

October 27, 2010

The Honorable John E. Baldacci
Office of the Governor
#1 State House Station
Augusta, Maine 04333-0001

Dear Governor Baldacci:

I am writing concerning a letter dated October 20, 2010 from Mr. Richard Hewes of the Maine Department of Transportation (DOT) in response to a Freedom of Access request made by John Lannen, Executive Director of the Truck Safety Coalition. The Freedom of Access request was submitted to the Maine DOT on October 15, 2010 for records pertaining to the document entitled "Interstate Highway Truck Weights - White Paper" dated September 20, 2010 prepared by the agency to evaluate a one-year pilot program allowing trucks weighing 100,000 pounds gross vehicle weight to travel on Maine's interstates. The request for information was made, pursuant to our state's Freedom of Access Statute, 1 MRSA §401 et seq. (See attached response from Mr. Hewes.)

I join in the records request submitted by Mr. Lannen as a citizen of Maine and mother whose son was needlessly killed in a truck crash, as the founder of Parents Against Tired Truckers (P.A.T.T.), and as the Maine Volunteer Coordinator of the Truck Safety Coalition. Furthermore, I am outraged by the response of the Maine DOT for several reasons and that is why I am contacting you. First, I find Mr. Hewes' response specious that the amount of time that will be needed to gather information regarding a document that is only five pages and a pilot program with a one-year duration will be "substantial" and that it covers a "voluminous amount of material". It could appear as though this is a deliberate stalling tactic to deny the public access to critical data used in the report to justify extending the pilot program as well as an attempt to cover up the role of special trucking interests in providing information to the agency and collaborating in the preparation of the White Paper. The Truck Safety Coalition has serious concerns about the safety implications of both the White Paper and the pilot program and needs this information to independently evaluate the findings of Maine DOT and assess the safety consequences. It is difficult to believe that records pertaining to the White Paper are not immediately available for public release and review. Since Congress will soon be returning for a lame duck session and will likely be considering legislation to extend or make the pilot program permanent, it is essential that the public have access to this information. There is no justification for the Maine DOT to be secretive and selective when it comes to life and death issues affecting Maine families.

I would point out that the Maine DOT document was conveniently prepared and released just as an extension of the Maine Pilot Program was being considered by Congress in late September. The timing of the release of that document appears to have been intentional in order to support continuation of the pilot program. I'm sure you agree that public officials should not engage in politically motivated actions or manipulate the State bureaucracy to serve special interests. The public has a right to know and to analyze the data and information relied on by State employees before decisions are made that affect the lives of Maine's citizens. That is why the records relied on by Maine DOT to prepare the White Paper must be released immediately before any further consideration by Congress of a statutory provision to extend the pilot program or make it permanent. Delay by Maine DOT is not an option. If the information contained in the White Paper is reliable and factual, Maine DOT has nothing to hide. If, however, trucking interests had a role in the preparation of the report then the public has a right to know.

Second, the denial of the Truck Safety Coalition's request for a waiver of associated costs under 1 MRSA § 408(6) is quite frankly shocking considering that the information requested fits the criteria enumerated in subsection (B) on all points, "Release of the public record requested is in the public interest because

doing so is likely to contribute significantly to public understanding of the operations or activities of government and is not primarily in the commercial interest of the requester.” The requestor, Truck Safety Coalition, is a non-profit organization that pursues safety improvements through safety policy and public education and has no commercial or economic interests in the release of the requested public records. Since I am now joining in the request of the Truck Safety Coalition, I also seek a waiver on behalf of P.A.T.T., a non-profit educational organization, and as a citizen of Maine with the sole interest of informing and educating the public about the operations of their government and safety issues involving taxpayer funded highways.

Third, in the past, the Truck Safety Coalition has made a Freedom of Access request and a fee waiver request and both were granted without any additional correspondence or issues. In fact, copies of the requested documents were sent by return mail to the Truck Safety Coalition within days of the request and without delay or other bureaucratic interference. I find it troublesome and unacceptable that asking my state government for information that it should have readily and easily made available to citizens was responded to by saying it will take two weeks just to get an estimate of the amount of money it will cost to fulfill our request, especially when all fees should have been waived. This is unjustified and unworthy of your Administration. After all, it is the taxpayers of Maine who paid for the White Paper and continue to pay for the maintenance of the roadways affected by the pilot program.

In the interest of reducing time and costs needed to satisfy our request, I would like to offer to travel to Augusta to review the documents, pursuant to 1 MRSA § 408(1), as soon as possible.

Additionally, I would like to request that in the cost estimate that Mr. Hewes is preparing that each action needed to fulfill the request is specifically stated, as well as the amount of time and cost associated for each action. I would also like to request a list of the documents, including the titles or descriptions of the ones claimed to be confidential under Maine law. Lastly, if the request for a waiver of associated costs is denied, I would like to request that the estimate include consideration of a waiver of part of the fees, pursuant to 1 MRSA § 408(6), and that it is stated for which actions the waiver will be applied. Please respond to this request within the five (5) business day time period provided in 1 M.R.S.A. § 409(1).

James Russell Wiggins, the former editor of the Ellsworth American and a beloved Mainer once stated, “*The more that government becomes secret, the less it remains free.*” In the spirit of this quote, I greatly appreciate your cooperation in making this information available immediately and at no cost to me and our safety organizations.

Sincerely,



Daphne Izer
Parents Against Tired Truckers
235 Ferry Road
Lisbon, ME 04250-6233

cc: Mr. David Cole, Commissioner of Transportation
Richard N. Hewes, Esq., Transportation Attorney
John Lannen, Executive Director, Truck Safety Coalition