if it clearly notes the percentage multiplier used. The University shall not charge more than the actual cost of fringe benefits, and overtime wages shall not be used in calculating the cost of fringe benefits. Overtime wages shall not be included in the calculation of labor costs unless overtime is specifically stipulated by the requestor and clearly noted in this detailed itemization.</i></p>					