

SUPREME COURT OF LOUISIANA

No. 2007-CC-0522

MATTHEW BIANCHINI

VERSUS

STATE OF LOUISIANA, DEPARTMENT OF TRANSPORTATION

CALOGERO, Chief Justice, additionally concurs and assigns reasons.

I concur in the court’s action remanding this matter to the trial court for reconsideration of its ruling in light of *Palacios v. Louisiana and Delta Railroad, Inc.*, 98-2932 (La. 7/2/99), 740 So.2d 95. However, I write additionally to point out that, as we made clear in *Palacios*, not all documents and information in the state's possession will always be privileged under 23 U.S.C. Sect. 409. 98-2392, pp. 12-13 (La. 7/2/99), 740 So.2d 95, 102. In *Palacios*, we concluded “only that records amassed pursuant to the federal safety evaluation programs described in 23 U.S.C. Sections 130, 144 or 152, or for the purpose of developing other highway safety improvement projects which may be federally funded, are protected. The plaintiff is at liberty to investigate, examine and present other relevant evidence, so long as such evidence was not compiled or collected for purposes of federal highway improvement programs.” *Id.* at 13, 740 So.2d at 102.