

# Cook Schuhmann & Groseclose, Inc.

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August 25, 2011

sender's email address:  
barbara@alaskalaw.com

Fairbanks North Star Borough  
Department of Transportation  
Air Quality Division  
P.O. Box 71267  
Fairbanks AK 99707-1267

Re: Freedom of Information Act Request: air quality and other testing results and reports from OMNI-Test Laboratories, Inc.

Dear Sir/Madam:

We represent a citizen of the Fairbanks North Star Borough, OIT, Inc. Pursuant to AS 40.25.100 through AS 40.25.220, and the Borough's current policy statement on public requests to inspect and copy public records of the Borough, we request copies of the following public records of the Fairbanks North Star Borough, which we understand to be within the Division of Air Quality of the Department of Transportation:

All testing data, results and reports of OMNI-Test Laboratories, Inc., of P.O. Box 301367, Portland, Oregon 97294, under its contract with the Fairbanks North Star Borough, relating to the Decker Titan II coal-fired boiler provided by OIT, Inc., and/or related to coal delivered to OMNI by OIT, Inc. We believe the tests on the Decker Titan II boiler occurred on or about June 5-6, 2011, and data and reports should have been received by the Borough within two weeks of those tests.

We also request inspection of, and the right to copy all public records concerning the tests conducted by OMNI-Test Laboratories, Inc., under its contract with the Fairbanks North Star Borough, including but not limited to, those conducted on: the Decker Titan II coal-fired boiler provided by OIT, Inc.; coal delivered to OMNI-Test Laboratories, Inc., by OIT, Inc.; and on all other boilers tested by OMNI under contract with the Borough.

The "records" requested for inspection include those defined as "public records" in AS 40.25.220(3), and in the definition of "Record" set out in that Borough Memorandum on Inspection and Copying of Public Records dated July 27, 2011, as FNSB No. 75.01, paragraph VI.B.1, including but not limited to: all documents, books, papers, files,

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accounts, reports, contracts, invoices, letters, correspondence, emails, texts, photographs, photographic files, motion picture film, microfilm, microphotographs, exhibits, magnetic or paper tapes, punched cards, drawings, writings, including drafts and memorializations of conversations, and other items, regardless of format, physical form or characteristic, that are or were developed, sent or received by the Fairbanks North Star Borough, or any of its agents or employees, or by OMNI, the private contractor for the Borough, and that are preserved for their informational value or as evidence of the organization or operation of the Borough.

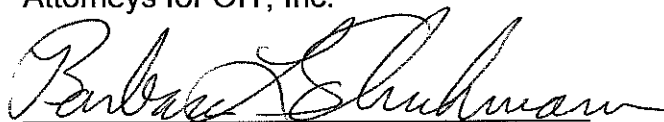
If this request is denied in whole or part, we ask that you justify all such decisions and deletions of information, by reference to specific exemptions of the act. We reserve the right to appeal any decision to withhold any information, particularly reflecting the results from tests undertaken at public expense, and all reports of those tests, as well as to seek injunctive relief without exhausting other remedies.

Several times over the course of this summer, our client, OIT, Inc., has requested a copy of the results of these OMNI tests and all reports prepared by OMNI. OMNI tested our client's Decker Titan II coal-fired boiler and coal provided by our client. The purpose of the test was to obtain certification by the Borough that this boiler met the air quality standards that apply to wood-fired boilers. We believe the results of this testing will show that the Titan II meets those air quality standards and should be certified by the Borough.

Since June, we understand that the Borough has certified Proposition #2 for the October 4, 2011 municipal election. Proposition #2 would ban the burning of coal within the "non-attainment" area of the Borough, regardless of how clean-burning, inexpensive or safe a device or a type of coal may be. The results of the OMNI testing of our client's burner and coal are a matter of public interest when the electorate considers Proposition # 2. The raw data generated by the tests, the test results and the OMNI report should be released immediately to our client. Because the results have not been provided to our client after repeated requests, we are making this request formally, under the Freedom of Information Act. We look forward to your reply within 5 working days, as the Borough's policy requires. We attach the Borough's required form for requests of this type.

Thank you for your assistance.

Sincerely,  
COOK SCHUHMAN & GROSECLOSE, INC.  
Attorneys for OIT, Inc.



Barbara L. Schuhmann

Enclosure: Borough form for Requests for Inspection and Copies of Public Records

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AUG 21 2011



**Fairbanks North Star Borough  
809 Pioneer Road  
Fairbanks, AK 99701**

**Fairbanks North Star Borough Public Records Request via internet**  
Submit this form to the FNSB Department that the request pertains to

Name of Individual or Company Requesting Records: <b>Cook Schuhmann &amp; Groseclose, Inc. for OIT, Inc.</b>		Date: <b>8/25/2011</b>
Organization or Company: <b>Cook Schuhmann &amp; Groseclose, Inc., for OIT, Inc.</b>		
Address: <b>714 4th Avenue, Suite 200</b>		
City, State: <b>Fairbanks, Alaska</b>		Zip Code: <b>99701</b>
Who should we call if we have a question? Contact: <b>Barbara Schuhmann</b> Telephone: <b>452-1855</b>		
E-mail Address: <b>Barbara@alaskalaw.com</b>		

*Please describe in detail below the information/documents requested using as much specificity as possible.*

I request  copies of the following documents or files (see fee schedule below) or I request to  inspect the records requested: (check a box) and

Please see attached letter.

**User Fee Schedule**

Copying Fee (letter or legal)	\$.25 per copy	Certification Copies (copies certified by the Borough)	\$2.00
Copying Fee (11 x 17)	\$.50 per copy	Microfilm/Microfiche	\$1.00
Color Copying Fee (letter or legal)	\$.50 per copy	copies	first copy and
Color Copying Fee (11 x 17)	\$1.00 per copy		0.25 each add.
Audio Tape/CD of public meetings	\$12.50 per tape/CD		
Agenda Packet on CD	\$12.50 per CD		

**I understand that I will be charged a fee for each page that I request to be copied. (see fee schedule above) I further understand that if it is determined that my request will require more than five hours of staff time that I will pay, upon notification, the personnel costs required to complete the search and/or copying tasks.**

**CERTIFICATE OF NONLITIGATION AFFILIATION**

I hereby certify that:

- (1) I am not involved in litigation, in a judicial or administrative forum, with the Fairbanks North Star Borough or another public agency to which the requested record is relevant;
- (2) I am not acting on behalf of or otherwise representing any person who is involved in litigation with the Fairbanks North Star Borough or another public agency to which the requested record is relevant; and, my client has advised it is not involved in litigation as described.
- (3) ~~To the best of my knowledge, neither a notary public nor other official empowered to administer oaths is available at the time I make this certification of nonlitigation affiliation.~~

I certify under penalty of perjury, that the foregoing statements are true.

Barbara Schuhmann  
Print Name

*Barbara Schuhmann*  
Signature

**RECEIVED**

AUG 25 2011

