



October 6, 2011

Office of Information Programs and Services  
A/GIS/IPS/RL  
U. S. Department of State  
Washington, D.C. 20522-8100  
Facsimile: (202) 261-8579

Re: ***AMENDED Freedom of Information Act Request – FOIA Case Numbers 201101495 & 201008313 – Expedited Processing Requested***

Dear Freedom of Information Act Officer:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, Friends of the Earth, Corporate Ethics International (CEI), and Center for International Environmental Law (CIEL) hereby amends our previous FOIA request(s) (Case Numbers 201101495 and 201008313) and request the following documents, records, and materials pertaining to communications between the State Department and lobbyists or other individuals from McKenna Long & Aldridge, Bryan Cave LLP, DLA PIPER, and TransCanada regarding the Keystone XL pipeline between 2008 and the present. Specifically we request:

1. Documents regarding communications, meetings, or other contacts—including meeting minutes and scheduling notes—between the State Department and the following individuals:
  - a. Gordon Giffin, McKenna Long & Aldridge;
  - b. Mary Scott “Scotty” Greenwood, McKenna Long & Aldridge;
  - c. David Pollak, McKenna Long & Aldridge;
  - d. Alex McGee, McKenna Long & Aldridge;
  - e. Broderick Johnson, Bryan Cave LLP;
  - f. Jeff Berman, Bryan Cave LLP; and
  - g. James Blanchard, DLA PIPER.
2. Documents regarding communications, meetings, or other contacts—including meeting minutes and scheduling notes—between the State Department and TransCanada. This request includes documents regarding meetings or communications that any individual from TransCanada arranged or attended with the State Department or that the State Department arranged or attended with TransCanada.

For purposes of this request, “documents, records, and materials” should be interpreted to include copies of all correspondence, including, but not limited to, internal memoranda, memoranda and correspondence with any other federal, state or foreign agencies or individuals, papers, maps, data, scientific (clinical and nonclinical) studies, samples, schematics, field notes/reports, telephone logs, briefing/application documents, electronic mail, scheduling notes, meeting minutes, other correspondence between meeting attendees or those who scheduled meetings, and notes documenting any communication (regardless of physical form or characteristics) concerning the specific requests above.

As with our initial FOIA request, regarding this amended request we ask that State’s response comply with the Attorney General’s March 2009 FOIA memorandum, reiterating President Obama’s directive that in “the face of doubt, openness prevails.” Attorney General, Memorandum for Heads of Executive Departments and Agencies at 1 (March 19, 2009) (Attorney General Memorandum). Accordingly, we expect that State will apply a presumption in favor of disclosure and consider that it “should not withhold information simply because it may do so legally.” *Id.*; see also 40 C.F.R. § 1506.6(f) (noting the intersection of the National Environmental Policy Act and FOIA). We also expect that State will act promptly, in keeping with the Attorney General’s admonition that the timely disclosure of information “is an essential component of transparency.” Attorney General Memorandum at 3.

As with our initial request, as a non-profit organization, we also request a waiver of all fees incurred in providing these records because the “disclosure of the information is in the public interest because it is likely to contribute significantly to the public understanding of the operation or activities of the government and is not primarily in the commercial interest of the requester.” See 5 U.S.C. § 552 (a)(4)(A) (iii)). If our request for a fee waiver is denied and any expenses associated with this request are in excess of \$25.00, please obtain our approval before any such charges are incurred.

Disclosure of the requested information would inform the public of governmental activities affecting their safety, health and environment. Friends of the Earth, CEI, and CIEL are all not-for-profit charitable organization with no commercial interest in the information requested and have relevant expertise in the areas of environment and human health and environmental law. Friends of the Earth, CEI, and CIEL have a long and active history in addressing threats to human health and the environment posed by the development, production, shipment and processing of oil and gas, including tar sands oil. Friends of the Earth, CEI, and CIEL also have additional relevant experience with the proper implementation of the National Environmental Policy Act and other relevant statutes governing the Obama administration consideration of the Keystone XL pipeline project request.

Friends of the Earth, CEI, and CIEL will be taking numerous steps to disseminate the requested information to the public, and have a demonstrated and longstanding capacity to do so. We typically disseminate similar information through direct communication to journalists and other members of the media, through press releases, through newsletters to all of our members, through our web sites, through public meetings, and through other legislative and executive fora.

Because of the non-profit, public interest nature of Friends of the Earth, CEI, and CIEL, we have extremely limited financial resources with which to cover the copying and search expenses of this request. Our main purpose in requesting the documents is to increase public knowledge and participation in the government process so fundamental to the effective working of a democracy.

Pursuant to 5 U.S.C. § 552, we expect a response within twenty (20) working days of your receipt of this request. If this request is denied in whole or in part, we expect a detailed justification for withholding the records. We also request any segregable portions of records that are otherwise not expected to be disclosed by State in response to this request. Friends of the Earth, CEI, and CIEL reserve the right to appeal any denial of this request.

As with our initial request, regarding this amended request and pursuant to 5 U.S.C. § 552(a)(6)(E)(i) and 22 Code of Federal Regulations § 171.12(b), ***Friends of the Earth, CEI, and CIEL also request expedited processing of this FOIA request due to our compelling need for the information requested.*** A “compelling need” exists where the requester is “primarily engaged in disseminating information” and can demonstrate that “[t]he information is urgently needed ... in order to inform the public concerning actual or alleged Federal Government activity.” 22 C.F.R. § 171.12(b)(2); *see also* 5 U.S.C. § 552(a)(6)(E)(v). As stated above, Friends of the Earth, CEI, and CIEL are non-profit organizations primarily engaged in information dissemination, public education and advocacy on environmental issues. In addition, Friends of the Earth, CEI, and CIEL urgently need this information because the particular value of the information “will be lost if not disseminated quickly;” 22 C.F.R. § 171.12(b)(2)(i) and the documents and information sought concern an “[a]ctual or alleged Federal Government activity” as they pertain to the State Department’s decision whether to grant a Presidential Permit for the Keystone XL project. The State Department issued the final EIS for the Keystone XL project in August 2011 and the National Interest Determination process and public hearings have already begun. A State Department decision whether to grant TransCanada the Presidential Permit to build the Keystone XL pipeline across the U.S.-Canada border is imminent. The State Department’s permitting decision is an action “taken, contemplated or alleged by or about” the State Department, an agency of the U.S. Government. 22 C.F.R. § 171.12(b)(2)(ii). Friends of the Earth, CEI, and CIEL also reserve the right to appeal any denial of our request for expedited processing of this request.

Please contact us at the number(s) or email(s) listed below with any questions you may have about the materials we are requesting.

Thank you for your immediate attention to this matter.

Sincerely,

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