



Martin O'Malley, *Governor*
Anthony G. Brown, *Lt. Governor*

State Highway
Administration

Beverley K. Swaim-Staley, *Secretary*
Neil J. Pedersen, *Administrator*

MARYLAND DEPARTMENT OF TRANSPORTATION

November 19, 2009

Mr. Greg Smith
Director, Community Research
9320 Saint Andrews Place
College Park MD 20740

Dear Mr. Smith:

Thank you for your letter requesting documents under the Maryland Public Information Act (MPIA) dated Friday, October 23, 2009 to Beverley Swaim-Staley, Secretary of the Maryland Department of Transportation (MDOT). Secretary Swaim-Staley forwarded your response on November 9, 2009.

I am responding as the official custodian of the public records of the Maryland State Highway Administration (SHA). I am responding only on behalf of SHA; you will receive a separate response from the official custodian of the public records of the Maryland Transportation Authority (MdTA). You indicate that you are making a request both under the MPIA and under the United States Freedom of Information Act. I must advise you that MDOT and its administrations are subject to the MPIA only. The provisions of the United States Freedom of Information Act do not apply to an agency of the State of Maryland.

You have requested all analyses performed or reviewed during the planning study for the Intercounty Connector (ICC), particularly relating to tolls, traffic, economic benefits, financial and cost projections, and environmental impacts. The SHA and MdTA have already provided, to you, a searchable hard drive with a copy of all such analyses; in fact, the hard drive contains the entire Administrative Record for the ICC environmental/planning study. These documents were provided free of charge in connection with the litigation, *Audubon Naturalist Society of the Central Atlantic States, Inc., Sierra Club, et al. v. United States Department of Transportation, et al.*, AW-06-3386 and AW-07-1480 (Consolidated) (U.S. District Court for the District of Maryland). You have also requested from SHA all of the Financial Plans for the ICC submitted to the Federal Highway Administration (FHWA). All of these documents are posted on the ICC website, www.iccproject.com, and are available from this source free of charge.

My telephone number/toll-free number is 410-545-0400 or 1-800-206-0770


Maryland Relay Service for Impaired Hearing or Speech 1.800.735.2258 Statewide Toll Free

Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone 410.545.0300 • www.sha.maryland.gov

All analysis performed by SHA relating to tolls is contained within this Administrative Record, and on the ICC Project website. It appears from the Appendix to your letter that you have consulted many of the documents in this Administrative Record as well as some of the Updates to the Financial Plan submitted to FHWA.

Although it is SHA's position that you have been provided with, or have access to, the public records that you seek, pursuant to SG 10-622, you are entitled to an administrative review of a decision to deny access to public documents. If requested, such review will be conducted in accordance with SG 10-205 through 221, and the hearing regulations of the agency published at COMAR 00.00.01. You may also seek judicial review under SG 10-623.

Sincerely,



Neil J. Pedersen
Administrator

cc: Mr. Harold M. Bartlett, Deputy Secretary, Maryland Department of Transportation
Mr. Ronald L. Freeland, Executive Secretary, MdTA
Mr. Edward S. Harris, Counsel to the SHA
Mr. Thomas G. Peter, Deputy Counsel to MDOT
Ms. Valerie J. Smith, Principal Counsel, MdTA
Ms. Beverley K. Swaim-Staley, Secretary, MDOT