



**OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS**

Lisa Madigan
ATTORNEY GENERAL

September 1, 2010

Mr. Thomas Reuter
FOIA Officer
Illinois Environmental Protection Agency
102 N. Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794

RE: FOIA Pre-Authorization Request – 2010 PAC 6333

Dear Mr. Reuter:

We have received and reviewed the written notice from the Illinois Environmental Protection Agency (IEPA) of its intention to withhold certain information as exempt from disclosure under Section 7(1)(f) of the Freedom of Information Act (FOIA). 5 ILCS 140/1 *et. seq.*, as amended.

Specifically, on February 23, 2010, Mr. Peter Lynch, on behalf of Hinshaw and Culbertson, submitted a FOIA request to the IEPA seeking copies of records relating to the Buckeye Pipeline in Chillicothe, Illinois.

On March 16, 2010, the IEPA submitted a pre-authorization request with this Office asserting that: (1) the draft of a consent decree; (2) the draft of an agreed interim order; and (3) a 2003 memorandum regarding compliance enforcement are exempt from disclosure pursuant to Section 7(1)(f), which exempts from inspection and copying "preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the public body." 5 ILCS 140 7(1)(f).

Determinations

The IEPA's request for approval of its decision to withhold information pursuant to Section 7(1)(f) is approved. With regard to the drafts of the consent decree and the agreed interim order, these documents are preliminary in nature and were not intended to be final products. With regard to the 2003 memorandum regarding compliance enforcement, the document contains recommendations about a possible course of action for the site.


Based on our review of these three documents, it is our determination that they are preliminary in nature and properly falls within the scope of Section 7(1)(f). Additionally, there is no evidence that this information has been publicly cited and identified by the head of the public body. 5 ILCS 140/7(1)(f).

Therefore, the IEPA has met its burden under Section 7(1)(f) and may withhold the documents from disclosure.

If you have any questions or concerns, please contact me at (312) 814-5383. This correspondence shall serve to close this matter.

Sincerely,

Cara Smith
Public Access Counselor



Matthew C. Rogina
Assistant Public Access Counselor

cc: John Rhee
Hinshaw and Culbertson
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Peoria, Illinois 61602