

Rock-Tenn Community Advisory Panel Members,

Over the past several days, questions have been raised about a Minnesota Department of Administration advisory opinion recently issued concerning your deliberations and the requirements of the Minnesota Open Meeting Law.

These questions generally fall into two categories: What liability, if any, do Panel members incur if there was by chance a violation of the law in light of the state department's advisory opinion? And why didn't the Saint Paul Port Authority immediately alert the Panel when the advisory opinion was issued on May 1, 2008 (see attached)?

We take your concerns – as well as your commitment to this process -- very seriously. You have steadfastly adhered to your charge to study renewable energy alternatives for the Rock-Tenn Co.'s Midway paper recycling plant. You have given up your very valuable time to participate in this process and we applaud your professionalism and focus in working your way through very technical engineering, environmental health, and financial data.

Our opinion throughout this process is that the Panel is not subject to the Open Meeting law. Even given this opinion, we – as you – committed to studying this issue in the most open and transparent way possible. Simply put, we disagree with the Administration Department's advisory opinion regarding RCAP's deliberations as they pertain to the state Open Meetings Law under Minnesota Statutes Chapter 13D. But, the disagreement is largely immaterial, since RCAP's deliberations, focused on a study of renewable fuel sources for Rock-Tenn, have been open and transparent.

As to your individual liability for any violation of state law: You will note that the advisory opinion did not say the Panel had in any way violated the state Open Meetings Law by deliberately skirting its rules and regulations; simply that, in the Administration Department's opinion, the Panel is subject to the Open Meeting Law. We very easily can make the case that RCAP has exceeded any reasonable concept of openness in its deliberations to date.

In conformance with RCAP's strong desire to be open and transparent and to exceed any reasonable concept of openness achieved to date, the Panel can resolve any concerns by making everything open – including all Internet communications. In that light, you may want to have only one list-serv.

You also may want to consider how many of your members constitute a quorum. A quorum is a majority of voting members of a body. In RCAP's case, a quorum would be seven members of the 12-member body. Therefore, we recommend that no more than six members communicate with each other outside the public eye at one time.

We didn't immediately (on May 1) alert Panel members of the advisory opinion because we didn't receive it by letter until several days later. We at the Port are focused on

helping to provide all the information RCAP needs to do its work. We are not checking the State's webpage everyday.

As to the Port's timing, a hard copy of the opinion reached me the middle of last week. At that time, we began reviewing our options – which still include asking the State for a clarification of an opinion that we still believe is in error. Your May 19 meeting was the first available opportunity to present our analysis to all of you at your regular meeting. We don't believe a week and a half is too long a time to review and consider this issue, given the concerns expressed by some members in Internet communications this week.

We hope this allays your concerns and allows you to keep focusing on your very important work at hand, which is to consider ways to reduce the carbon footprint of Rock-Tenn and other businesses in the Midway with renewable fuel.

Eric Larson, the Port Authority's general counsel, will attend your Monday RCAP meeting to answer your questions on this issue.

Thank you for your time.

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