May 23, 2017

VIA ELECTRONIC MAIL

Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, OH 43216-1049
Laura.zarlino@epa.ohio.gov

Re: Ohio Public Records Request: Rover Pipeline

Dear Ms. Zarlino:

The Center for Biological Diversity (“Center”) submits this request under the Ohio Public Records Law, Oh. Rev. Code. § 149.43. The Center is a non-profit organization that works to secure a future for all species hovering on the brink of extinction through science, law, and creative media, and to fulfill the continuing educational goals of its membership and the general public in the process.

REQUESTED RECORDS

The Center requests the following records from the Ohio Environmental Protection Agency (“Ohio EPA”):

1. All records generated during fulfillment of obligations under the National Environmental Policy Act, 42 U.S.C. §§ 4321-4370h (“NEPA”) with respect to the Rover Pipeline construction and/or operation;

2. All records generated during fulfillment of obligations under the Endangered Species Act, 16 U.S.C. §§ 1531-1544 (“ESA”) with respect to the Rover Pipeline construction and/or operation;

3. All Facility Response Plans mentioning, including, and/or referencing the Rover Pipeline;

4. All Area Contingency Plans and/or records mentioning, including, and/or referencing the Rover Pipeline;

5. All records mentioning, including, and/or referencing the Rover Pipeline spill, See generally http://radio.wosu.org/post/rover-pipeline-spills-ohio-wetlands, website last visited May 19, 2017; and
All records of communications to, from, with, and/or between Ohio EPA, Federal Energy Regulatory Commission (“FERC”), and/or U.S. Fish & Wildlife Service (“FWS”) mentioning, including, and/or referencing the Rover Pipeline spill, See generally http://radio.wosu.org/post/rover-pipeline-spills-ohio-wetlands, website last visited May 19, 2017.

For this request, the term “all records” refers to, but is not limited to, any and all documents, correspondence (including, but not limited to, inter and/or intra-agency correspondence as well as correspondence with entities or individuals outside the federal government), emails, letters, notes, telephone records, telephone notes, minutes, memoranda, comments, files, presentations, consultations, biological opinions, assessments, evaluations, schedules, telephone logs, papers published and/or unpublished, reports, studies, photographs and other images, data (including raw data, GPS or GIS data, UTM, LiDAR, etc.), maps, and/or all other responsive records, in draft or final form.

The Center asks that records responsive to this request be provided in electronic format. If the Ohio EPA is unable to promptly provide a response to this request, we ask that you certify that fact in writing. If you expect a significant delay in responding to or in fulfilling this request, please contact me immediately.

**FEE WAIVER REQUEST**

The Center asks for a waiver of any fees associated with this request because providing the requested records primarily benefits the general public. The Center is a non-profit organization seeking the requested records for non-commercial purposes, and we intend to share the records received with other interested organizations at no cost. This records request will provide the Center and the public with crucial insight into the Rover Pipeline construction and eventual spill. It is clear that oversight of more than two million gallons of drilling fluid spilled into the Ohio wetlands is a specific and identifiable activity of the government, in this case the state branch agency, the Ohio EPA.

Access to government records, disclosure forms, and similar materials through public records requests is essential to the Center’s role of educating the general public. Founded in 1994, the Center is a 501(c)(3) nonprofit conservation organization (EIN: 27-3943866) with more than 1.3 million members and online activists dedicated to the protection of endangered and threatened species and wild places. The Center has no commercial interest and will realize no commercial benefit from the release of the requested records.

In consistently granting the Center’s fee-waivers, agencies have recognized: (1) that the information requested by the Center contributes significantly to the public’s understanding of the government’s operations or activities; (2) that the information enhances the public’s understanding to a greater degree than currently exists; (3) that the Center possesses the expertise to explain the requested information to the public; (4) that the Center possesses the ability to disseminate the requested information to the general public; (5) and that the news media recognizes the Center as an established expert in the field of imperiled species, biodiversity, and impacts on protected species. The Center’s track record of active participation in oversight of
governmental activities and decision making, and its consistent contribution to the public’s understanding of those activities as compared to the level of public understanding prior to disclosure are well established.

The Center intends to use the records requested here similarly. The Center’s work appears in more than 2,000 news stories online and in print, radio and TV per month, including regular reporting in such important outlets as *The New York Times*, *Washington Post*, and *Los Angeles Times*. In 2016, more than 2 million people visited the Center’s extensive website, viewing a total of more than 5.2 million pages. The Center sends out more than 277 email newsletters and action alerts per year to more than 1.3 million members and supporters. Three times a year, the Center sends printed newsletters to more than 58,016 members. More than 233,000 people have “liked” the Center on Facebook, and there are regular postings regarding environmental protection. The Center also regularly tweets to more than 52,200 followers on Twitter. The Center intends to use any or all of these far-reaching media outlets to share with the public information obtained as a result of this request.

Thus, because the Center regularly gathers information of potential interest to a segment of the public – including information obtained through public records requests – uses its editorial skills to turn the raw materials into distinct work, distributes that work to an audience, and intends to do all of the above in connection with the records requested here. The Center is seeking the requested records in the public interest, and as part of news about the recent Rover Pipeline spill into the Ohio wetlands.

Thank you for considering my request. If you have any questions, you may contact me directly at (971) 717-6409 or foia@biologicaldiversity.org. All records and any related correspondence should be sent to my attention at the address below. We look forward to your timely response.

Sincerely,

Margaret E. Townsend  
Open Government Staff Attorney  
CENTER FOR BIOLOGICAL DIVERSITY  
P.O. Box 11374 Portland, OR 97211-0374  
foia@biologicaldiversity.org