May 17, 2004

Freedom of Information Coordinator
Research and Special Programs Administration
Office of Pipeline Safety
DPS-22
U.S. Department of Transportation
Room 7128
400 Seventh, SW
Washington, D.C. 20590

RE: FOIA Request

To Whom It May Concern:

Enclosed please find a FOIA request on behalf of the Pipeline Safety Trust. Upon reviewing the Department of Transportation’s website, we note four different addresses in which to send requests. To ensure the appropriate person receives the request, we have forwarded an identical copy to each of the following addresses:

Freedom of Information Coordinator
Research and Special Programs Administration
DCR-1
U.S. Department of Transportation
400 Seventh St., SW
Washington, DC 20590
Freedom of Information Coordinator
Research and Special Programs Administration
Office of Pipeline Safety
DPS-23
U.S. Department of Transportation
Room 2335
400 Seventh, SW
Washington, D.C. 20590

Gayle Mayhew
FOIA Contact
Research and Special Programs
400 Seventh St., SW
DCR-1/Room 8419
Washington, DC 20590

Should you have any questions, do not hesitate to call.

Sincerely,

[Bonne Beavers]
Attorney at Law

Enclosure
May 14, 2004

Freedom of Information Coordinator
Research and Special Programs Administration
DCR-1
U.S. Department of Transportation
400 Seventh Street, SW
Washington, DC 20590

Re: FOIA request

To Freedom of Information Coordinator:

This is a formal request on behalf of the Pipeline Safety Trust (PST) for agency records pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552. In general, the PST is seeking records pertaining to investigation and administrative proceedings by the Department of Transportation (DOT) and its sub agencies, the Research and Special Programs Administration (RSPA) and the Office of Pipeline Safety (OPS), concerning pipeline safety regulation violations by Equilon Pipeline Company LLC and Olympic Pipeline Company as a result of the pipeline disaster in Bellingham, Washington on June 10, 1999. Although RSPA issued a Notice of Probable Violation and Proposed Civil Penalty against these entities on June 2, 2000, RSPA has represented that there are no ongoing proceedings and that it does not expect to pursue enforcement further. (See attached March 17, 2004 letter of Samuel Bonasso, RSPA Deputy Administrator).

The PST requests the following agency records:
lists documents in the control of DOT pertaining to alleged Pipeline Safety Act and Clean Water Act violations by Olympic Pipeline Company.

2) All communications, including comments, correspondence, memoranda, letters, and/or e-mails, to or from Shell Pipeline Co., LP (Shell) and Equilon Pipeline Company LLC (Equilon), their respective officers, agents and employees, and the DOT, RSPA and OPS, their respective agents and employees, concerning alleged pipeline safety regulation violations and proposed civil penalties as set forth in the Notice of Probable Violation and Proposed Civil Penalty, CPF No. 5-2000-5013.

3) All communications, including comments, correspondence, memoranda, letters, and/or e-mails, to or from Olympic Pipe Line Company and British Petroleum (BP), their respective officers, agents and employees, and the DOT, RSPA and OPS, their respective agents and employees, concerning alleged pipeline safety regulation violations and proposed civil penalties as set forth in the Notice of Probable Violation and Proposed Civil Penalty, CPF No. 5-2000-5013.

4) All communications, including comments, correspondence, memoranda, letters, and/or e-mails, to or from DOT, RSPA and OPS, their respective agents and employees, and any other governmental agency, its officers, agents and employees, including but not limited to the Department of Justice, EPA, and members of Congress, concerning alleged pipeline safety regulation violations and proposed civil penalties as set forth in the Notice of Probable Violation and Proposed Civil Penalty, CPF No. 5-2000-5013.

5) All communications, including comments, correspondence, memoranda, letters, and/or e-mails, between DOT, RSPA, and OPS, their respective agents and employees, concerning alleged pipeline safety regulation violations and proposed civil penalties as set forth in the Notice of Probable Violation and Proposed Civil Penalty, CPF No. 5-2000-5013.

6) All documents filed in administrative proceeding CPF No. 5-2000-5013, including but not limited to briefs, opinions, affidavits, declarations, exhibits, memoranda, settlement agreements, memoranda of agreements, and/or any other filings, pleadings or documents.

7) In his March 17, 2004 letter to Congressman John D. Dingell concerning the above referenced pipeline violations, RSPA Deputy Administrator Samuel Bonasso claimed that “millions of dollars worth of corrective action [was] obtained through RSPA’s administrative case.” (See attached letter at page 2, paragraph 3, line 8.) We request all records produced in conjunction with the referenced “administrative case,” including but not limited to briefs, opinions, affidavits, declarations, exhibits, memoranda, settlement agreements, memoranda of agreements, and/or any other filings.

8) All communications, including emails, letters, comments, correspondence, and/or comments, between DOT, RSPA, OPS, its agents and employees, and Equilon and Shell, their respective officers, agents and employees, concerning the “administrative proceedings” referenced in request #7 above.

9) All communications, including emails, letters, comments, correspondence, and/or comments, between DOT, RSPA, OPS, its agents and employees, and Olympic Pipe Line Company and British Petroleum (BP), their respective officers, agents and employees, concerning the “administrative proceedings” referenced in request #7 above.
10) All communications, including comments, correspondence, memoranda, letters, and/or e-mails, between DOT, RSPA, OPS, their respective agents and employees, and other governmental agencies, their respective agents and employees, including but not limited to the DOJ, EPA, and Members of Congress, concerning the "administrative case" referenced in request # 7 above.

11) All records, in whatever form, generated by DOT, RSPA, or DOT concerning the identity of the operator of the Olympic Pipeline on June 10, 1999 and the prior ten years.

Format of requests

Pursuant to 49 C.F.R. § 7.14(5), PST requests the above records as paper documents or on computer diskettes or CD-Rom where these would save paper, time and labor.


The PST was established in 2003 as a nonprofit organization dedicated to improved fuel transportation safety through education and advocacy, by increasing access to information and by building partnerships with residents, safety advocates, and government. It was organized exclusively for charitable and educational purposes to help prevent harm to the general public, communities, and the natural environment that may be caused by the transportation of natural gas and hazardous liquids. Since 1986, in the United States there have been more than 6,000 reported oil and natural gas pipeline accidents, 343 deaths, 1,500 injuries, and more than $1 billion in property and environmental damage. On average, there is one pipeline accident every day and six million gallons of oil spilled every year. The purpose of the PST is to help prevent such accidents by ensuring a national pipeline system in which technology, policy and practice together provide the safest possible means of transporting fuel across the nation.

Purpose of this FOIA request

Although the RSPA testified in Congress that it was making better use of all enforcement tools, including the assessment of civil penalties against pipeline owners and operators who violate federal pipeline safety regulations, it appears the agency has been lax in collecting these fines. PST believes these fines are an important tool to achieve statutory compliance and thus safeguard our communities from further pipeline disasters. Therefore, it is making this request in order to help analyze how the OPS and RSPA implement their statutory authority to fine companies that do not comply with pipeline safety regulations in general and in this specific instance.

Qualifications for a public interest waiver under 49 C.F.R. § 7.44(f)

1. **Subject matter of the request:** This request seeks records that pertain directly to government operations and activities, namely those of RSPA and OPS in enforcing federal pipeline safety laws and holding pipeline operators and owners liable for violations of these laws.

2. **Contribution to an understanding of government activities:** The requested records will enable PST to evaluate OPS' priorities and performance in enforcing the laws necessary to keep our pipelines safe. The PST will use engineering and legal experts to assist it in analyzing the requested information so that it may provide independent advice to government and industry on related safety and environmental matters.
3. **Contribution to public’s understanding of government activities:** The PST will also publish its analysis on its website (www.pstrust.org) as well as the safepipelines listserv at safepipelines@egroups.com. It will also provide copies to local and national newspapers and to state and federal officials, including members of Congress such as Congressman Dingell, the Ranking Member on the Committee on Energy and Commerce, and the Secretary of the Department of Transportation, Norman Mineta.

4. **Significance of contribution to public understanding:** The accident at Bellingham that led to this fine was one of the worst liquid pipeline accidents in recent history. A complete understanding of the Federal government’s regulatory response to such an accident is imperative. That understanding will help the public understand whether all possible regulatory efforts were fully utilized to reduce the likelihood that such an accident is repeated. By analyzing the OPS and RSPA process used with reference to collecting a fine for this accident and publicizing that effort widely, PST will help prevent future accidents like the one at Bellingham and will contribute significantly to public understanding of the Federal government. This increased public understanding will lead to significant safety recommendations by the public and the PST to help OPS and RSPA in their efforts to increase public safety.

5. **Commercial interest:** The PST has no commercial interest in this information. It is a public charity under section 501 (c)(3) of the Internal Revenue Service Code as amended and conducts no mission-related or unrelated commercial activities.

6. **Commercial interest vs. public interest:** Because PST serves as a public interest organization working for safer pipelines and has no commercial interest in this information, the public interest in releasing this information outweighs any commercial interest.

Therefore, because disclosure of the requested information is in the public interest, is likely to contribute significantly to public understanding of the operations or activities of the government, and is not in PST’s commercial interest, PST is eligible for a fee waiver under FOIA and DOT’s implementing regulations.

We appreciate your timely attention to this matter. If you have any questions, feel free to contact me by phone or email.

Sincerely,

Bonne W. Beavers, Attorney at Law  
Center for Justice  
Counsel for the Pipeline Safety Trust  
Ph: 509.835.5211  
bbeavers@cforjustice.org

cc: Greg Winter, Pipeline Safety Trust