

McGLINCHEY STAFFORD PLLC

Brooks Eason
Direct: (601) 960-3522
Facsimile: (601) 960-8406
beason@mcglinchey.com

JACKSON
NEW ORLEANS
HOUSTON
BATON ROUGE
CLEVELAND
MONROE
DALLAS
ALBANY

November 8, 2006

Christine S. Gurland
FOIA Officer
U.S. Department of Transportation,
Maritime Administration
MAR-224, Room 7221
400 7th Street S.W.
Washington, D.C. 20590

Via Facsimile 202-366-7485 & Regular Mail

SECOND SUPPLEMENTAL FOIA APPEAL

TIME IS OF THE ESSENCE

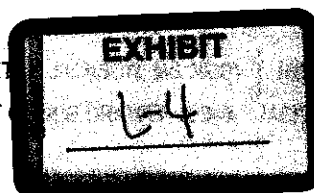
Re: MARAD FOIA Control No. 06-024

Identity of Requester: Jeffrey W. Peters, Esq.
Montgomery Barnett
Attorneys & Counselors at Law
3200 Energy Centre
1100 Poydras Street
New Orleans, Louisiana 70163-3200

NOTE: THIS SUPPLEMENTAL APPEAL RELATES TO THE NON-DISCLOSURE OF DOCUMENTS IDENTIFIED IN LISTS ENCLOSED WITH THE NINETEENTH AND TWENTY-FIRST PARTIAL RESPONSES TO THIS FOIA REQUEST.

Dear Ms. Gurland:

This is a further supplemental appeal in relation to MARAD's withholding of documents responsive to the FOIA request of Northrop Grumman Ship Systems, Inc. ("NGSS"), which we represent. The documents we seek pursuant to this appeal are described on lists enclosed by MARAD with its nineteenth and twenty-first partial responses to NGSS's FOIA request. We have attached copies of the lists and have marked those documents appearing on the lists that we seek pursuant to this appeal. To assist in the review of these documents, we have also written the number of the partial response to which each list corresponds at the top of that list.



Christine S. Gurland

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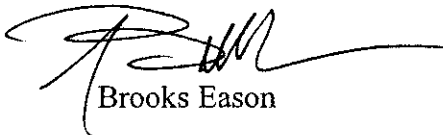
11/8/2006

In support of this appeal, we adopt the arguments reflected in my letter to you of September 25, 2006. We do not believe the highlighted documents can be withheld pursuant to Exemption (b)(5) of FOIA. Not only do the descriptions fail to establish that the documents are subject to the deliberative process privilege or any other privilege, but a number of the documents actually constitute correspondence with third parties, which could not conceivably be protected by any privilege.

Thank you for your attention to this appeal. Because of the length of time taken by MARAD to begin producing documents in response to NGSS's FOIA request, we ask that MARAD act as quickly as possible to produce the documents that are the subject of this appeal.

Sincerely,

McGlinchey Stafford, PLLC



Brooks Eason

BE/msp

Enclosures

cc: Joel Richard (w/ enc.)
Steve Brandon, Esq. (w/o enc.)
Candy Burnette, Esq. (w/o enc.)
Steve Williamson, Esq. (w/o enc.)

NINETEENTH

**DOCUMENTS WITHHELD IN THEIR ENTIRETY
PURSUANT TO EXEMPTION (b)(5)**

- X 1. **January 26, 2001** – Email from Pete O’Connell, to John Carnes, regarding Surveys of Searex Equipment. (9 pages)
2. **February 2, 2001** – Letter to Enid Francis, Hale Boggs Federal Building, from E. Kathleen Shahan, regarding Searex, Inc. and Searex Energy Services, Inc. (3 pages)
3. **February 8, 2001** – Letter to E. Kathleen Shahan, Department of Justice, from Eneid A. Francis, Civil Division of Justice, regarding Searex, Inc. – Bankruptcy Court. (2 pages)
- X 4. **February 20, 2001** – Letter to E. Kathleen Shahan, from Eddie J. Jordan, Jr., regarding Searex, Inc. and Searex Energy Services, Inc. (2 pages)
5. **March 9, 2001** – Email from Kathie Shahan, to Julie Agarwal, regarding revision to United States Objection to Trustee’s Petition of Disclaimer and Abandonment, or in the Alternative Modification to Petition of Disclaimer and Abandonment. (7 pages)
- X 6. **March 12, 2001** – Email from Kathie Shahan, to Tracey Whitaker, regarding Searex and objection to special counsel. (2 pages)
7. **March 20, 2001** – Email from Kathie Shahan, to Julie Agarwal, regarding case cites. (1 page)
8. **March 23, 2001** – Email from Kathie Shahan, to Julie Agarwal, regarding MARAD’s rights based upon Ingalls Damage to Security. (8 pages)
9. **March 23, 2001** – Email from Kathie Shahan, to Julie Agarwal, regarding Complaint. (64 pages)
10. **March 23, 2001** – Email from Kathie Shahan, to Julie Agarwal, regarding Plaintiff’s motion for temporary restraining order. (27 pages)
11. **March 26, 2001** – Email from Kathie Shahan, to Julie Agarwal, regarding Petition For Executory Process. (8 pages)
12. **March 27, 2001** – Email from Kathie Shahan, to Julie Agarwal, regarding need for assistance. (2 pages)
13. **March 27, 2001** – Email from Kathie Shahan, to Julie Agarwal, regarding Petition for Executory Process. (8 pages)

Page 2

14. **March 30, 2001** – Email from Kathie Shahan, to Julie Agarwal, regarding vendors. (5 pages)
15. **March 30, 2001** – Email from Kathie Shahan, to Julie Agarwal, regarding vendor's letters. (2 pages)
16. **March 30, 2001** – Email from Kathie Shahan, to Julie Agarwal, regarding revised vendor letter. (1 page)
17. **March 30, 2001** – Email from Kathie Shahan, to Julie Agarwal, regarding UCC Complaint. (8 pages)
- X 18. **March 30, 2001** – Letter to Honorable Eddie J. Jordan, Jr., Hale Boggs Federal Building, from J. Christopher Kohn, Director, Commercial Litigation Branch, regarding Searex, Inc. (2 pages)
19. **April 3, 2001** – Email from Eneid Francis, to Julie Agarwal, regarding Searex, Draft Complaint reply. (1 page)
- X 20. **April 4, 2001** – Claims Collection Litigation Report regarding Searex, Inc. (20 pages)
21. **April 5, 2001** – Email from Kathie Shahan, to Julie Agarwal, regarding Searex, reply. (1 page)
22. **April 11, 2001** – Email from Kathie Shahan, to Julie Agarwal, regarding Searex, Inc. reply. (1 page)
- X 23. **April 11, 2001** – Letter to Federal Highway Administration, Department of Transportation, from Kathleen A. Haggerty, Director, Debt Collection Management, Department of Justice, regarding Searex, Inc. (1 page)
24. **April 24, 2001** – Email from Catherine Maraist, to Julie Agarwal, regarding Searex, Inc. Foreclosure of Trident Crusader. (7 pages)
25. **April 24, 2001** – Letter to Nationwide Central Intake Facility, Department of Justice, from Eneid A. Francis, Civil Division, Department of Justice, regarding Searex, Inc. (1 page)
26. **April 26, 2001** – Email from Kathie Shahan, to Julie Agarwal, regarding Searex. (1 page)

Page 3

27. **May 1, 2001** – Email from Eneid Francis, to Julie Agarwal, regarding Searex, Inc. (1 page)
28. **May 1, 2001** – Email from Julie Agarwal, to Kathie Shahan, regarding Searex, Inc. (1 page)
29. **May 1, 2001** – Email from Julie Agarwal, to Kathie Shahan, regarding Searex, Inc. (1 page)
30. **May 11, 2001** – Email from Catherine Maraist, to Julie Agarwal, regarding Searex. (7 pages)
31. **May 17, 2001** – Email from Kathie Shahan, to Julie Agarwal, regarding Searex, In. Charter Hire. (1 page)
32. **May 24, 2001** – Email from Kathie Shahan, to Julie Agarwal, regarding Bibby Materials. (1 page)
33. **June 4, 2001** – Email from Kathie Shahan, to Julie Agarwal, regarding United States' Motion to Determine MARAD's Interest in and Right to Use Debtor' Intellectual Property. (13 pages)
34. **June 4, 2001** – Email from Kathie Shahan, to Catherine Maraist, regarding Searex and AUSA. (1 page)
35. **June 4, 2001** – Email from Kathie Shahan, to Julie Agarwal, regarding Notice of Withdrawal of Objection. (5 pages)
36. **June 4, 2001** – Email from Kathie Shahan to Julie Agarwal, regarding questions regarding Searex. (2 pages)
37. **June 4, 2001** – Email from Kathie Shahan, to Julie Agarwal, regarding questions about Searex. (2 pages)
38. **June 4, 2001** – Email from Kathie Shahan, to Julie Agarwal, regarding question about Searex. (2 pages)
- X 39. **June 6, 2001** – Email from Peter Myer, to Catherine Maraist, regarding Searex meeting. (1 page)
40. **June 6, 2001** – Email from Kathie Shahan, to Peter Myer, regarding Searex meeting. (1 page)

Page 4

41. **June 7, 2001** – Email from Catherine Maraist, to Julie Agarwal, regarding Verified Complaint for Foreclosure of First Preferred Ship Mortgage and For Moneys Due on Promissory Note. (13 pages)
42. **June 8, 2001** – Email from Kathie Shahan, to Crockett Lindsey, regarding Searex meeting. (1 page)
43. **June 11, 2001** – Email from Kathie Shahan, to Julie Agarwal, regarding United States' Motion to Determine MARAD's Interest In and Right to Use Debtor's Intellectual Property. (14 pages)
44. **June 20, 2001** – Email from Kathie Shahan, to Julie Agarwal, regarding addresses. (12 pages)
45. **June 20, 2001** – Email from Catherine Maraist, to Julie Agarwal, regarding Searex. (1 page)
46. **June 20, 2001** – Email from Catherine Maraist, to Julie Agarwal, regarding Searex.- Declaration of John G. Hoban. (7 pages)
47. **June 26, 2001** – Email from Catherine Maraist, to Julie Agarwal, regarding draft of Declaration in Support of Plaintiff's Application for Appointment of Substitute Custodian. (3 pages)
48. **June 27, 2001** – Email from Catherine Maraist, to Julie Agarwal, regarding Notice of Arrest and Filing of Action. (3 pages)
49. **June 27, 2001** – Email from Catherine Maraist, to Julie Agarwal, regarding Draft of Declaration in Support of Plaintiff's Application for Appointment of Substitute Custodian. (4 pages)
50. **June 28, 2001** – Email from Catherine Maraist, to Julie Agarwal, regarding Declaration of John G. Hoban. (7 pages)
51. **June 28, 2001** – Email from Catherine Maraist, to Julie Agarwal, regarding Affidavit of Kenneth Legnon in Support of Plaintiff's Application for Appointment of Substitute Custodian. (4 pages)
52. **July 8, 2001** – Email from Catherine Maraist, to Julie Agarwal, regarding complaint filed. (1 page)

1 Twenty - First

**DOCUMENTS WITHHELD IN THEIR ENTIRETY
PURSUANT TO EXEMPTION (b) (5) OF THE FOIA**

X

1. **July 13, 2000** – E-Mail to Eugenem@prestongates.com; henin@baermarks.com; ddraper@hellerdraper.com from Julie Agarwal [Julie Agarwal at MAR220] on behalf of Julie Agarwal regarding Revised Modified Stipulation and Order (13 pages)

2. **July 13, 2000** – E-Mail to Richard Lorr, Jean McKeever from Julie Agarwal [Julie Agarwal at MAR220] on behalf of Julie Agarwal regarding Searex Update, Tech Power hearing (1 page)

3. **July 13, 2000** – E-Mail to John Graykowski, Jean McKeever from Julie Agarwal [Julie Agarwal at MAR220] on behalf of Julie Agarwal regarding Searex Assumption (1 page)

4. **July 14, 2000** – E-Mail to Jean McKeever from Julie Agarwal [Julie Agarwal at MAR220] on behalf of Julie Agarwal regarding Revised Modified Stipulation and Order (13 pages)

5. **July 14, 2000** – E-Mail to John Graykowski, Richard Lorr, Jean McKeever from Julie Agarwal [Julie Agarwal at MAR220] on behalf of Julie Agarwal regarding Searex Assumption (1 page)

6. **July 14, 2000** – E-Mail to Richard Lorr; =CCMAIL:Jean McKeever at MAR630; Julie Agarwal from John Graykowski [John Graykowski at MAR100] on behalf of John Graykowski regarding Searex Assumption (1 page)

7. **July 14, 2000** – E-Mail to Richard Lorr, Jean McKeever, John Graykowski from Julie Agarwal [Julie Agarwal at MAR220] on behalf of Julie Agarwal regarding Searex Assumption (1 page)

8. **July 27, 2000** – E-Mail to John Graykowski, Jean McKeever, Edmund Sommer, Richard Lorr, Larry Main from Julie Agarwal [Julie Agarwal at MAR220] on behalf of Julie Agarwal regarding Searex, Ingall's motion to appoint an examiner (1 page)

X

9. **July 28, 2000** – E-Mail to John Graykowski, Jean McKeever, Edmund Sommer, Richard Lorr, Larry Main from Julie Agarwal [Julie Agarwal at MAR220] on behalf of Julie Agarwal regarding Searex – Update (1 page)

X

10. **July 28, 2000** – E-Mail to Edmund Sommer, Richard Lorr, Larry Main, Kathie Shahan@usdoj.gov from Julie Agarwal [Julie Agarwal at MAR220] on behalf of Julie Agarwal regarding Searex – Ingalls' letter (1 page)

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- X 11. **August 4, 2000** – E-Mail to John Graykowski, Jean McKeever, Richard Lorr from Julie Agarwal [Julie Agarwal at MAR220] on behalf of Julie Agarwal regarding Searex update (1 page)
- X 12. **August 4, 2000** – E-Mail to =CCMAIL:Jean McKeever at MAR530; Richard Lorr; Julie Agarwal from John Graykowski [John Graykowski at MAR100] on behalf of John Graykowski regarding Searex update (1 page)
- X 13. **August 8, 2000** – E-Mail to John Graykowski, Jean McKeever, Richard Lorr from Julie Agarwal [Julie Agarwal at MAR220] on behalf of Julie Agarwal regarding DNV meeting (1 page)
- X 14. **August 8, 2000** – E-Mail to John Graykowski, Jean McKeever, Julie Agarwal from Richard Lorr [Richard Lorr at MAR220] on behalf of Richard Lorr regarding DNV meeting (1 page)
- X 15. **August 8, 2000** – E-Mail to John Graykowski, Jean McKeever, Julie Agarwal from Richard Lorr [Richard Lorr at MAR220] on behalf of Richard Lorr regarding DNV meeting (2 pages)
- X 16. **August 9, 2000** – E-Mail to Edmund Sommer from Julie Agarwal [Julie Agarwal at MAR220] on behalf of Julie Agarwal regarding DNV meeting (2 pages)
17. **August 10, 2000** – E-Mail to Edmund Sommer, Richard Lorr, Jean McKeever, Kathie Shahan@usdoj.gov from Julie Agarwal [Julie Agarwal at MAR220] on behalf of Julie Agarwal regarding Searex Depositions (1 page)
18. **August 10, 2000** – E-Mail to Edmund Sommer, Jean McKeever, Kathie Shahan@usdoj.gov, Julie Agarwal from Richard Lorr [Richard Lorr at MAR220] on behalf of Richard Lorr regarding Searex Depositions (1 page)
19. **August 10, 2000** – E-Mail to Richard Lorr from Julie Agarwal [Julie Agarwal at MAR220] on behalf of Julie Agarwal regarding Searex Depositions (1 page)

Page 3

- X 20. **August 10, 2000** – E-Mail to gsiegmyer@gpsolaw.com from Richard Lorr [Richard Lorr at MAR220] on behalf of Richard Lorr regarding DKNY and Searex (1 page)
- X 21. **August 11, 2000** – E-Mail to GSiegmyer@gpsolaw.com from Richard Lorr [Richard Lorr at MAR220] on behalf of Richard Lorr regarding DnV and Searex (2 pages)
- X 22. **August 11, 2000** – E-Mail to John Graykowski, Jean McKeever, Edmund Sommer, Julie Agarwal from Richard Lorr [Richard Lorr at MAR220] on behalf of Richard Lorr regarding Conversation with Gene Miller on DnV (1 page)
- 23. **August 14, 2000** – E-Mail to [Kathie Shahan@usdoj.gov](mailto:Kathie.Shahan@usdoj.gov), Julie Agarwal from Richard Lorr [Richard Lorr at MAR220] on behalf of Richard Lorr regarding Searex Depositions (1 page)
- X 24. **August 16, 2000** – E-Mail to =CCMAIL:Jean McKeever at MAR530; Edmund Sommer; Julie Agarwal; Richard Lorr from John Graykowski [John Graykowski at MAR100] on behalf of John Graykowski regarding Conversation with Gene Miller on DnV (1 page)
- X 25. **August 16, 2000** – E-Mail to =CCMAIL:Jean McKeever at MAR530; Julie Agarwal from John Graykowski [John Graykowski at MAR100] on behalf of John Graykowski regarding Searex – update (1 page)
- X 26. **August 21, 2000** – E-Mail to [Kathie Shahan@usdoj.gov](mailto:Kathie.Shahan@usdoj.gov) from Julie Agarwal [Julie Agarwal at MAR220] on behalf of Julie Agarwal regarding Conversation with Gene Miller on DnV (1 page)
- X 27. **August 21, 2000** – E-Mail to [Kathie Shahan@usdoj.gov](mailto:Kathie.Shahan@usdoj.gov) from Julie Agarwal [Julie Agarwal at MAR220] on behalf of Julie Agarwal regarding DnV and Searex (2 pages)
- X 28. **August 22, 2000** – E-Mail to [Kathie Shahan@usdoj.gov](mailto:Kathie.Shahan@usdoj.gov) from Julie Agarwal [Julie Agarwal at MAR220] on behalf of Julie Agarwal regarding DNV meeting (1 page)
- X 29. **August 22, 2000** – E-Mail to =CCMAIL:Jean McKeever at MAR530, Julie Agarwal from Richard Williams [Richard Williams at MARAD-HQ] on behalf of Richard Williams regarding Proposed Action Plan (1 page)

Page 4

- X 30. **August 23, 2000** – E-Mail to William Whittington, Richard Williams from Richard Williams [Richard Williams at MARAD-HQ] on behalf of Richard Williams regarding Memo for Record (2 pages)
- X 31. **August 23, 2000** – E-Mail to William Whittington, Richard Williams from Tim Roark [Tim Roark at MAR380] on behalf of Tim Roark regarding Memo for Record (2 pages)
- X 32. **August 23, 2000** – E-Mail to Richard Lorr from Julie Agarwal [Julie Agarwal at MAR220] on behalf of Julie Agarwal regarding Memo for Record (2 pages)
- X 33. **August 23, 2000** – E-Mail to Richard Lorr from Julie Agarwal [Julie Agarwal at MAR220] on behalf of Julie Agarwal regarding Memo for Record (2 pages)
- X 34. **August 23, 2000** – E-Mail to Richard Williams, Julie Agarwal, from Margaret Vandeventer [Margaret Vandeventer at MAR100] on behalf of Margaret Vandeventer regarding SEAREX (1 page)
- 35. **August 23, 2000** – E-Mail to Richard Lorr, Kathie Shahan@usdoj.gov from Julie Agarwal [Julie Agarwal at MAR220] on behalf of Julie Agarwal regarding Searex Hearings for week of Aug. 28 (1 page)
- X 36. **August 24, 2000** – E-Mail to Richard Lorr, Jean McKeever from Julie Agarwal [Julie Agarwal at MAR220] on behalf of Julie Agarwal regarding Searex issues (2 pages)
- X 37. **August 24, 2000** – E-Mail to William Whittington, Richard Williams, Tim Roark from John Graykowski [John Graykowski at MAR100] on behalf of John Graykowski regarding Memo for Record (2 pages)
- X 38. **August 24, 2000** – E-Mail to Edmund Sommer, Richard Lorr from Julie Agarwal [Julie Agarwal at MAR220] on behalf of Julie Agarwal regarding Memo for Record (2 pages)
- 39. **August 25, 2000** – E-Mail to Julie Agarwal from Richard Lorr [Richard Lorr at MAR220] on behalf of Richard Lorr regarding Searex issues (2 pages)
- 40. **August 25, 2000** – E-Mail to Kathie Shahan@usdoj.gov from Julie Agarwal [Julie Agarwal at MAR220] on behalf of Julie Agarwal regarding Searex letter (1 page)

Page 5

- X 41. **August 28, 2000** – E-Mail to =CCMAIL:Jean McKeever at MAR530 from Richard Williams [Richard Williams at MARAD-HQ] on behalf of Richard Williams regarding Ingalls access (1 page)
42. **August 28, 2000** – E-Mail to Richard Lorr, Kathie Shahan@usdoj.gov from Julie Agarwal [Julie Agarwal at MAR220] on behalf of Julie Agarwal regarding Ingalls access (1 page)
- X 43. **August 28, 2000** – E-Mail to Julie Agarwal from Carl Setterstrom [Carl Setterstrom at MARAD7] on behalf of Carl Setterstrom regarding SEAREX information from Ingalls (1 page)
- X 44. **August 28, 2000** – E-Mail to Julie Agarwal from Joe Strassburg [Joe Strassburg at MAR530] on behalf of Joe Strassburg regarding trident crusader claim (1 page)
- X 45. **August 28, 2000** – E-Mail to =CCMAIL:Jean McKeever at MAR530 from Richard Williams [Richard Williams at MARAD-HQ] on behalf of Richard Williams regarding Ingalls SY Audit (2 pages)
46. **August 28, 2000** – E-Mail to Kathie Shahan@usdoj.gov from Julie Agarwal [Julie Agarwal at MAR220] on behalf of Julie Agarwal regarding SEAREX information from Ingalls (1 page)
47. **August 28, 2000** – E-Mail to Julie Agarwal from Kathie Shahan@usdoj.gov regarding SEAREX information from Ingalls (1 page)
48. **August 28, 2000** – E-Mail to Richard Lorr, Kathie Shahan@usdoj.gov from Julie Agarwal [Julie Agarwal at MAR220] on behalf of Julie Agarwal regarding Ingalls access (1 page)
49. **August 28, 2000** – E-Mail to Julie Agarwal from Kathie Shahan@usdoj.gov regarding Ingalls access (2 pages)
50. **August 28, 2000** – E-Mail to Julie Agarwal from Kathie Shahan@usdoj.gov regarding ATTACH01.; tech.wpd (1 page)
- X 51. **August 28, 2000** – E-Mail to Julie Agarwal from Carl Setterstrom [Carl Setterstrom at MARAD7] on behalf of Carl Setterstrom regarding SEAREX information from Ingalls (1 page)

Page 6

52. **August 28, 2000** – E-Mail to Julie Agarwal from Joe Strassburg [Joe Strassburg at MAR530] on behalf of Joe Strassburg regarding trident crusader claim (1 page)
- X 53. **August 28, 2000** – E-Mail to =CCMAIL:Jean McKeever at MAR530 from Richard Williams [Richard Williams at MARAD-HQ] on behalf of Richard Williams regarding Ingalls SY Audit (2 pages)
54. **August 28, 2000** – E-Mail to Kathie Shahan@usdoj.gov from Julie Agarwal [Julie Agarwal at MAR220] on behalf of Julie Agarwal regarding SEAREX information from Ingalls (1 page)
55. **August 28, 2000** – E-Mail to Julie Agarwal from Kathie Shahan@usdoj.gov regarding SEAREX information from Ingalls (1 page)
- X 56. **August 29, 2000** – E-Mail to =CCMAIL:Carl Setterstrom at MARAD7; =CCMAIL:Heinz Oest at MARAD7; =CCMAIL:Curt Michanczyk at MARAD6; William Whittington; Gidowner@Shepard-Patterson.Com from Richard Williams [Richard Williams at MARAD-HQ] on behalf of Richard Williams regarding Initial Site Visit – Ingalls SY (1 page)
57. **August 29, 2000** – E-Mail to Richard Lorr, Jean McKeever from Julie Agarwal [Julie Agarwal at MAR220] on behalf of Julie Agarwal regarding Ingalls (1 page)
- X 58. **August 29, 2000** – E-Mail to =CCMAIL:Jean McKeever at MAR630 from Richard Williams [Richard Williams at MARAD-HQ] on behalf of Richard Williams regarding Initial Site Visit – Ingalls SY (2 pages)
- X 59. **August 29, 2000** – E-Mail to Carl Setterstrom, Heinz Oest, Curt Michanczyk, William Whittington, Gidowner@Shepard-Patterson.Com, Richard Williams from Julie Agarwal [Julie Agarwal at MAR220] on behalf of Julie Agarwal regarding Initial Site Visit – Ingalls SY (1 page)
- X 60. **August 29, 2000** – E-Mail to Carl Setterstrom, Heinz Oest, Curt Michanczyk, William Whittington, Gidowner@Shepard-Patterson.Com, Richard Williams, Julie Agarwal from Richard Lorr [Richard Lorr at MAR220] on behalf of Richard Lorr regarding Initial Site Visit – Ingalls SY (2 pages)

Page 7

- X
61. **August 29, 2000** – E-Mail to =CCMAIL:Carl Setterstrom at MARAD7, =CCMAIL:Heinz Oest at MARAD7, =CCMAIL:Curt Michanczyk at MARAD6, William Whittington, Gidowner@Shepard-Patterson.Com, Richard Williams, Julie Agarwal, Richard Lorr from Jean McKeever [Jean McKeever at MAR530] on behalf of Jean McKeever regarding Initial Site Visit – Ingalls SY (2 pages)
62. **August 29, 2000** – E-Mail to Julie Agarwal from Richard Williams [Richard Williams at MARAD-HQ] on behalf of Richard Williams from Richard Williams [Richard Williams at MARAD-HQ] on behalf of Richard Williams regarding Initial Site Visit – Ingalls SY (2 pages)
- X
63. **August 29, 2000** – E-Mail to Patrick Carlton, Gidowner@Shepard-Patterson.Com from Richard Williams [Richard Williams at MARAD-HQ] on behalf of Richard Williams regarding Ingalls Inventory Funding (1 page)
64. **August 29, 2000** – E-Mail to Richard Lorr from Julie Agarwal [Julie Agarwal at MAR220] on behalf of Julie Agarwal regarding Searex hearings (1 page)
65. **August 29, 2000** – E-Mail to Julie Agarwal from Richard Lorr [Richard Lorr at MAR220] on behalf of Richard Lorr regarding Ingalls Inventory Funding (1 page)
66. **August 31, 2000** – E-Mail to =CCMAIL:Jean McKeever at MAR530, Richard Lorr, Julie Agarwal from Richard Williams [Richard Williams at MARAD-HQ] on behalf of Richard Williams regarding Ingalls SY Visit (1 page)
67. **August 31, 2000** – E-Mail to Julie Agarwal from Richard Williams [Richard Williams at MARAD-HQ] on behalf of Richard Williams regarding Ingalls Audit (1 page)
68. **August 31, 2000** – E-Mail to Julie Agarwal, =CCMAIL:Jean McKeever at MAR530 from Richard Williams [Richard Williams at MARAD-HQ] on behalf of Richard Williams regarding Ingalls SY Visit (2 pages)
69. **August 31, 2000** – E-Mail to Richard Williams from Richard Lorr [Richard Lorr at MAR220] on behalf of Richard Lorr regarding Ingalls SY Visit (2 pages)

Page 8

- X 70. **September 1, 2000** – E-Mail to =CCMAIL:Jean McKeever at MAR530, Richard Lorr, Julie Agarwal, =CCMAIL:Carl Setterstrom at MARAD7, =CCMAIL:Heinz Oest at MARAD7, Tim Roark, =CCMAIL:Curt Michanczyk at MARAD6, Gidowner@Shepard-Patterson.Com from Richard Williams [Richard Williams at MARAD-HQ] on behalf of Richard Williams regarding Ingalls SY Visit (1 page)
71. **September 1, 2000** – E-Mail to Richard Lorr, Jean McKeever from Julie Agarwal [Julie Agarwal at MAR220] on behalf of Julie Agarwal regarding Searex update (1 page)
72. **September 5, 2000** – E-Mail to Julie Agarwal from Richard Lorr [Richard Lorr at MAR220] on behalf of Richard Lorr regarding Searex update (1 page)
73. **September 7, 2000** – E-Mail to Richard Lorr, Jean McKeever from Julie Agarwal [Julie Agarwal at MAR220] on behalf of Julie Agarwal regarding Tech Power Ruling (1 page)
74. **September 7, 2000** – E-Mail to Jean McKeever, Julie Agarwal from Richard Lorr [Richard Lorr at MAR220] on behalf of Richard Lorr regarding Tech Power Ruling (1 page)
75. **September 7, 2000** – E-Mail to Jean McKeever, Richard Lorr from Julie Agarwal [Julie Agarwal at MAR220] on behalf of Julie Agarwal regarding Tech Power Ruling (1 page)
- X 76. **September 11, 2000** – E-Mail to Richard Lorr, Julie Agarwal from Richard Williams [Richard Williams at MARAD-HQ] on behalf of Richard Williams regarding SEAREX Inventory (1 page)
- X 77. **September 11, 2000** – E-Mail to John Graykowski, Jean McKeever, Julie Agarwal from Richard Lorr [Richard Lorr at MAR220] on behalf of Richard Lorr regarding Second Searex Site Visit (1 page)
- X 78. **September 11, 2000** – E-Mail to Richard Lorr from Curt Michanczyk [Curt Michanczyk at MARAD6] on behalf of Curt Michanczyk regarding Ingalls Request to Delay Visit until Next Week (1 page)
- X 79. **September 11, 2000** – E-Mail to Curt Michanczyk from Richard Lorr [Richard Lorr at MAR220] on behalf of Richard Lorr regarding Ingalls Request to Delay Visit until Next Week (1 page)

*** TX REPORT ***

TRANSMISSION OK

TX/RX NO 4500
CONNECTION TEL *1004600002*912023667485
CONNECTION ID
ST. TIME 11/08 14:27
USAGE T 02'10
PGS. SENT 15
RESULT OK

McGLINCHEY STAFFORD PLLC

City Centre, Suite 1100
200 South Lamar Street, Jackson, MS 39201

New Orleans, LA
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Monroe, LA
Dallas, TX
Albany, NY

(601) 960-8400
FAX (601) 960-8406

DIRECT DIAL - (601) 960-3522

MEMORANDUM OF TRANSMITTAL

November 8, 2006

TO: Christine S. Gurland
FAX NO.: 202-366-7485
FROM: Brooks Eason
RE: MARAD FOIA Control No. 06-024

MESSAGES, NOTES, COMMENTS:

NO. OF PAGES: 15 (Including Cover)

McGLINCHEY STAFFORD PLLC

City Centre, Suite 1100
200 South Lamar Street, Jackson, MS 39201

New Orleans, LA
Houston, TX
Baton Rouge, LA
Cleveland, OH
Monroe, LA
Dallas, TX
Albany, NY

(601) 960-8400
FAX (601) 960-8406

DIRECT DIAL - (601) 960-3522

MEMORANDUM OF TRANSMITTAL

November 8, 2006

TO: Christine S. Gurland
FAX NO.: 202-366-7485
FROM: Brooks Eason
RE: MARAD FOIA Control No. 06-024

MESSAGES, NOTES, COMMENTS:

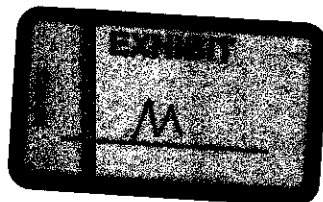
NO. OF PAGES: 15 (Including Cover)

IF YOU EXPERIENCE DIFFICULTIES IN TRANSMISSION, OR DO NOT RECEIVE ALL PAGES INDICATED, PLEASE CONTACT MELISSA PREWITT AT 601-944-4711.

Confidentiality Statement

"The information contained in this facsimile message is attorney privileged and confidential information intended only for the use of the individual or entity named above. If you are not the intended recipient, or the employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that any disclosure, dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone and return the original message to us at the above address via the United States Postal Service."

[October 4, 2006] TEXT ORDER ONLY Pursuant to a conference held on October 3,2006, the Court finds that the Murad must expedite completion of in furnishing responses to propounded discovery and in no case furnish discovery later then its proposed December 15,2006 completion date. Parties are to furnish Murad with a copy of this Order.Ingalls should tailor its requests to narrow the issues regarding requested discovery to facilitate Murad 's production. The discovery deadline is extended to March 1,2007.The motion deadline is extended to March 15,2007. The trial will be continued to August 13-24,2007. No further written order shall be issued by this Court.



McGLINCHEY STAFFORD PLLC

Brooks Eason
Direct: (601) 960-3522
Facsimile: (601) 960-8406
beason@mcglinchey.com

JACKSON
NEW ORLEANS
HOUSTON
BATON ROUGE
CLEVELAND
MONROE
DALLAS
ALBANY

Christine S. Gurland
FOIA Officer
U.S. Department of Transportation,
Maritime Administration
MAR-224, Room 7221
400 7th Street S.W.
Washington, D.C. 20590
VIA FACSIMILE (202-366-7485), U.S.P.S.,
AND EMAIL (FOIA.MARAD@DOT.GOV)

FOIA REQUEST

TIME IS OF THE ESSENCE --
EXPEDITED PROCESSING REQUESTED

Dear Ms. Gurland:

I am an attorney who represents Northrop Grumman Ship Systems, Inc. (NGSS), which is currently involved in litigation concerning the Searex project. The matter is pending in the U.S. District Court for the Southern District of Mississippi, Civil Action No. 1:04cv628-JMR-JMR.

Pursuant to the Freedom of Information Act (FOIA), I request copies of all documents relating to the categories of information identified below. **Because the requested information is relevant to the ongoing litigation, please expedite this request to the greatest extent possible.**

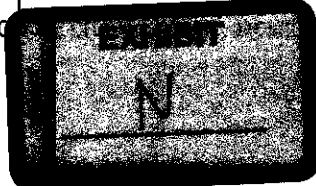
All of the documents described below are encompassed by our FOIA request of January 20, 2006. Nevertheless, we are making this additional request because of our understanding that the only files which have been searched for the purposes of identifying and producing documents which are responsive to our prior request are those of Julie Agarwal and John Graykowski. For the purposes of this request, we have sought to limit the documents we seek to those which are clearly relevant to the pending litigation.

For the purposes of this request, please apply the following definitions:

The term "**documents**" includes any correspondence, e-mails, minutes of meetings and/or teleconferences, videotapes, audio recordings, graphs, manuals, photographs, receipts,

204872.3

CITY CENTRE SOUTH, SUITE 1100, 200 SOUTH LAMAR STREET | JACKSON, MS 39201 | (601) 960-8400 | FAX: (601) 960-8406 | www.mcglinchey.com
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Christine S. Gurland
Page 2
10/24/2006

reports, statements, surveys, investigative documents, financial analyses and/or projections, and/or any other form of data, preserved in any format whatsoever.

The terms "**Ingalls**" refers to the Ingalls shipyard facilities, located in Pascagoula, Mississippi (also known as NGSS, or Northrop Grumman Ship Systems, Inc.).

Unless otherwise specified, the term "**Searex**" refers to Searex, Inc., C. Michael Chiasson (as Bankruptcy Trustee for Searex, Inc.), and/or to Searex Energy Services, Inc., and/or to any employees, representatives, or consultants working for or on behalf of Searex, Inc., C. Michael Chiasson (as Bankruptcy Trustee for Searex, Inc.), and/or to Searex Energy Services, Inc., as is or may be applicable.

Unless otherwise specified, the term "**vessels**" refers to the four self-propelled, self-elevating crane vessels (commonly referred to as the TRIDENT CRUSADER and Hulls 2, 3, and 4) contracted by Searex for construction by Ingalls, and financed by MARAD pursuant to its Title XI program.

CATEGORIES OF REQUESTED INFORMATION

1. All **documents** reflecting, relating to, or otherwise memorializing communications between any MARAD employee, agent, representative, office, or department and **Searex** from January 15, 2000 until November 15, 2000.
2. All **documents** reflecting, relating to, or otherwise memorializing any inspections, site visits, "oversight visits," or examinations of the **vessels** (or their component parts or assemblies) performed by MARAD's Office of Ship Construction and/or by any other MARAD employee, agent, representative, office, or department that occurred at **Ingalls** after July 1, 2000.
3. All **documents** reflecting, relating to, or otherwise memorializing any inspections, site visits, "oversight visits," or examinations of the **vessels** performed by MARAD "prior to the vessels being dismantled," as identified by MARAD in its "Comments on U.S. General Accounting Office Draft Report, 'Maritime Administration: Weaknesses Identified in Management of the Title XI Loan Guarantee Program,' GAO report number GAO-03-657)," found in Appendix II, as transmitted to the GAO by the U.S. Department of Transportation's Assistant Secretary for Administration, Vincent T. Taylor, on or about June 12, 2003.
4. All **documents** created after October 15, 2000 by MARAD, **Searex**, and/or any other third party which relate in any way to the sale (or possible sale) of the TRIDENT CRUSADER.

Christine S. Gurland
Page 3
10/24/2006

5. All **documents** which relate in any way to the sale or possible sale of Hulls 2, 3, and 4 and/or their component parts or assemblies, and which were created after July 1, 2000 by (1) (a) MARAD's Associate Administrator for Shipbuilding, (b) MARAD's Chief of the Division of Ship Financing Contracts, or (c) any other MARAD employee, agent, representative, office, or department; (2) Searex; and/or (3) any other third party.
6. All **documents** created after January 15, 2000 by MARAD, **Searex**, and/or any other third party relating to any type of financing, loan underwriting, or loan guarantees provided to **Searex** by MARAD or considered but not provided to **Searex** by MARAD.
7. All **documents** created by MARAD, **Searex**, and/or any other third party relating to the request communicated by **Ingalls** to **Searex**, in July 2000, for **Searex** to relocate Hulls 2, 3, and 4 from **Ingalls** to another site.
8. All **documents** reflecting or relating to communications between MARAD and **Searex** concerning the disassembly of Hulls 2, 3, and 4 performed by **Ingalls**.
9. All **documents** created by MARAD, **Searex**, and/or any other third party relating to the existence and/or prosecution of any claim against **Ingalls** by MARAD, **Searex**, and/or any third party with regard to the disassembly of Hulls 2, 3, and 4 performed by **Ingalls**.
10. All **documents** relating to any and all equity requirements established by MARAD with regard to any financing, loan underwriting, or loan guarantees provided by MARAD to **Searex, Inc.** for construction of the **vessels**, including any and all **documents** relating to whether **Searex** satisfied those requirements.
11. All **documents** relating to any and all audit(s) of any financial statements of **Searex, Inc.** performed by an independent certified public accountant, per MARAD regulations, or the non-performance of any audit(s) of any financial statements of **Searex, Inc.** by an independent certified public accountant.
12. All **documents** relating to any decision made by MARAD's Associate Administrator for Shipbuilding and/or any other MARAD employee, agent, representative, office, or department not to provide additional financing, loan underwriting, or loan guarantees to **Searex, Inc.** after January 15, 2000, for the construction and/or transfer and/or completion of the **Searex vessels**.
13. All **documents** relating to any "economic soundness analyses" performed by MARAD's Administrator, MARAD's Office of Subsidy and Insurance, MARAD's Office of Statistical and Economic Analysis, MARAD's Office of Ship Financing, and/or any other MARAD employee, agent, representative, office, or department with regard to **Searex, Inc.** and/or the **vessels**.

Christine S. Gurland
Page 4
10/24/2006

14. All **documents** relating to any periodic reviews of Searex, Inc.'s finances performed by any MARAD employee, agent, representative, office, or department after July 1998.
15. All **documents** prepared by MARAD's Office of Subsidy and Insurance and/or MARAD's Office of Statistical and Economic Analysis relating to, discussing, expressing concern for, or addressing the economic soundness of Searex, Inc. and/or its construction of the **vessels**.
16. All **documents** relating to vendors and/or to subcontractors retained, employed, or used by Searex in connection with the construction of the **vessels**, including, but not limited to, **documents** memorializing or relating to communications with such vendors.
17. All **documents** which reflect or relate to any requests for cost approval reimbursements submitted by Searex to MARAD.
18. All **documents** which relate to Amendment 1 to Contract for Construction and Sale of Four Self-Elevating, Self-Propelled Vessels, dated January 9, 1999, including but not limited to any and all **documents** which reflect or relate to MARAD's review and/or approval of Amendment #1.
19. All **documents** which relate to Amendment No. 2 to Contract for Construction and Sale of Four Self-Elevating, Self-Propelled Vessels, dated July 21, 1999, including but not limited to any and all **documents** which reflect or relate to MARAD's review and/or approval of Amendment #2.

Thank you for your prompt attention to this request. If you have any questions, please do not hesitate to contact me. You may reach me at (601) 960-3522 (office) or (601) 540-3276.

Sincerely,

McGlinchey Stafford, PLLC



Brooks Eason

PBE/cmt

cc: Tom Hamrick
Steve Williamson
Steve Brandon
Candy Burnette

McGLINCHEY STAFFORD PLLC

Brooks Eason
 Direct: (601) 960-3522
 Facsimile: (601) 960-8406
 beason@mcglinchey.com

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Christine S. Gurland
 FOIA Officer
 U.S. Department of Transportation,
 Maritime Administration
 MAR-224, Room 7221
 400 7th Street S.W.
 Washington, D.C. 20590
 VIA FACSIMILE (202-366-7485), U.S.P.S.,
 AND EMAIL (FOIA.MARAD@DOT.GOV)

FOIA REQUEST

TIME IS OF THE ESSENCE --
EXPEDITED PROCESSING REQUESTED

Dear Ms. Gurland:

I am an attorney who represents Northrop Grumman Ship Systems, Inc. (NGSS), which is currently involved in litigation concerning the Searex project. The matter is pending in the U.S. District Court for the Southern District of Mississippi, Civil Action No. 1:04cv628-JMR-JMR.

Pursuant to the Freedom of Information Act (FOIA), I request copies of all documents relating to the categories of information identified below. **Because the requested information is relevant to the ongoing litigation, please expedite this request to the greatest extent possible.**

For the purposes of this request, please apply the following definition:

The term "**documents**" includes any correspondence, e-mails, minutes of meetings and/or teleconferences, videotapes, audio recordings, graphs, manuals, photographs, receipts, reports, statements, surveys, investigative documents, financial analyses and/or projections, and/or any other form of data, preserved in any format whatsoever.

CATEGORIES OF REQUESTED INFORMATION

1. All **documents** which relate to any inquiry or investigation performed between September 2002 and April 2003 by the United States General Accounting Office (GAO)

205044.1

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Christine S. Gurland

Page 2

10/24/2006


into (1) MARAD's compliance with Title XI program requirements for approving initial and subsequent agreements, monitoring, and controlling funds, and handling defaults; (2) MARAD's practices for managing financial risk compared to those of selected private-sector maritime lenders; and (3) MARAD's implementation of credit reform as it relates to the Title XI program (as documented and/or reported in GAO report number GAO-03-657, entitled "Maritime Administration: Weaknesses Identified in Management of the Title XI Loan Guarantee Program," released on June 30, 2003).

2. All **documents** which relate to any inquiry or investigation performed between January 2002 and March 2003 by the United States Department of Transportation, Office of the Inspector General, relating to MARAD's administration of the Title XI loan guarantee program (as documented and/or reported by the U.S. Department of Transportation, Office of Inspector General, in its report, "Maritime Administration Title XI Loan Guarantee Program," Washington, D.C., March 27, 2003).

Thank you for your prompt attention to this request. If you have any questions, please do not hesitate to contact me. You may reach me at (601) 960-3522 (office) or (601) 540-3276.

Sincerely,

McGlinchey Stafford, PLLC



Brooks Eason

PBE/cmt

cc: Tom Hamrick
Steve Williamson
Steve Brandon
Candy Burnette



Department of Transportation

**Maritime
Administration**
Office of Chief Counsel

400 Seventh Street, S. W.
Washington, D. C. 20590

Christine S. Gurland, FOIA Officer
202-366-5181
Ann Herchenrider, FOIA Public Liaison
202-366-5165
FOIA Requester Service Center
202-366-2666
FACSIMILE: 202-366-7485
Toll free: 1-800-986-9678 ext. 65181
E-mail address: FOIA.MARAD@dot.gov

October 26, 2006

Brooks Eason, Esq.
McGlinchey Stafford, PLLC
200 South Lamar Street
Suit e1100
Jackson, MS 39201

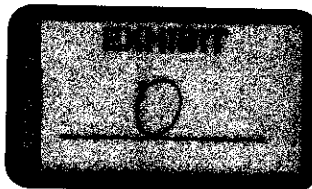
Control No: 07-009

Dear Mr. Eason/Ms. Todd:

The purpose of this letter is to acknowledge that your October 24, 2006 Freedom of Information Act (FOIA) request for the following information pertaining to Searex was received in the Maritime Administration, Freedom of Information Act Office today:

All documents which relate to any inquiry or investigation performed between September 2002 and April 2003 by the United States General Accounting Office (GAO) into (1) MARAD's compliance with Title XI program requirements for approving initial and subsequent agreements, monitoring, and controlling funds, and handling defaults; (2) MARAD's practices for managing financial risk compared to those of selected private-sector maritime lenders; and (3) MARAD's implementation of credit reform as it relates to the Title XI program (as documented and/or reported in GAO report number GAO-03-657, entitled "Maritime Administration: Weaknesses Identified in Management of the Title XI Loan Guarantee Program," released on June 30, 2003).

All documents which relate to any inquiry or investigation performed between January 2002 and March 2003 by the United States Department of Transportation, Office of the Inspector General, relating to MARAD's administration of the Title XI loan guarantee program (as documented and/or reported by the U.S. Department of Transportation, Office of Inspector General,



in its report, "Maritime Administration Title XI Loan Guarantee Program," Washington, D.C., March 27, 2003).

The due date for your response is November 22, 2006. However, processing time for some requests may take longer than twenty business days. Frequently, this is due to predisclosure notification procedures to submitters of records required by Executive Order 12,600, dated June 23, 1987, (52 Federal Register 23781, June 25, 1987). Under these procedures, we are required to notify submitters of records containing confidential commercial information of your FOIA request and such submitters are allowed a reasonable period of time in which to object to the disclosure of any specified portion of the information and to state all grounds upon which disclosure is opposed. MARAD must give careful consideration to all such specified grounds for nondisclosure prior to making an administrative determination of the issue. In all instances when we determine to disclose the requested records, our procedures provide that we give the submitter a written statement briefly explaining why the submitter's objections are not sustained.

It is also noted that you have requested expedited processing. The Freedom of Information Officer, Mrs. Christine Gurland, will respond to that portion of your request.

Such statement shall, to the extent permitted by law, be provided a reasonable number of days prior to a specified disclosure date. The terms of Executive Order 12,600 have been incorporated into the Department of Transportation's regulations at 49 CFR Part 7.

Additional time may also be required where the broad scope of a request constitutes unusual circumstances as defined in 49 CFR Part 7.33.

Processing fees normally apply for FOIA requests as set forth in 49 CFR Part 7.

Please do not hesitate to call me on 202-366-2666 regarding your request.

Sincerely,

Jeannette S. Riddick

JEANNETTE S. RIDDICK

Information Management Specialist
Freedom of Information Act Office

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

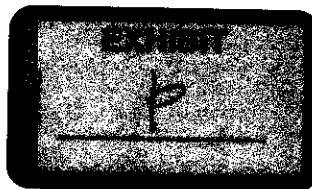
From: Christine.Gurland@dot.gov [mailto:Christine.Gurland@dot.gov]
Sent: Friday, October 27, 2006 10:19 AM Central Standard Time
To: Eason, Brooks
Cc: Jean.McKeever@dot.gov; Rand.Pixa@dot.gov; Jeannette.Riddick@dot.gov;
Joel.Richard@dot.gov
Subject: FOIA #07-009

Dear Mr. Eason:

I am writing with regard to the above-referenced FOIA Control number, requesting, among other things, "(1) All documents which relate to any inquiry or investigation performed between September 2002 and April 2003 by the United States General Accounting Office (GAO) into compliance with Title XI program requirements for approving initial and subsequent agreements, monitoring, and controlling funds, and handling defaults; (2) MARAD's practices for managing financial risk compared to those of selected private-sector maritime lenders, and (3) MARAD's implementation of credit reform as it relates to the Title XI program (as documented and/or reported in GAO report number GAO-03-657, entitled "Maritime Administration: Weaknesses identified in Management of the Title XI Loan Guarantee Program, " released on June 30, 2003)."

Subsequent to a meeting with program office and legal staff, I must advise you that the scope of your request is extremely broad. This means that processing of your request will likely take a significant period of time and is likely to result in significant fees. First, the request covers the company records for all companies applying for Title XI loan guarantees for the period above. Second, with respect to the GAO report, issued March 27, 2003, it would include, among other things, company files provided to MARAD, internal working papers, and commitment letters. This information is gleaned from a quick review of your request, so this is probably a conservative estimate of what is covered. I would, therefore, like to offer you the opportunity to narrow your request in order to shorten response time and decrease the cost of processing your request. As you know, narrowing a request can be accomplished by limiting the timeframe for the documents you seek; limiting the parties whose documents you seek; limiting the type of documents you seek or more narrowly defining the type of documents you seek. I would also like to remind you that the cost of your FOIA will be based on total search time, and not just on the amount of responsive documents you ultimately receive. It will also include photocopying charges and attorney review time.

Department of Transportation regulations authorize me to request payment for certain requests made under FOIA, such as those which are estimated to result in large fees. Please be advised that, I intend to request payment for what I estimate to be the cost of processing your request once we have agreed on the exact scope of your request if I



determine that these regulations apply. I will also provide you with information on the mechanics of pre-payment at this time.

See 49 CFR 7.42(d).

You have also requested expedited processing for this request. In order to receive expedited treatment of a FOIA request, the requestor must demonstrate a compelling need for the information. A compelling need can be shown one of two ways: (1) by establishing that his or her failure to obtain the records quickly could reasonably be expected to pose an imminent threat to the life or physical safety of an individual, or (2) if the requestor is a person primarily engaged in disseminating information, by demonstrating an urgency to inform the public concerning actual or alleged Federal Government activity. Expedited review may also be requested if substantial due process rights of the requestor would be impaired by the failure to process the request immediately. (However, it is not sufficient to merely allege that that the requested records are needed in connection with some judicial or administrative proceeding; rather, the immediate use of the FOIA must be shown to be critical to the preservation of a substantial right. A pending civil suit does not generally qualify for expedited treatment of a FOIA request.) Review of your request does not indicate on what basis you are requesting expedited review. Please feel free to provide me with information regarding this request if you still believe that you are entitled to expedited review, and I will promptly advise you of my decision.

You may contact me via e-mail at Christine.gurland@dot.gov or via fax at 202-366-7485 regarding this request. Please indicate the control number above so I can ensure that I am responding with regard to the correct request.

Sincerely,

Christine Gurland

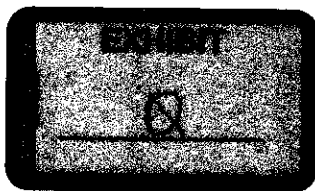
Assistant Chief Counsel for
Legislation and Regulations

From: Eason, Brooks
Sent: Tuesday, October 31, 2006 3:24 PM
To: 'Christine.Gurland@dot.gov'
Cc: Jean.McKeever@dot.gov; Rand.Pixa@dot.gov;
Jeannette.Riddick@dot.gov; Joel.Richard@dot.gov; Brandon, Stephen A.
Subject: FOIA #07-009

Dear Ms. Gurland:

Pursuant to your request that we limit our FOIA request reflected in the control number above, we have limited the two document descriptions to greatly reduce the number of documents encompassed by our request. Revised descriptions are attached. The changes to both descriptions are reflected in the language at the end stating that we only seek documents that relate to the Serex matter and that were prepared in connection with the inquiry or investigation. In other words, we are excluding from our scope documents that relate to other loans but not to Searex as well as historical documents that may have been reviewed in connection with the inquiry or investigation.

Please let Steve Brandon or me know if you have any questions.



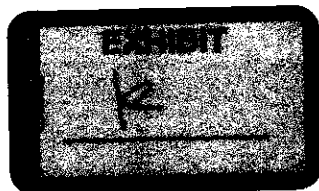
1. All **documents** which relate to any inquiry or investigation performed between September 2002 and April 2003 by the United States General Accounting Office (GAO) into (1) MARAD's compliance with Title XI program requirements for approving initial and subsequent agreements, monitoring, and controlling funds, and handling defaults; (2) MARAD's practices for managing financial risk compared to those of selected private-sector maritime lenders; and (3) MARAD's implementation of credit reform as it relates to the Title XI program (as documented and/or reported in GAO report number GAO-03-657, entitled "Maritime Administration: Weaknesses Identified in Management of the Title XI Loan Guarantee Program," released on June 30, 2003) and that relate to the Searex program and that were prepared in connection with the inquiry or investigation.

2. All **documents** which relate to any inquiry or investigation performed between January 2002 and March 2003 by the United States Department of Transportation, Office of the Inspector General, relating to MARAD's administration of the Title XI loan guarantee program (as documented and/or reported by the U.S. Department of Transportation, Office of Inspector General, in its report, "Maritime Administration Title XI Loan Guarantee Program," Washington, D.C., March 27, 2003) and that relate to the Searex program and that were prepared in connection with the inquiry or investigation.

From: Eason, Brooks
Sent: Thursday, November 16, 2006 7:06 PM
To: Eason, Brooks; Gurland, Christine <MARAD>
Cc: McKeever, Jean <MARAD>; Pixa, Rand <MARAD>; Riddick, Jeannette <MARAD>; Richard, Joel <MARAD>; Brandon, Stephen A.
Subject: RE: FOIA #07-009

Dear Ms. Gurland:

Will you please give me an update regarding the response to this FOIA request? Because the documents are relevant to pending litigation, it is imperative that we get them promptly. Thank you.





U.S. Department
of Transportation
**Maritime
Administration**

400 Seventh Street, S.W.
Washington, D.C. 20590

November 16, 2006

Brooks Eason
McGlinchey Stafford PLLC
200 South Lamar Street
Suite 1100
Jackson, MS 39201

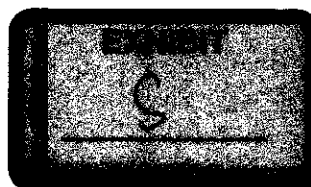
Dear Mr. Eason:

This letter responds to your November 15, 2006 e-mail requesting the status of FOIA request # 07-009.

As you know, on October 3, 2006, representatives of the Maritime Administration (MARAD) participated in a conference call with the parties to Civil Action No. 1:04CV628RO (C. Michael Chaisson, as Trustee of Searex, Inc. v. Ingalls Shipbuilding, Inc., et. al), attorneys from the Department of Justice, and the Honorable Judge Roper. At that time, MARAD represented to the Court that, due to the voluminous nature of Ingalls' pending FOIA request, #06-024, MARAD would complete processing of the request by December 15, 2006. On October 24, 2006, twenty-one days later, you submitted two additional FOIA requests, #07-008 and #07-009, containing nineteen (19) and two (2) additional categories, respectively. Subsequently, you narrowed FOIA request # 07-009 to include only GAO and DOT Inspector General documents related to the Searex Title XI loan guarantee transaction. Even with the narrowing of request #07-009, these two (2) new requests encompass twenty-one (21) additional categories to be searched.

A preliminary survey of offices which may have documents responsive to your two new FOIA requests indicates that they significantly expand Ingalls' original FOIA request #06-024 in terms of the scope, the offices where responsive documents may be located and the time period during which you wish us to search for documents. While I recognize that you are anxious to receive a response to these two new FOIA requests at the same time as you receive a response to your original request, I must advise you that we will not be able to complete the two new requests by December 15, 2006, as represented to the Court for FOIA request #06-024.

You have also requested expedited processing for the two most recent FOIA requests. MARAD receives numerous requests under the FOIA, on a continuing basis. As I advised you in an October 27, 2006 e-mail, in order to receive expedited treatment of a FOIA



request, the requestor must demonstrate a compelling need for the information. A compelling need can be shown one of two ways: (1) by establishing that his or her failure to obtain the records quickly could reasonably be expected to pose an imminent threat to the life or physical safety of an individual, or (2) if the requestor is a person primarily engaged in disseminating information, by demonstrating an urgency to inform the public concerning actual or alleged Federal Government activity. Expedited review may also be requested if substantial due process rights of the requestor would be impaired by the failure to process the request immediately. (However, it is not sufficient to merely allege that that the requested records are needed in connection with some judicial or administrative proceeding; rather, the immediate use of the FOIA must be shown to be critical to the preservation of a substantial right. A pending civil suit does not generally qualify for expedited treatment of a FOIA request.) Review of your request does not indicate on what basis you are requesting expedited review. Please feel free to provide me with information regarding this request if you still believe that you qualify for expedited review, and I will promptly advise you of our decision on this issue.

You may contact me via e-mail at Christine.gurland@dot.gov, via fax at 202-366-7485 or at 202-366-5724. Please indicate the control number of the FOIA request you are asking about so that I can ensure that I am responding with regard to the correct request.

Sincerely,

Christine S. Gurland
Assistant Chief Counsel for
Legislation and Regulations

From: Eason, Brooks
Sent: Monday, November 27, 2006 05:35 PM Central Standard Time
To: Christine.Gurland@dot.gov
Cc: Julie.Agarwal@dot.gov; Jay.Gordon@dot.gov; Rand.Pixa@dot.gov;
Jean.McKeever@dot.gov; Kathie.Shahan@usdoj.gov;
Jeannette.Riddick@dot.gov; Brandon, Stephen A.; Burnette, Candy
Subject: RE: FOIA #07-009

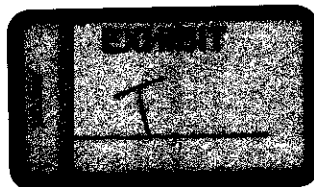
Ms. Gurland: This is in response to your letter to me of November 16 regarding the control number referenced above.

First, I disagree with your assertion that our two new requests are broader in scope than the one we made in January of 2006. In our judgment all of the documents sought in our two new requests were encompassed by our January request. We chose to submit the two additional, more specific requests only because we learned that MARAD was only searching the files of John Graykowski and Julie Agarwal to respond to our January request.

Second, expedited consideration is warranted because of the documents' relevance to pending civil litigation in which Northrop Grumman Ship Systems is being sued for more than \$50 million in actual damages as well as punitive damages. MARAD is the largest single creditor and lienholder in the Searex bankruptcy and presumably will be the single largest beneficiary of any recovery. It has taken many months to get any documents in response to our initial FOIA request, and it is imperative that we receive all the relevant documents very soon. Our need for the documents is compounded by the fact that the Searex documents in the possession of the bankruptcy trustee are incomplete in many respects. For example, we believe the trustee's damages expert has included the same \$12 million in his damages calculation twice. Review of a complete set of Searex's cost reimbursement submittals is necessary to evaluate this possibility. The trustee does not have a complete set of those submittals.

MARAD has now had our two new FOIA requests for more than a month. We agreed to limit the scope of the requests immediately after your request that we do so. If MARAD cannot comply with the requests by December 15, please let us know when it can do so. Also, please let us know what has been done so far to locate and produce the responsive documents.

Thank you for your prompt attention to this matter.





U.S. Department
of Transportation
**Maritime
Administration**

400 Seventh Street, S.W.
Washington, D.C. 20590

November 29, 2006

Brooks Eason
McGlinchey Stafford PLLC
200 South Lamar Street
Suite 1100
Jackson, MS 39201

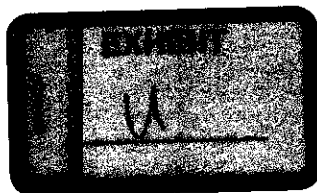
Re: MARAD FOIA Control Nos. 07-008 and #07-009

Dear Mr. Eason:

This letter is in response to your e-mail of November 27, 2006, received after my usual office hours, as indicated by the send time of 6:35 p.m. Your November 27, 2006 e-mail was in response to my letter of November 16, 2006. I forwarded that letter to your attention by e-mail on November 17, 2006. On November 27, 2006, I requested that MARAD's Freedom of Information Act (FOIA) Specialist also fax you the letter sent to you via e-mail on November 17, 2006, in order to ensure that you had received it, and because I had not received a receipt indicating that my e-mail had been read by you. A copy of my e-mail and letter is attached for your information.

When we spoke with his Honor Judge Roper on October 3, 2006, the Maritime Administration (MARAD) committed to providing the responses to FOIA request #06-024 from Jeffrey Peters by December 15, 2006. Some twenty-one (21) days later, we received two separate e-mail letter requests from you, both dated October 24, 2006. One of those e-mail requests contained two (2) requests for documents and the second contained nineteen (19) requests for documents.

In my letter of November 16, 2006, I indicated to you that a "preliminary survey of offices which may have documents responsive to your two new FOIA requests indicates that the requests significantly expand Ingalls' original FOIA request #06-024 in terms of the scope, the offices where responsive documents may be located and the time period during which you wish us to search for documents." My letter reported to you that we "must advise you that we will not be able to complete the two new requests by December 15, 2006, as represented to the Court for FOIA #06-024."



Ten (10) days after my e-mail, MARAD received your e-mail of November 27, 2006, indicating that you disagreed with my "assertion that our two new requests are broader in scope than the one we made in January of 2006. In our judgment all of the documents sought in our two new requests were encompassed by our January request." You asserted that you sent the two new requests because of recently acquired information concerning MARAD's actions. "We chose to submit the two additional requests, more specific requests only because we learned that MARAD was only searching the files of John Graykowski and Julie Agarwal to respond to our January request."

I do not know why your firm has just become aware of the specifics of Mr. Peters' January FOIA request, #06-024. Mr. Peters' original request was very broad and when asked to narrow the scope of his request, Mr. Peters advised MARAD on February 16, 2006 that he was "hesitant to greatly reduce the subject matter of the inquiry. However, I believe I can limit the time period to 1998 to 2002. I also believe substantial information should be found in the records of the following MARAD representatives; John Graykowski, Kathleen Shahan, and Julie Agarwal. **I reserve the right to request documents in possession of other specific individuals should discovery reveal them to have relevant documents.**" (Emphasis added). No further requests were received from your firm until your two requests of October 24, 2006.

The expanded scope of your two additional FOIA requests goes beyond searching the files of all of the other individuals within MARAD not previously designated by Mr. Peters, although this action is in itself a significant expansion of the original FOIA request as limited by Mr. Peters. Your new requests seek documents that require the involvement of federal offices outside the Maritime Administration. Your new requests also include events and documents outside of the 1998 to 2002 time period limitation agreed to in Mr. Peter's February 16, 2006 e-mail.

In my letter of November 16, 2006, I also outlined for the second time the grounds upon which a requestor can request expedited treatment of a FOIA request by demonstrating a compelling need for the information. "A compelling need can be shown one of two ways: (1) by establishing that his or her failure to obtain the records quickly could be expected to pose an imminent threat to the life or physical safety of an individual, or (2) if the requestor is a person primarily engaged in disseminating information, by demonstrating an urgency to inform the public concerning actual or alleged Federal Government activity."

Your communication of November 27, 2006 does not address either of these grounds. Instead, you indicate only that you need these documents because of pending litigation, primarily because the documents you have received from Searex, I assume in response to your discovery requests, are incomplete or otherwise inadequate. Your problems with Searex's production of documents are not a "compelling need" for expedited production of documents under FOIA. Moreover, the Courts have generally held that it is not sufficient for a requestor to merely allege that requested records are "needed" in connection with some judicial or administrative proceeding in order to receive expedited treatment under the FOIA. See *Rivera v. D.E.A.*, 2 GDS 81,365 at 81,953 (D.D.C. 1981). Thus, your

assertion of a pending civil suit does not justify a demand for expedited processing under the FOIA. *Ibid.*

As a final matter regarding your need for expedited action by MARAD, we note that we believe that the actions thus far taken here indicate that there may be no "compelling need." We note that we received your new requests twenty-one (21) days after the conference with Judge Roper. Further, we received your e-mail response to my letter of November 16, 2006, ten (10) days after I forwarded it to you by e-mail, and after business hours on the same day that I faxed a copy of the letter to you in order to ensure that you had received it. As you know, because the granting of a request out of turn necessarily entails further delays for other FOIA requestors waiting patiently, simple fairness demands that expedited treatment be granted only upon careful scrutiny of exceptional circumstances. Therefore, your request for expedited treatment of your two most recent FOIA requests is denied.

We will fulfill our commitment of Judge Roper and meet the December 15, 2006 deadline set with respect to Mr. Peters' FOIA request, #06-024, on behalf of your client. Your two additional requests will not be completed by this date.

Sincerely,

Christine S. Gurland

Christine S. Gurland
Assistant Chief Counsel for
Legislation and Regulations

From: Eason, Brooks
Sent: Friday, December 01, 2006 1:44 PM
To: Christine.Gurland@dot.gov
Cc: Julie.Agarwal@dot.gov; Jay.Gordon@dot.gov; Rand.Pixa@dot.gov;
Jean.McKeever@dot.gov; Kathie.Shahan@usdoj.gov; Jeannette.Riddick@dot.gov;
Stephen Williamson; Brandon, Stephen A.; Burnette, Candy
Subject: RE: FOIA #07-009

Dear Ms. Gurland:

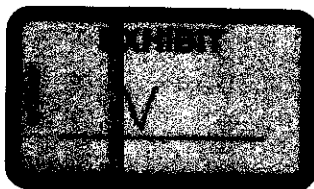
I have read your three-page response, which does not address either of the questions I asked in my email. They are: What is being done to comply with the new requests? And if MARAD cannot comply with them by December 15, when can it comply with them?

Simply because a request may not technically qualify for expedited consideration under regulations does not mean that a response can be delayed indefinitely. If MARAD needs an additional month to comply with our new requests, that will be acceptable, but we cannot wait forever. The discovery deadline in the lawsuit, which was extended because of MARAD's long delay in responding to our initial request, is now March 1 of next year. Depositions of MARAD officials must be taken before then. It is imperative that we receive and have an opportunity to evaluate the documents before those depositions take place.

Moreover, if compliance cannot be completed before December 15, that does not mean it cannot begin before then. For example, I alluded to the need for a complete set of Searex's cost reimbursement submittals in my last email. Those documents are presumably located in one file, and they could not possibly be subject to any privilege or exemption from production. There is no reason they cannot be copied and sent to us right away.

Please let me know what is being done to respond to the new requests and a timetable for complying with them. Also, if there is any particular difficulty in responding to some aspect of the request, let me know and we will try to resolve the issue by agreement.

Thank you.





U.S. Department
of Transportation
**Maritime
Administration**

400 Seventh Street, S.W.
Washington, D.C. 20590

December 11, 2006

Brooks Eason
McGlinchey Stafford PLLC
200 South Lamar Street
Suite 1100
Jackson, MS 39201

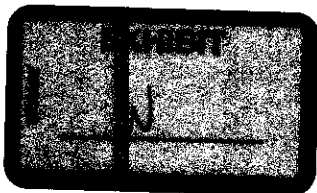
Re: MARAD FOIA Control Nos. 07-008 and #07-009

Dear Mr. Eason:

This responds to your e-mail of December 1, 2006, pertaining to the above-referenced FOIA requests.

I note that your e-mail does not set forth the basis for your request for expedited treatment of the two FOIA requests referenced above. Since I twice advised you of the legal basis for expedited treatment, I am inferring that there exist no grounds for expedited treatment of these requests. In your e-mail you also assert that "simply because a request may not technically qualify for expedited consideration under regulations does not mean that a response can be delayed indefinitely." The Maritime Administration (MARAD) has never stated that your two most recent FOIA requests have been "delayed indefinitely." Rather, I advised you that these later requests would not be completed by the December 15, 2006 date presented to the Court for FOIA request #06-024.

As I advised you in both my November 16, 2006 and November 29, 2006 letters, a preliminary survey of MARAD offices which may have documents responsive to your request indicates that your two new FOIA requests, referenced above, are significantly broader than Ingalls' original FOIA request (FOIA #06-024) in terms of the scope, the offices where responsive documents may be located and the time period during which you wish us to search for documents. A **rough estimate** indicates that there are **about ten (10)** copy paper size boxes of documents which will require attorney review and preparation of Vaughn indices. This estimate regarding the amount of documents that may be responsive to your request is a rough estimate only and is not intended to provide an exhaustive universe of documents that may exist or will need to be reviewed.



Additionally, a sampling of the documents in these boxes indicates that not all of the documents were generated by MARAD. In such instances, MARAD is required to provide the documents to the submitter so that he or she can evaluate it with regard to its release. While we generally request a response from a submitter within thirty (30) days, the actual response time from the submitter is outside of MARAD's control.

As previously stated in my November 29, 2006 letter, MARAD cannot complete your two (2) new FOIA requests by the December 15, 2006 date by which we committed to complete FOIA #06-024. However, MARAD still intends to provide you with a response to FOIA #06-024 by December 15, 2006, as promised to the Court. Additionally, although I am not the attorney reviewing your appeal of a number of the partial responses to FOIA #06-024 based on my decision to withhold certain documents, I wish to advise you that the FOIA Appeals Officer is currently considering your appeals, and that some of his responses are awaiting necessary approval by the Department's Office of General Counsel.

Upon completion of our response to FOIA request #06-024, I will be reviewing the current status of all pending FOIA requests before MARAD, including your two recent FOIA requests and numerous other FOIA requests before MARAD, upon which action was delayed in order to complete our responses to your first FOIA request by December 15, 2006. After that review, I may be able to provide you with a more exact date for completion of a response to FOIA requests ##07-008 and 07-009. However, just as with FOIA request #06-024, it is MARAD's intention to provide you with documents responsive to requests ##07-008 and 07-009 on a rolling basis, in order to give you the maximum amount of time to review the documents.

In your December 1, 2006 e-mail, you also note that "if compliance cannot be completed by December 15, that does not mean it cannot begin before then." Work to locate all responsive documents has already begun, and we will continue to work diligently to fulfill your requests. However, I wish to remind you that your FOIA requests are not the only requests before MARAD's Office of Chief Counsel. For example, MARAD also has before it a pending FOIA request from the bankruptcy estate of Searex, Inc., which should be completed prior to your two new FOIA requests because it was received first.

At this time, I **estimate** that FOIA requests ##07-008 and 07-009 should be completed by April 3, 2007. For your reference, the April 3, 2007 estimated date is based on (1) the need to search for and collect records from separate offices; (2) the need to examine the voluminous amount of records covered by the request; and (3) the need to consult with another agency or agency component. See 5 U.S.C. 552(a)(6)(B). In arriving at this estimated date, I have also carefully considered: (1) the limitations on MARAD's resources, and (2) the Department of Transportation's policy to adhere to the long-established and equitable practice of handling requests on a "first-in, first-out" basis, when possible. See, e.g., Zuckerman v. FBI, No 94-6315, slip op. at 8 (D.N.J. Dec. 6, 1995); Open America v. Waterville Special Prosecution Force, 547 F.2d 605,614-66 (D.C. Cir. 1976), citing 5 U.S.C. 552(a)(6)(C). Of course, any further refinement or narrowing of your

request, which could assist us in providing you with the actual documents that you seek more quickly, is welcomed.

We look forward to working with you to complete your request as quickly as possible.

Sincerely,

Christine S. Gurland

Christine S. Gurland
Freedom of Information Officer and
Assistant Chief Counsel
For Legislation and Regulations