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September 26, 2014

Russell Gold
Staff Writer
The Wall Street Journal
4409 Shoal Creek Blvd.
Austin, TX 78756

RE: *File No.14-R-123; Nebraska Emergency Management Agency; Petitioner
Russell Gold, The Wall Street Journal*

Dear Mr. Gold:

This letter is in response to your petition received by us on September 2, 2014, in which you requested our review of the denial of certain public records belonging to the Nebraska Emergency Management Agency ("NEMA"). NEMA received these records in response to a recent federal order which required each railroad carrier to disseminate certain information to the state emergency response commission for each state in which it operates trains transporting 1,000,000 gallons or more of Bakken crude oil.¹ On September 16, 2014, we wrote to you indicating that we had conducted a preliminary investigation of your petition, and that it appeared to us that NEMA had properly withheld the requested records. However, we indicated that our response would be delayed so that we could obtain additional information from the agency. We have now completed our review of your petition for access to records under the provisions of the Nebraska Public Record Statutes, Neb. Rev. Stat. §§ 84-712 through 84-712.09 (2008, Supp. 2013).

In its denial letter to you dated August 29, 2014, NEMA relied on the "proprietary or commercial information" exception and the "security records" exception in Neb. Rev. Stat. § 84-712.05(3) and (8), respectively, as its basis to withhold the requested records. NEMA officials have since advised us that BNSF—the railroad which supplied information to NEMA pursuant to the federal Order—has abandoned its previous claims that the information was proprietary and should be kept confidential, leaving only the security records exception to support NEMA's continued withholding. However, with the

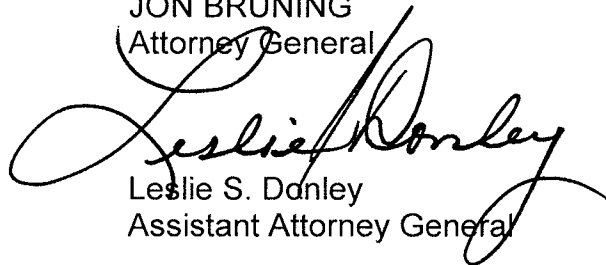
¹ Emergency Order, United States Department of Transportation, Petroleum Crude Oil Railroad Carriers, Docket No. DOT-OST-2014-0067, May 7, 2014 (the "Order").

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understanding that the exceptions listed in § 84-712.05 of the NPRS are discretionary and simply permit nondisclosure, NEMA officials have revisited whether to continue to withhold the requested records. In this regard, we understand that NEMA has decided not to assert an exception, even if one is available, to continue withholding this information. Consequently, NEMA will be providing the records to you at its earliest possible convenience.

Sincerely,

JON BRUNING
Attorney General



Leslie S. Donley
Assistant Attorney General

c: Assistant Director Tuma

49-1214-30