



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

July 6, 2011

Mr. Thomas J. Reuter
Acting FOIA Officer
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

RE: Pre-Authorization Request — 2011 PAC 15067

Dear Mr. Reuter:

We have received and reviewed the written notice from the Illinois Environmental Protection Agency (IEPA) of its intention to deny disclosure of certain information pursuant to section 7(1)(f) of the Freedom of Information Act (FOIA) (5 ILCS 140/7(1)(f) (West 2010). Specifically, on April 25, 2011, Mr. Edward Walczak submitted a FOIA request for documents concerning the Belvidere Municipal Landfill Facility. IEPA is seeking to withhold certain inter-agency and intra-agency records under section 7(1)(f).

Section 7(1)(f) of FOIA exempts from inspection and copying "[p]reliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions 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) (West 2010). The section 7(1)(f) exemption applies to "inter- and intra-agency predecisional and deliberative material." *Harwood v. McDonough*, 344 Ill. App. 3d 242, 247 (1st Dist. 2003). The exemption is intended to protect the communications process and encourage frank and open discussion among agency employees before a decision is made." *Harwood v. McDonough*, 344 Ill. App. 3d 248 (1st Dist. 2003).

DETERMINATION

IEPA's use of the section 7(1)(f) exemption to withhold the records is **approved**. We have determined that these documents contain opinions that IEPA and the United States Environmental Protection Agency considered prior to making a joint decision regarding an

Mr. Thomas Reuter
July 6, 2011
Page 2

enforcement matter. The records in question also include preliminary assessments and draft versions of notes, letters and reports that were considered in formulating enforcement actions. Such documents are pre-decisional in nature. Further, IEPA has indicated that the records have not been publicly cited by their Director. Therefore, we conclude that IEPA has sustained its initial burden of demonstrating that these documents are exempt from disclosure under section 7(1)(f).

Accordingly, IEPA may issue a partial denial letter and release other records responsive to the request, if it has not already done so.

If you have any questions, please contact me at (312) 814-6756. This correspondence shall serve to close this matter.

Very truly yours,

STEVE SILVERMAN by EK

STEVE SILVERMAN
Assistant Attorney General
Public Access Bureau

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cc: Mr. Edward Walczak
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