

# **CLF EXHIBIT 04**

**CLF Freedom of Information Act Requests  
(February 25, 2010)**



For a thriving New England

CLF New Hampshire 27 North Main Street  
Concord, NH 03301  
P: 603.225.3060  
F: 603.225.3059  
www.clf.org

February 25, 2012

**BY MAIL AND EMAIL**

Regional Freedom of Information Officer  
U.S. EPA, Region 1 (OARM01-6)  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912  
[rlfoia@epa.gov](mailto:rlfoia@epa.gov)

**RE: Freedom of Information Act Request for Records Pertaining to Indirect Industrial Discharges to Publicly Owned Treatment Works From Public Service Company of New Hampshire's Merrimack Station**

Dear Freedom of Information Officer:

This letter constitutes a request (“Request”) to the Environmental Protection Agency (“EPA”) pursuant to the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). The Request is submitted on behalf of the Conservation Law Foundation (“CLF”).

CLF is a non-profit, member-supported organization that uses the law, economics, and science to protect public health and natural resources, and to promote vital communities in New England. CLF has a long history of advocacy to protect the health of water and aquatic-life resources in New Hampshire and New England.

A detailed description of the information requested by CLF and justification for a fee waiver follow.

**Definitions**

For the purpose of this Request, the following terms are defined as follows:

The term “records” includes any and all reports, statements, memoranda, analyses, designs, notes, contracts, meeting minutes, wastewater shipment and/or receipt records, monitoring data, proposals, permit applications, permit modifications, notices, and written communications.

The term “communications” means the giving, receiving, transmitting, or exchanging of information, including, but not limited to, any and all written correspondence (including e-mail), any records of printed, telephonic, electronic, or other forms of communications, including documents that memorialize or refer to any such communications. The term includes, but is not limited to, intra-agency communications.



The term “Merrimack Station” means the coal fired power plant operated by PSNH in Bow, New Hampshire.

The term “PSNH” means Public Service Company of New Hampshire and its parent company, Northeast Utilities.

The term “POTW” means publicly owned treatment works and, for purposes of this Request, excludes certain specific POTWs that are the subject of a separate CLF FOIA Request of even date, namely: the Winnepesaukee River Basin Program Wastewater Treatment Facility located in Franklin, NH, and POTWs owned or operated by the City of Concord, NH, the Town of Allenstown, NH, the Town of Hooksett, NH and the City of Manchester, NH.

The term “notice” includes, but is not limited to, the term “adequate notice” as commonly used in EPA NPDES permits for POTWs relative to effluent limitations and monitoring requirements as they relate to indirect industrial discharges.<sup>1</sup>

### **Records Requested**

CLF requests an opportunity to inspect and copy, as necessary, all records in the possession, custody, or control of EPA, including any officers, divisions or bureaus thereof, on the topics listed below.

1. All records and / or communications pertaining to the indirect industrial discharge of wastewater from PSNH’s Merrimack Station facility into or through any POTW, including but not limited to:
  - a. Any notice and related records provided to EPA by the owner or operator of any POTW relative to the introduction of pollutants into its POTW from PSNH’s Merrimack Station, and any records and / or communications in any way responsive or related to any such notice;
  - b. Any records and / or communications received from and / or provided to PSNH, the New Hampshire Department of Environmental Services, the Maine Department of Environmental Protection, the Massachusetts Department of Environmental Protection, and / or the owner or operator of any POTW, regarding the collection, shipment, and / or receipt of wastewater from PSNH’s Merrimack Station for indirect discharge into a POTW.

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<sup>1</sup> For example, Paragraph 6(c) of Part I.A. of EPA NPDES Permit No. NH0100901 states:

For purposes of this paragraph, adequate notice shall include information on:

- (1) the quantity and quality of effluent introduced into the facility; and
- (2) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the facility.



- c. Any records and / or communications related to any investigation by EPA into indirect discharges from PSNH's Merrimack Station to any POTW.
- d. Any records and / or communications consisting of or pertaining to water quality monitoring data related to the effect of indirect industrial discharges from PSNH's Merrimack Station on POTW effluent and / or waters of the United States.
- e. Any records and / or communications pertaining to the quality or characteristics of POTW biosolids in relation to indirect discharges from PSNH's Merrimack Station.

If this Request is denied in whole or part, we ask that EPA provide a justification for any such denial, including any redaction of information, by reference to specific exemptions set forth in the FOIA and release all segregable portions of otherwise exempt material. CLF reserves the right to appeal a decision to withhold any information or to deny a waiver of fees.

### **Fee Waiver Request**

CLF requests a fee waiver because disclosure of the requested information is in the public interest and the subject of this Request directly concerns the operations or activities of government and disclosure is likely to contribute to an understanding of government operations or activities. CLF is a non-profit organization dedicated to addressing environmental concerns in New England. CLF seeks additional facts to understand where wastewater generated by PSNH's Merrimack Station (wastewater containing mercury and other pollutants) is being discharged into waters of the United States, and to evaluate the environmental and health impacts of such discharges, including whether, as a result of such discharges, violations of the Clean Water Act are occurring. CLF also is requesting this information to evaluate whether pollutants from PSNH's Merrimack Station are affecting the quality of POTW biosolids, and the fate of such pollutants in relation to the use and / or disposal of biosolids. CLF is requesting this information to protect public health and the environment from pollutants associated with wastewater discharged indirectly through POTWs. CLF's mission includes activities to educate the public about such pollution impacts and their effects on public health and the environment.

CLF has no commercial interest that would be furthered by this Request. CLF will not derive income or other benefit from use of the requested information.

### **Conclusion**

Thank you for your assistance with this Request. Should you have any questions, please contact me by phone at 603-225-3060 or by email at [tirwin@clf.org](mailto:tirwin@clf.org).



Sincerely,

A handwritten signature in black ink that reads "Thomas F. Irwin". The signature is fluid and cursive, with the first name being the most prominent.

Thomas F. Irwin  
Vice President & CLF-New Hampshire Director

TFI/dlh



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The term “New Hampshire POTW” means the Winnepesaukee River Basin Program Wastewater Treatment Facility located in Franklin, NH, and the publicly owned treatment works owned and / or operated by the City of Concord, NH, the Town of Allenstown, NH, the Town of Hooksett, NH, and the City of Manchester, NH.

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1. All records and / or communications pertaining to the indirect industrial discharge of wastewater from PSNH’s Merrimack Station facility into or through any New Hampshire POTW, including but not limited to:
  - a. Any notice and related records provided to EPA by the owner or operator of any New Hampshire POTW relative to the introduction of pollutants into its POTW from PSNH’s Merrimack Station, and any records and / or communications in any way responsive or related to any such notice;
  - b. Any records and / or communications received from and / or provided to PSNH, the New Hampshire Department of Environmental Services, and / or the owner or operator of any New Hampshire POTW, regarding the collection, shipment, and / or receipt of wastewater from PSNH’s Merrimack Station for indirect discharge into a POTW.

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- e. Any records and / or communications pertaining to the quality or characteristics of POTW biosolids in relation to indirect discharges from PSNH's Merrimack Station.

If this Request is denied in whole or part, we ask that EPA provide a justification for any such denial, including any redaction of information, by reference to specific exemptions set forth in the FOIA and release all segregable portions of otherwise exempt material. CLF reserves the right to appeal a decision to withhold any information or to deny a waiver of fees.

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Sincerely,

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Thomas F. Irwin  
Vice President & CLF-New Hampshire Director

TFI/dlh