



June 26, 2014

Via Email: OEMFOIL@dhses.ny.gov

Records Access Officer
NYS Office of Emergency Management
1220 Washington Ave.
Building 22, Suite 101
Albany, NY 12226

**Re: Request for Records Pursuant to New York Freedom of Information Law:
Crude-by-Rail Route Information for Shipments of Bakken Crude in New York**

Dear Records Access Officer:

Earthjustice submits this request for the records identified below pursuant to the New York Freedom of Information Law, N.Y. Pub. Off. Law §§ 84 *et seq.*, on behalf of Sierra Club Atlantic Chapter, Riverkeeper, Inc., Environmental Advocates of New York, Adirondack Wild, Center for Biological Diversity, Waterkeeper Alliance, and People of Albany United for Safe Energy.

I. Definitions

1. “OEM” means the Office of Emergency Management in the New York State Division of Homeland Security and Emergency Services.
2. “USDOT Emergency Order” means the U.S. Department of Transportation Emergency Restriction/Prohibition Order Regarding Notification of Communities of Bakken Crude Oil Shipments, Docket No. DOT-OST-2014-0067 (May 7, 2014).

II. Records Requested

The following records are requested:

1. All records submitted to OEM by any rail carrier operating in the State of New York in response to the USDOT Emergency Order.
2. All records concerning any request by any rail carrier that information submitted to OEM in response to the USDOT Emergency Order be treated as confidential or otherwise not released to the public.
3. All records concerning or relating to any proposed, draft or final non-disclosure agreement, or any other agreement to limit public access to information provided in

response to the USDOT Emergency Order, including but not limited to communications between the State of New York and any rail carrier concerning such agreements.

III. Denial of Access

If access to any requested records is denied pursuant to Public Officers Law § 87(2), please notify the undersigned, in writing, of the ground(s) for such denial of access for each record withheld.

IV. Inspection and Copying

This request covers both paper and electronic records; Earthjustice would appreciate receiving records in electronic format, including scanned copies of paper records, whenever possible. Please note that Earthjustice is seeking these records as a 501(c)(3) not-for-profit corporation on behalf of seven not-for-profit corporations, and the records will be used in the public interest to inform citizens of the State of New York regarding rail shipments of Bakken crude oil through their communities. Therefore, we respectfully request the waiver of any fees associated with this request. If fees will not be waived, please provide notice, prior to copying, of the fees that OEM will assess for producing the records requested above.

V. Notification of Potential Confidentiality Litigation

In the event that any rail carrier subject to the USDOT Emergency Order files an action in federal or state court in New York seeking to prevent release of the records requested herein, we respectfully request notification of such litigation so that we may have the opportunity to intervene.

Thank you for your time and effort in responding to this request. If you have any questions, or wish to discuss OEM's response to this request, please contact the undersigned at (212) 845-7390 or at camato@earthjustice.org.

Sincerely,



Christopher Amato
Staff Attorney