



January 29, 2018

Mr. Patrick Patterson, Regional Director (Electronic and First Class mail)
PA Department of Environmental Protection
Southeast Regional Office
2 East Mani St.
Norristown, PA 19401-4915

Re: Elcon Recycling Services, LLC – Assertion of Confidential Business Information

Dear Mr. Patterson,

The Delaware Riverkeeper Network (DRN) has been actively engaged with the Phase I RCRA B siting permitting process of the above captioned project proposed in Falls Township, Bucks County. DRN and partners have submitted substantive written and oral comment of Elcon's Phase I application and have continued with our coalition-building and outreach in preparation for the Phase II application.

We have reviewed the December 22, 2017 letter from Fox Rothschild, LLP on behalf of Elcon and have concerns about their request for Elcon's claim for confidential business information (CBI). Their claims focus on a variety of issues pertaining to the Real Estate Agreement and Eighth Amendment; specifically the cost of the land, pricing terms, purchase agreements and conditions relating to closing on that property.

In reference to their position on the cost of the land, pricing terms and purchasing agreements, it would seem that some, if not all of that information would be available at the county courthouse as a matter of course after the real estate settlement. Certainly that information is available on residential and commercial properties if one conducts a courthouse title review or check the "comparables" available from any real estate agency. This same information may likely be available on industrial properties as well. If that is the case, then Elcon's claim that that information "is not generally available to Elcon or others" is not valid. Claims for confidential business information "shall be substantiated" (25 Code 270a.12.2). If that information is available with a modicum of research and inquiry, then we do not believe that Elcon's assertions meets the intent of this regulation and that cost of the land, pricing terms and purchasing agreements information should not be hidden from the public.

Is the accessibility of the above-mentioned real estate information within the scope of information that DEP is familiar with? If not and with all due respect, DRN urges DEP to reach out to a sister

DELAWARE RIVERKEEPER NETWORK
925 Canal Street, Suite 3701
Bristol, PA 19007
Office: (215) 369-1188
fax: (215) 369-1181
drm@delawareriverkeeper.org
www.delawareriverkeeper.org

agency that could substantiate Elcon's claims that the cost of the land, pricing terms and purchasing agreements is not readily available to Elcon or its competitors.

Further, Elcon has not specified how long they expect this information to be held in confidential status (25 Code 270a.12 ii).

Also of concern is that Elcon's CBI request includes the "conditions to closing" for either themselves or U.S. Steel (USS). Those conditions many include substantial issues, such as which party is responsible for site contamination evaluation, contamination clean-up and/or mitigation. It might be relevant to Elcon's stated plans to import fill to raise the site elevation so the facility footprint is above the 500-year floodplain. With raising the floodplain and removing what flood storage capacity that site currently has, perhaps one of the conditions of closing is that USS will hold Elcon financially responsible for exacerbated flooding of other Keystone Industrial Port Complex tenants or that Elcon is acknowledging their proposed site development might exacerbate flooding or in some other way place others at risk.

Any and all of those scenarios and many others not stated above could have a direct and lasting impact on the public safety and health of communities up and down the River and the region's natural resources, including, but not limited to the Delaware River. As such, the conditions of closing should be made public so the residents have the opportunity to consider and discuss these issues fully.

Please respond to our concerns. Thank you.

Respectfully yours,



Fred Stine
Citizen Action Coordinator

Cc: Mr. Gary, Falls Township (electronic only)
Mr. Smith, Bucks County Health Department (electronic only)
Ms. Kostick, Bucks County Health Department (electronic only)
Ms. Kinslow, US EPA Region 3 (electronic only)
Mr. James Wentzel, PADEP (electronic only)