



**John  
King/R1/USEPA/US**  
07/17/2006 08:27 AM

To Alan G. Palmer  
cc Sharon Zaya/R1/USEPA/US@EPA, Mark  
Stein/R1/USEPA/US@EPA, David  
Webster/R1/USEPA/US@EPA,  
bcc  
Subject Merrimack Station's PIC

Alan,

Thanks for your email regarding the CBI status of the Merrimack Station PIC and sending us a redacted version of the document. We had understood that the redacted version "blacked out" the parts of the document that you considered CBI. Your email, however, states the following:

To be clear, it continues to be PSNH's position that the entire PIC is CBI, and PSNH is not waiving this argument under applicable federal or New Hampshire law. As a result, the attached copy of the PIC retains the "trade secret, proprietary or company confidential" banner on each page. We are providing this redacted copy as a courtesy and solely for EPA's internal use, without waiving any rights, . . .

While it is hard for us to see how the entire PIC could properly be CBI, we take your position seriously and want to make sure to handle the document appropriately.

We have received a request for a copy of the document from the Conservation Law Foundation in Concord, NH. They are apparently interested in the upcoming permit development. If we do not provide a copy, they will send us a request for it (and possibly other material) under the Freedom of Information Act and then we will have to go through a formal process with you to determine whether all or part of the PIC is properly treated as CBI. My lawyer (Mark Stein) tells that we have involved, formal procedures for making such a CBI determination under 40 CFR Part 2, Subpart B. We could save all of ourselves a lot of time and energy if you could authorize us to give CLF a copy of the redacted version of the PIC. We are hopeful this approach would satisfy their needs and would not violate your CBI request.

Please let us know if that would be acceptable to you as soon as possible, so that we can try to forestall them sending us a FOIA request.

Thanks for your cooperation (and prompt response),

John