

Dave Hart

From: Gunnar Johnson
Sent: Monday, July 17, 2006 10:11 AM
To: Matt Sjoberg; Mike Larson; Brian Hiti; Dave Hart
Cc: Gunnar Johnson; Doug Gregor; Kim Anderson
Subject: Excelsior Energy Data Practices Request

Attorney Carol Overland called me this morning. She wants the Excelsior documents because her testimony is due to the court on August 14th. I told her that the agency's response should be sent out by the end of this week or early next week. I also told her that the agency would send her the documents rather than make her come all the way up to Eveleth.

She also indicated that she does not think that the statutory requirements were met regarding the site infrastructure. She will be subpoenaing someone from the agency to testify in late October/early November. I suggested Brian; she wants Sandy.

She wanted to make sure that the agency sends all future correspondence to her new address: PO Box 176, Redwing, MN 55066.

Call me if you have any questions.

Gunnar B. Johnson
Assistant Attorney General
Office of the Attorney General
P.O. Box 441, 4261 Hwy. 53 South
Eveleth, MN 55734-0441
(218) 744-7314
(218) 744-7401 fax

The information contained in this e-mail and any attached files is intended for the use of the individual or entity named above, and constitutes an ATTORNEY-CLIENT COMMUNICATION which is privileged and exempt from disclosure under applicable law. If the reader of this e-mail is not the intended recipient, you are requested to refrain from reading this e-mail or examining any attachments to the e-mail. Please notify the person sending the message of the mistaken delivery immediately.

FACSIMILE TRANSMISSION SHEET



IRON RANGE
Resources
Advancing regional growth.

Iron Range Resources
P.O. Box 441
4261 Highway 53 South
Eveleth, Minnesota 55734-0441
(218) 744-7400 • 800-765-5043
Fax: (218)744-7403

To: Than Tibbetts

From: Dave Hart

Fax Number: 218-326-6627

Pages: 5

Re: Non-Disclosure Agreement

Date: December 1, 2006

Message:

Operator:

Note: If not received in full, please call the above number and ask for operator by name. Thank you.

EXCELSIOR ENERGY, INC. PROJECT
NON-DISCLOSURE AGREEMENT

This Non-Disclosure Agreement (hereafter the "Agreement") is being made and entered into as of the date of the last required signature entered below, and is between Excelsior Energy Inc. a business corporation organized and operating under the laws of the State of Minnesota (herein referred to as "Excelsior") and the State of Minnesota, acting by and through its administrative agency known as the Office of the Commissioner of Iron Range Resources and Rehabilitation (herein referred to as the "IRRRA").

EXCELSIOR proposes to disclose to the IRRRA certain information concerning its power generation needs, capabilities, and related energy system technology concepts which EXCELSIOR regards as confidential information. Such disclosure is being made by EXCELSIOR in regard to its potential application to the IRRRA for public financial assistance for its business enterprise and activities. Although the relevant energy generation system industry may be aware of certain information which EXCELSIOR regards and proposes to designate as confidential, EXCELSIOR believes and has informed the IRRRA that such relevant industry may not know that EXCELSIOR uses such information, or how EXCELSIOR uses such information. Although the relevant industry may generally know of various fragments of information which EXCELSIOR designates as confidential, it may not know how EXCELSIOR combines such information or what results EXCELSIOR intends to obtain from such combinations. Therefore, EXCELSIOR regards the information which it uses and in part proposes to make available to the IRRRA, as "confidential information" in the common usage of that term. Specifically, EXCELSIOR regards as confidential, without limitation:

1. All reading matter, all verbal discussions pertaining to/of EXCELSIOR, all technical papers, trade secrets, manufacturing, marketing, sales, cost, pricing and financial information of EXCELSIOR and its owner(s); and,
2. Proprietary processes and designs, inventions, formulas, technical drawings and data, research subjects, reports, methods and results, unpublished product specifications and characteristics, plans for future product development, potential facilities and sites, experimentation testing and results, technical information relating to combinations of existing technology to new products, marketing plans and strategies, pricing policies, and cost and profit information.

By this Agreement EXCELSIOR is seeking to obtain from the IRRRA assurances of that such information which EXCELSIOR provides to the IRRRA, when and as received by the IRRRA, will be used and treated by the IRRRA as confidential information to the maximum extent permitted by the Act (as defined below).

The IRRRA as a governmental entity of the State of Minnesota is subject to, and its actions in regard to information it receives and maintains are governed by, the provisions of the Minnesota Government Data Practices Act which is contained in Minnesota Statutes, Chapter 13 (as currently existing and as subsequently amended, the "Act"). Under the Act, the term "Government Data" means and includes all data collected, created, received, maintained or disseminated by a state agency such as

the IRRRA regardless of its physical form, storage media or conditions of uses. The Act provides that all Government Data is public unless otherwise classified as "Not Public Data". The term "Not Public Data" is defined by the Act as any government data which is classified by statute, federal law, or temporary classification as confidential, private, non public, or protected nonpublic. Various provisions within the Act classify various types of Government Data as "Not Public Data". EXCELSIOR understands that the IRRRA's ability to treat the data received by it from or on behalf of EXCELSIOR is controlled by and limited to the protections for such data afforded by and pursuant to the provisions of the Act. IRRRA agrees and commits that it will regard and treat all data received from EXCELSIOR as Not Public Data to the maximum extent permitted by the Act. The IRRRA further agrees and commits that it will promptly inform EXCELSIOR by written or facsimile notice as provided below of any request received by the IRRRA from any third party (party other than IRRRA or its agents, employees, or contractors) for disclosure of any Government Data received from or on behalf of EXCELSIOR and of the IRRRA's intended response to such request for data, and will not furnish any such data to the requesting party sooner than the fifth (5th) State business day following its receipt of such request in order to afford Excelsior time to institute legal actions to protect or prevent the disclosure of such requested data.

Notwithstanding any of the above provisions, the IRRRA will not be responsible for regarding as Not Public Data any EXCELSIOR information which:

1. is in the IRRRA's possession prior to receipt thereof from EXCELSIOR (which fact of prior possession must be proved by documents prepared prior to the date of disclosure of such information by EXCELSIOR); or
2. is in the public domain or enters the public domain at the time of disclosure through no act or failure to act by the IRRRA; or
3. following disclosure, becomes generally known or available through no act or mission on the part of the IRRRA; or
4. is known or becomes known to the IRRRA from a source other than Excelsior or its representatives, provided that disclosure by such source is not in breach of a confidentiality agreement with Excelsior; or
5. is independently developed by the IRRRA without violating any of its obligations under this Agreement; or
6. is lawfully disclosed by the IRRRA to any third party as a matter of right and without restriction, including any disclosures of such EXCELSIOR information required by the Act or made in response to any judicial order or governmental directive (other than a directive by an official of the IRRRA which is not mandated by the provisions of the Act).

EXCELSIOR will mark all materials which it furnishes to the IRRRA which it regards as confidential with the words "Information Regarded as Confidential by EXCELSIOR", and the IRRRA will retain such words on any copies of any such materials made by IRRRA for its use. The IRRRA understands and agrees that EXCELSIOR by disclosing to the IRRRA the information which it regards as confidential is not granting the IRRRA any license or rights to use such information under any patent, trademark copyright or other proprietary right of EXCELSIOR.

IRRRA agrees that, upon EXCELSIOR's request received prior to submission of EXCELSIOR's request for financial assistance to the Iron Range Resources and Rehabilitation Board (the "Board"), it will promptly, to the extent permitted under Minnesota law, return to EXCELSIOR all copies in whatever form received from EXCELSIOR of the information which EXCELSIOR regards as confidential that may then be in the IRRRA's possession or under the IRRRA's control.

Unless otherwise specifically provided herein, all notices shall be in writing addressed to the respective party as set forth below and may be personally served, telecopied or sent by overnight courier service or United States mail and shall be deemed to have been given:

1. if delivered in person, when delivered;
2. if delivered by telecopy, on the date of transmission (with confirmation of receipt) if transmitted on a State Business Day (weekdays other than Saturday or Sunday or Minnesota legal holidays) before 4:00 p.m. Central time or, if not, on the next succeeding State Business Day;
3. if delivered by overnight courier with instructions to deliver on the next State Business Day, on the State Business Day after delivery to such courier properly addressed; or
4. if by U.S. Mail, four (4) days after depositing in the United States mail, with postage for certified mail, return receipt requested, prepaid and properly addressed;

to the respective party as set forth below:

To IRRRA:

Attn: Sandy Layman, Commissioner
Office of the Commissioner of Iron Range Resources and Rehabilitation
1006 Highway 53 South
P.O. Box 441
Eveleth, Minnesota 55734-0441
Facsimile Transmission Number: (218) 744-7401

To EXCELSIOR:

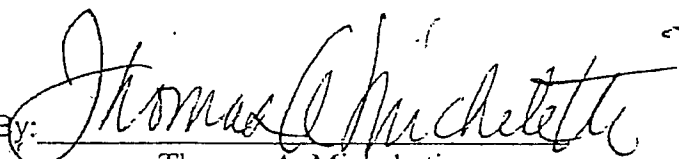
Attn: Thomas A. Micheletti, Principal
Excelsior Energy, Inc.
519 Ferndale Rd. N.
Wayzata, MN 55391
Facsimile Transmission Number: (952) 473-2012

or, as to each party, at such other address as shall be designated by such party in a written notice to the other party complying as to delivery with the terms of this paragraph.

This Agreement shall be governed by the laws of the State of Minnesota, and may be executed in any number of counterparts, each of which counterparts when so executed and delivered shall be deemed an original, and all of which counterparts when taken together shall constitute but one and the same agreement.

IN WITNESS WHEREOF the parties have entered into this Agreement each intending to be bound by the terms thereof.

EXCELSIOR ENERGY INC., a Delaware corporation ("Excelsior")

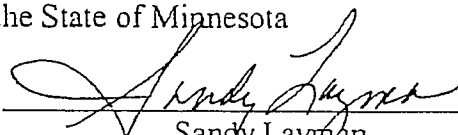
By: 
Thomas A. Micheletti

Title: Principal

Date: July 7, 2003

K:\ECCODEV\ExcelsiorEnergy\confagr\fnl3.doc

OFFICE OF THE COMMISSIONER OF IRON RANGE RESOURCES AND REHABILITATION, an administrative agency of the State of Minnesota

By: 
Sandy Layman

Title: Commissioner

Date: August 11, 2003

Dave Hart

From: Dave Hart
Sent: Thursday, January 25, 2007 4:06 PM
To: Sheryl Kochevar
Subject: FW: public information

Unless Excelsior brings legal action by February 2, 2007 to prevent us from providing the requested information, coordinate with Mr. Tibbetts to provide him copies of the requested invoices with the appropriate charges.

Dave

From: Dave Hart
Sent: Thursday, January 25, 2007 3:26 PM
To: Thomas Osteraas; 'Thomas Micheletti'
Cc: Gunnar Johnson
Subject: public information

Than Tibbetts, of the Grand Rapids Herald, requested copies of the full invoices from Sherner; Browsers; Chadbourne & Park; Latham & Wadkins; Leonard, Street & Deinard; Schulte; Fagre & Benson; Lockridge, Grindal & Nauen; Ceteris; Stability; John Hill; L. Douglas Carter and mCapitol.

Our attorney, Gunnar Johnson, has reviewed the invoices and does not believe they are "not public" under the statutes. Per the terms of our agreement, with this e-mail, I am giving you a 5-day notice that we will provide the invoices to Mr. Tibbetts.

Dave

Dave Hart

From: Than Tibbetts [than.tibbetts@mx3.com]
Sent: Friday, January 19, 2007 3:39 PM
To: Dave Hart
Subject: Re: FW: Than Tibbetts Request

Acknowledged.
Thanks, Dave.

Dave Hart wrote:

Sorry for the late reply, I have been out of the office. The question is at our attorneys. I will follow up with them on Monday.

From: Than Tibbetts [mailto:than.tibbetts@mx3.com]
Sent: Tuesday, January 16, 2007 4:27 PM
To: Dave Hart
Subject: Re: FW: Than Tibbetts Request

Hi Dave,
About a month ago I faxed a clarification Data Practices Act request to IRR and haven't received a response. Specifically, I was asking that the agency make the determination regarding "confidential and privileged" information rather than it being at Excelsior's discretion. Do you have an update on this or should I assume that IRR is sticking with Excelsior's decision?

Thanks,
Than

++++
Than Tibbetts
Staff Writer
Grand Rapids Herald-Review
o: (218) 326-6623 x302
c: (651) 295-0308
e: than.tibbetts@mx3.com

Dave Hart wrote:

Excelsior Energy believes that the information you are requesting is non-public for the reasons stated in the attached letter. I am busy this PM, but I am available this AM to discuss it if you like.

Dave

From: William Harrington [<mailto:WilliamH@excelsiorenergy.com>]

Sent: Thursday, December 07, 2006 4:13 PM

To: Dave Hart

Cc: Gunner.Johnson@IronRangeResources.org

Subject: Than Thibbets Request

Please see the attached letter.

Will Harrington

Excelsior Energy Inc.

11100 Wayzata Boulevard, Suite 305

Minnetonka, MN 55305

Direct: 952-847-2372

Cell: 612-802-7669

Fax: 952-847-2373

Grand Rapids Herald-Review

Grand Rapids Newspapers, Inc
301 1st Avenue N.W. / P.O. Box 220, Grand Rapids, MN 55744
Telephone 218-326-6623 (FAX - 218-326-6627)

TELECOPY TRANSMITTAL COVER SHEET

DATE: 12/13/06

TO: Sandy Layman, Commissioner
Dave Hart

FAX NUMBER: (218) 744-7402

FROM: Than Tibbetts

TOTAL PAGES INCLUDING COVER SHEET: 3

If you do not receive all pages, please call our office at (218)326-6623.

REMARKS: Dave -
Please see
order/med.
Thanks,
Than

SENT BY: TH

G... 1-10-06

Than Tibbetts
Staff Writer
Grand Rapids Herald-Review
301 NW First Avenue
Grand Rapids, MN 55744

...
...
...
...

December 13, 2006

Sandy Layman, Commissioner
Dave Hart
Iron Range Resources
4261 Hwy 53 S
Eveleth, MN 55734

Dear Commissioner Layman and Dave Hart,

Pursuant to the state's open records law, Minnesota Statutes Chapter 13, I am writing to request access to information labeled "Privileged or Confidential Information Redacted" within Iron Range Resources' files regarding \$9.5 million in loans to Excelsior Energy, Inc.

Specifically, I am requesting the full invoices, including cost and description of activities performed, from the following companies or individuals that have been redacted as "privileged or confidential": Shierner Power Consulting; Browers Consulting; Chadbourne & Park; Latham & Wadkins; Leonard, Street and Deinard; Schulte Associates; Faegre & Benson; Lockridge Grindal Nauen; Ceteris, Inc.; Stability Consulting; John Hill Energy Services; L. Douglas Carter; mCapitol Management.

I request your response within ten (10) business days.

This request is in modification to my previous request. Here I am requesting that, pursuant to Chapter 13, Iron Range Resources issue the decision regarding the status of data marked "privileged or confidential" information, rather than deferring to Excelsior's counsel.

In response to my previous request, Excelsior's counsel claimed exemption under the "trade secret" and "business plan" classifications of Chapter 13. A quick examination of opinions issued by the Department of Administration's Information Policy Administration Division shows that the classification of "trade secret" and "business plan" has a very narrow application. (See opinions 98-026, 98-045, 98-050, 98-054, 05-024 and 06-005, for example.)

When ready, please contact me by my office telephone at (218) 326-6623 or by my mobile phone at (651) 295-0308.

Thank you for your assistance.

Sincerely,

Than Tibbetts
Staff Writer
Grand Rapids Herald-Review

EXCELSIOR ENERGY INC.

December 7, 2006

Dave Hart
Iron Range Resources
4261 Highway 53 South
Eveleth, MN 55734

Dear Mr. Hart:

I am writing in response to Than Tibbets's December 6, 2006 request for copies of the full invoices of various consultants to Excelsior Energy.

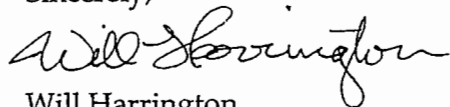
Under Minnesota Statutes § 13.37 Subd. 1(b), the information that Mr. Tibbets is requesting constitutes "trade secret information" and is therefore "nonpublic data" under Minnesota Statutes § 13.02 Subd. 9. Consequently, that information is not accessible to the public under applicable Minnesota law.

Minnesota Statutes § 13.37 Subd. 1(b) applies for two primary reasons. First, Excelsior consistently maintains the secrecy of the information in those documents. Second, Excelsior derives independent economic value from that information not being known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.

Additionally, the information contained in the invoices that Mr. Tibbets is requesting would reveal portions of Excelsior's business plan. Consequently, the data is "nonpublic" under Minnesota Statutes § 13.591 Subd. 2, and it is therefore not available to the public.

Feel free to contact me if you have any questions.

Sincerely,



Will Harrington
Counsel
Excelsior Energy Inc.

cc: Gunnar Johnson, Esq.

11100 WAYZATA BOULEVARD
SUITE 305
MINNETONKA, MN 55305
PHONE: 952.847.2360
FAX: 952.847.2373



WWW.EXCELSIORENERGY.COM

424 ROOSEVELT AVENUE
P.O. BOX 227
COLERAINE, MN 55722
PHONE: 218.245.1205
FAX: 218.245.1604

Dave Hart

From: Thomas Osteraas [TomOsteraas@excelsiorenergy.com]
Sent: Thursday, June 29, 2006 1:51 PM
To: Dave Hart; Thomas Micheletti
Cc: Gunnar Johnson
Subject: RE: Excelsior/Mesaba - Data Practices Request to IRRRB

Return-Path: tomosteraas@excelsiorenergy.com
X-OriginalArrivalTime: 29 Jun 2006 22:55:14.0274 (UTC) FILETIME=5318420:01C69BCF]

Hi Dave - I just spoke to Gunnar and understand how you intend to respond. Thanks for keeping us informed.

Tom

Thomas L. Osteraas
Vice President and General Counsel
Excelsior Energy Inc.
11100 Wayzata Boulevard, Suite 305
Minnetonka, MN 55305
Tel: 952.847.2366
Fax: 952.847.2373
Email: TomOsteraas@ExcelsiorEnergy.com
www.excelsiorenergy.com

-----Original Message-----

From: Dave Hart [mailto:Dave.Hart@ironrangeresources.org]
Sent: Thursday, June 29, 2006 1:49 PM
To: Thomas Osteraas; Thomas Micheletti
Subject: FW: Excelsior/Mesaba - Data Practices Request to IRRRB

We have received a request for information under the Data Practices Act. We are bound by statute to comply with the request. Our intent is to review the file and comply with the statute and our Non-Disclosure Agreement. Please call me (800-765-5043 ext. 311) or Gunnar Johnson (ext.314) with questions.

Dave

-----Original Message-----

From: Brian Hiti
Sent: Thursday, June 29, 2006 9:43 AM
To: Matt Sjoberg
Cc: Gunnar Johnson; Doug Gregor; Dave Hart; Mike Larson
Subject: FW: Excelsior/Mesaba - Data Practices Request to IRRRB

-----Original Message-----

From: Carol A. Overland [mailto:overland@redwing.net]
Sent: Wednesday, June 28, 2006 11:10 PM
To: Steve Mihalchick
Cc: ahenkel@mutilityinvestors.org; apm@mcmlaw.com; bblazar@mnchamber.com; bdohrwardt@briggs.com; bgoodpaster@mncenter.org; brian.meloy@LEONARD.COM; Bruce.Johnson@state.mn.us; byron.starns@LEONARD.COM; christopher.b.clark@xcelenergy.com; christophergreenman@excelsiorenergy.com; daafedt@winthrop.com; dmoeller@allete.com; dsasseville@lindquist.com; eswanson@winthrop.com; Janet.Gonzalez@state.mn.us; jdrawz@fredlaw.com; jerome.larsen@hpc-llc.com; jshaddix@janetshaddix.com; judy.m.poferl@xcelenergy.com; Julia.Anderson@state.mn.us; Maria.Lindstrom@state.mn.us; mkrikava@briggs.com; mrolfes@otpc.com; msmith@fredlaw.com; pete.grills@grillslegal.com;

rhs@schulteassociates.com; rs.l@mcmlaw.com; sagonna.thompson@excelsiorenergy.com;
sclemmer@ucsusa.org; scott.harris@LEONARD.COM; Sharon.Ferguson@state.mn.us;
squam@fredlaw.com; Susan.Mackenzie@state.mn.us; tguerrero@lindquist.com;
tomosteraas@excelsiorenergy.com; Valerie.Smith@state.mn.us; Sandy Layman; Brian Hiti;
Sheryl Kochevar
Subject: Excelsior/Mesaba - Data Practices Request to IRRRB

Ms. Layman and Mr. Hiti:

Attached please find Data Practices Request under Minn. Stat. 13.03.
Hard copy to follow.

Please let me know when I may come up and review the file and scan documents.

Thanks

Carol A. Overland
Attorney for mncoalgasplant.com

--
Carol A. Overland
Attorney at Law
OVERLAND LAW OFFICE
P.O. Box 176
Red Wing, MN 55066
(612) 227-8638 (cell)
overland@redwing.net
nfld.us/blogs/caroloverland

Dave Hart

From: Dave Hart
Sent: Thursday, June 29, 2006 1:49 PM
To: Thomas Oстераas (tomosteraas@excelsiorenergy.com); Tom Micheletti (tommicheletti@excelsiorenergy.com)
Subject: FW: Excelsior/Mesaba - Data Practices Request to IRRRB
Attachments: IRRB Data Practices Act Request.pdf; IRRRB Nov 7 2005.pdf; IRRRB June 19 2006.pdf



IRRB Data Practices Act Reques...



IRRRB Nov 7 2005.pdf (62 KB)



IRRRB June 19 2006.pdf (207 KB...)

We have received a request for information under the Data Practices Act. We are bound by statute to comply with the request. Our intent is to review the file and comply with the statute and our Non-Disclosure Agreement. Please call me (800-765-5043 ext. 311) or Gunnar Johnson (ext.314) with questions.

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Cc: Gunnar Johnson; Doug Gregor; Dave Hart; Mike Larson
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Sent: Wednesday, June 28, 2006 11:10 PM
To: Steve Mihalchick
Cc: ahenkel@mnutilityinvestors.org; apm@mcmlaw.com; bblazar@mnchamber.com; bdohrwardt@briggs.com; bgoodpaster@mncenter.org; brian.meloy@LEONARD.COM; Bruce.Johnson@state.mn.us; byron.starns@LEONARD.COM; christopher.b.clark@xcelenergy.com; christophergreenman@excelsiorenergy.com; daafedt@winthrop.com; dmoeller@allete.com; dsasseville@lindquist.com; eswanson@winthrop.com; Janet.Gonzalez@state.mn.us; jdrawz@fredlaw.com; jerome.larsen@hpc-llc.com; jshaddix@janetshaddix.com; judy.m.poferl@xcelenergy.com; Julia.Anderson@state.mn.us; Maria.Lindstrom@state.mn.us; mkrikava@briggs.com; mrolfes@otpc.com; msmith@fredlaw.com; pete.grills@grillslegal.com; rhs@schulteassociates.com; rsl@mcmlaw.com; sagonna.thompson@xcelenergy.com; sclemmer@ucsusa.org; scott.harris@LEONARD.COM; Sharon.Ferguson@state.mn.us; squam@fredlaw.com; Susan.Mackenzie@state.mn.us; tguerrero@lindquist.com; tomosteraas@excelsiorenergy.com; Valerie.Smith@state.mn.us; Sandy Layman; Brian Hiti; Sheryl Kochevar
Subject: Excelsior/Mesaba - Data Practices Request to IRRRB

Ms. Layman and Mr. Hiti:

Attached please find Data Practices Request under Minn. Stat. 13.03.
Hard copy to follow.

Please let me know when I may come up and review the file and scan documents.

Thanks

Carol A. Overland
Attorney for mncoalgasplant.com

Carol A. Overland
Attorney at Law
OVERLAND LAW OFFICE
P.O. Box 176
Red Wing, MN 55066

(612) 227-8638

overland@redwing.net

Fax: 1 (651) 388-1112

June 28, 2006

Sandy Layman, Commissioner
Iron Range Resources
4261 Hwy. 53 South
P.O. Box 441
Eveleth, MN 55743-0441

Brian Hiti, Deputy Commissioner
Iron Range Resources
4261 Hwy. 53 South
P.O. Box 441
Eveleth, MN 55743-0441

RE: Excelsior/Mesaba Data Practices Act Request under Minn. Stat. §13.03

Dear Ms. Layman and Mr. Hiti:

I represent mncoalplant.com (MCGP) in the PUC's Excelsior/Mesaba docket and the PUC/Commerce siting docket.

This is a Data Practices Act Requests regarding Excelsior's Mesaba project under Minn. Stat. §13.03.¹ Please gather the information requested, and let me know when I may come in to inspect the file. I'll bring my scanner to avoid copying costs.

The Mesaba enabling legislation requires that the site have infrastructure:

216B.1694, Subd. 2 INNOVATIVE ENERGY PROJECT.

(3) that is designated by the commissioner of the iron range resources and rehabilitation board as a project that is located in the taconite tax relief area on a site that has substantial real property with adequate infrastructure to support new or expanded development and that has received prior financial and other support from the board.

Please see attached letters dated June 19, 2006, of Mr. Hiti, and November 7, 2005, of Ms. Layman. Regarding these missives:

1) In Ms. Layman's letter of November 7, 2005, which states that:

Based on this Agency's ongoing efforts in support of the Mesaba Energy Project and the analysis of Agency staff of the proposed site near taconite, Minnesota... I hereby designate the Mesaba Energy Project as one that meets the requirements set forth in Minnesota Statutes, Section 2165B.1695(sic), Subdivision 1, Paragraph 3, whether it is located at the Preferred Site or the Alternative Site.

To Ms. Layman regarding the above paragraph in the letter of November 7, 2005:

a) Provide documentation of all your site visits to the Preferred Site.

¹ www.revisor.leg.state.mn.us/data/revisor/statutes/2005/13/03.html

- b) Provide documentation of each item of "adequate infrastructure to support new or expanded development" present both on or before November 7, 2005 and at the present time, specifically addressing each of the following, and other infrastructure that may be on site. If there is none of a particular type of infrastructure, state "none" beside that item. If there is documentation that there is no infrastructure, provide that documentation.:
1. Rail tracks and other infrastructure
 2. Road access and traffic controls
 3. Natural gas pipeline and metering equipment
 4. Water supply pipeline and metering equipment
 5. Water discharge pipeline
 6. Water treatment facility
 7. Transmission - 345kV or 230kV
 8. Safety infrastructure including fire, medical and police protection
 9. CO2 sequestration pipeline
- c) Provide source of information and documentation upon which your designation of November 7, 2005, is based.

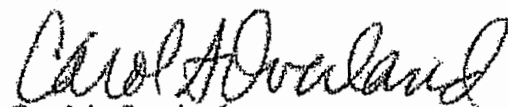
To Mr. Hiti regarding the letter of June 19, 2006:

- d) Provide documentation of all your site visits to the Preferred Site.
- e) Provide documentation of each item of "adequate infrastructure to support new or expanded development" present both on or before November 7, 2005 and at the present time, specifically addressing each of the following, and other infrastructure that may be on site. If there is no documentation of a particular type of infrastructure, state "none" beside that item. If there is documentation that there is no infrastructure, provide that documentation.:
1. Rail tracks and other infrastructure
 2. Road access and traffic controls
 3. Natural gas pipeline and metering equipment
 4. Water supply pipeline and metering equipment
 5. Water discharge pipeline
 6. Water treatment facility
 7. Transmission - 345kV or 230kV
 8. Safety infrastructure including fire, medical and police protection
 9. CO2 sequestration pipeline
- f) Provide source of information and documentation upon which your letter of June 19, 2006, is based.

FYI, I will be requesting a Subpoena for Ms. Layman's hearing appearance to enter the above information regarding infrastructure in the record. The hearing is currently scheduled for late October and early November, and scheduling will be somewhat flexible (I don't know whether Excelsior intends to offer an IRRRB representative as a witness).

Please let me know when I may come up and scan the documentation addressing the above issues.

Very truly yours,



Carol A. Overland

Attorney for mincoalgasplant.com

IRON RANGE

Advancing regional growth.



November 4, 2003

Thomas A. Micheletti
Excelsior Energy, Inc.
519 Ferndale Rd. N.
Wayzata, MN 55391

Sent via facsimile and U.S. Mail

**RE: IRRRA/Excelsior Energy, Inc.
Non-Disclosure Agreement dated August 11, 2003**

Dear Mr. Micheletti:

Enclosed please find a copy of an Information Disclosure Request we received from Scott Thistle of the Duluth News Tribune. As provided in the Non-Disclosure Agreement referenced above, the IRRRA is hereby notifying you of the enclosed request for disclosure of government data received or on behalf of Excelsior Energy, Inc. The IRRRA will not furnish any of the data to the requesting party sooner than the fifth business day following the transmission of this letter. The reason for this delay is to afford your company time to institute legal action, if necessary.

If you have any questions about this matter, please contact Gunnar Johnson or me at 1-800-765-5043.

Sincerely,

Brian Hiti
Acting Deputy Commissioner

Enclosures

Iron Range Resources
& Rehabilitation Agency
P.O. Box 441
4261 Highway 53 South
Eveleth, MN 55734-0441
(218) 744-7400



www.irrra.org

An Equal Opportunity Employer

Date of Request: 11/3/2003

Request Received By: _____

Iron Range Resources & Rehabilitation Agency

INFORMATION DISCLOSURE REQUEST
Minnesota Government Data Practices Act

1. Requestor's Name: THISTLE SCOTT B
Last First MI

2. Address: 424 W. FIRST ST
DULUTH, MN
55802

3. Telephone: 218-723-5312 or 651-398-5226

4. Description of Information Requested:
COPIES OF EXCLUSIVE ENERGY
BUDGET FOR IRRA AGENCY GRANTS
OR LOANS
* SEE ACCOMPANYING LETTER

5. Requestor's Signature: [Signature]

Office Use Only

1. Department/Division Name: _____

2. Request Type: In-Person Mail Phone

3. Fees: None If over 1000 copies - employee time will be charged
of Pages: _____

4. Employee Signature: _____

5. Request Approved Request Denied (If denied, please refer to reason below)

6. Remarks or Comments: _____

If mailed, return form and fees to:
Iron Range Resources & Rehabilitation Agency, P.O. Box 441, Eveleth, MN 55734

Date of Completion: _____
Request Completed By: _____

Duluth News Tribune

424 West First Street, Duluth, Minnesota 55802

P: 218-723-5281

duluthnewstribune.com

F: 218-723-5295

November 3, 2003

Sandy Layman
Commissioner
Iron Range Resources Agency
P.O. Box 441, Eveleth, MN 55734

Dear Commissioner Layman;

Pursuant to the state open records law, Minn. Stat. Ann. Secs. 13.01 to 13.99, I am writing to request access to and copies of any documents in the possession of the Iron Range Resources and Rehabilitation Agency relating to Mesaba Energy Project and Excelsior Energy, Inc.

Specifically, I am requesting documents that outline how Excelsior has spent or is planning to spend \$500,000 of agency grant funds previously awarded to them. I would also request access to and a copy of any budget or pro forma presented to the agency, which outlines how Excelsior would spend the additional \$1.7 million it is requesting in agency grant and/or loan support.

If your agency does not maintain these public records, please let me know who does and include the proper custodian's name and address.

I agree to pay any reasonable copying and postage fees of not more than \$50. If the cost would be greater than this amount, please notify me. Please provide a receipt indicating the charges for each document.

I request your response within ten (10) business days.

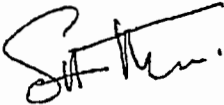
If you choose to deny this request, please provide a written explanation for the denial including a reference to the specific statutory exemption(s) upon which you rely.

Please be advised I am prepared to pursue whatever legal remedy necessary to obtain access to the requested records. Willful violation of the open records law can result in a fine of up to \$10,000, disciplinary action and awards for costs and disbursements, including reasonable attorney fees.

When ready, you can forward the documents to me at the address above. You can reach me by e-mail, sthistle@duluthnews.com; by phone, 723-5312; or cell phone, (651) 398-5226.

Thank you for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Thistle". The signature is stylized with a large initial "S" and a long horizontal stroke.

Scott Thistle
Legislative Reporter
Duluth News Tribune

cc: Joseph J. Roby, Jr., Johnson, Killen & Seiller, P.A.; and Doug Gregor, Minnesota Assistant Attorney General.

Dave Hart

From: Thistle, Scott [sthistle@duluthnews.com]
Sent: Tuesday, August 30, 2005 12:07 PM
To: Dave Hart
Subject: Request for information on Excelsior

Return-Path: sthistle@duluthnews.com

X-OriginalArrivalTime: 30 Aug 2005 17:06:53.0203 (UTC) FILETIME=804EE30:01C5AD85]

Dave,

Could I please have a copy of the most current project update on Excelsior Energy, Inc. I would also like a copy of the packet presented to the board prior to the approval of the \$8 million loan package for Excelsior.

Thanks,
Scott Thistle