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June 13, 2014

URGENT REQUEST – SENT BY E-MAIL AND FIRST-CLASS MAIL

Mr. Romano DeSimone
Director Hazardous Materials
CSX Transportation, Inc.
500 Water Street, 15th Floor
Jacksonville, FL 32202

RE: Maryland Public Information Act Request

Dear Mr. DeSimone:

On June 11, 2014, I informed you via telephone that the Maryland Department of the Environment (MDE) has received a public information request on June 9, 2014 pursuant to the Maryland Public Information Act (PIA), §§ 10-611 et seq. of the State Government Article, Annotated Code of Maryland (SG). The PIA request is for information that CSX provided to MDE that involves the shipment of one million gallons or more of crude oil by rail into Maryland, including the frequency of shipments, the quantity of the shipments, and the route(s) of the shipments.

As I advised CSX in writing on June 6, 2014, the non-disclosure agreement entitled, "CSX Guidelines for Handling Sensitive and Confidential Proprietary Business Information" (NDA), signed by Tom Levering of MDE is null and void for several reasons. First, the NDA is in contravention of the Maryland Public Information Act (PIA). Secondly, Tom Levering is an employee of MDE and has no legal authority to sign as the SERC or on behalf of the SERC.

There is no NDA that the parties can enter into that would allow anything other than compliance with the requirements of the Maryland Public Information Act (PIA). MDE is required by State law to comply with the requirements of the PIA and violations of the PIA are subject to civil and criminal penalties. That was the problem with your NDA from the onset. The NDA has no effect because it cannot be performed and enforced due to it is in contravention of the PIA. Thus, all public information requests received by MDE for information that CSX has provided to MDE will be handled and processed in compliance with the PIA.

Out of the information MDE received from CSX, the only documents that CSX marked, "CSX Confidential Security and Proprietary Business Information" is Exhibit 2, pages 4 and 5 (hereinafter collectively, "Exhibit 2"). Specifically, Page 4 lists the county, route name (subdivision), estimated number of trains: weekly average, and miles of track. Page 5 is a map of the state by counties that shows among other things, CSX rail service and crude oil route. Since the remaining information provided by CSX to MDE is not marked confidential by CSX, such information is to be made available to the public.

Under the PIA, MDE must either make Exhibit 2 (or portions of Exhibit 2) available to the requester or determine that it is entitled to confidential treatment and not make it available to the requester. In this regard, the requirements of the State law are very similar to those of the Federal Freedom of Information Act.

This letter is to advise you that MDE is engaged in making a determination as to whether Exhibit 2 marked, "CSX Confidential Security and Proprietary Business Information" contains confidential commercial information under SG § 10-617(d) of the PIA and to give you an opportunity to submit your comments on this issue. Your comments should address the following questions:

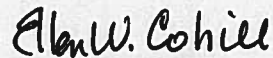
1. The specific portions of Exhibit 2 which you contend are entitled to confidential treatment;
2. Federal or state law that requires Exhibit 2 be specifically kept confidential and not disclosed to the public;
3. The period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specified event, or permanently);
4. All measures taken to guard against undesired disclosure of Exhibit 2 to others;
5. The extent to which Exhibit 2 has been disclosed to others and the precautions taken in connection therewith;
6. Whether disclosure of Exhibit 2 would likely result in substantial harmful effects to your competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects;
7. The extent to which Exhibit 2 is customarily regarded as confidential in your trade, and evidence to support this information; and
8. Whether Exhibit 2 to be provided to first responders on a need-to-know basis with a promise of confidentiality affects the requirement to keep Exhibit 2 confidential and why.

Please provide your comments to this office **no later than June 23, 2014**, as MDE needs to timely respond to the requester. Failure to submit comments by that date will be treated by MDE as a waiver of any claim you might make for confidential treatment of the information under SG § 10-617(d). Also, if information submitted as part of your comments is marked confidential when received, it will be regarded by MDE as entitled to confidential treatment to the extent permitted by law.

Please be advised that should MDE make a determination that there are no exemptions under the PIA that entitles Exhibit 2 (or portions of Exhibit 2) to confidential treatment, before any disclosure occurs to the requester, MDE agrees to notify CSX in writing so that CSX may seek a court order to protect Exhibit 2 (or portions of Exhibit 2) and any other information that CSX provided to MDE from disclosure under Maryland state law. Unless otherwise directed, the aforementioned notification will be sent to you at the e-mail and address listed in your e-mail communications with this office and MDE.

If you should have any questions, please do not hesitate to contact me directly at (410) 537-3050.

Sincerely,

A handwritten signature in black ink that reads "Ellen W. Cohill". The signature is written in a cursive, slightly slanted style.

Ellen W. Cohill
Assistant Attorney General