



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

Lisa Madigan
ATTORNEY GENERAL

July 13, 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 8331

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 June 17, 2010 Mr. Lawrence Falbe, on behalf of Quarles & Brady LLP, submitted a FOIA request to the IEPA seeking copies of documents relating to the Republic Creosoting Company, also known as the Joppa Tire Yard, in Joppa, Illinois.

On July 1, 2010, the IEPA sent a denial letter to Mr. Fable explaining that the Hazardous Ranking System (HRS) score sheets, draft health consultation, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) pre-score sheet and executive summary 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).

In its letter, the IEPA argues that (1) the HRS score sheets were prepared for the United States Environmental Protection Agency to determine the site's CERCLA status pursuant to federal law, (2) the draft health consultation contains conclusions and recommendations regarding the public health hazard of contaminants at the site, (3) the CERCLA pre-score sheet was the scoring package used to determine the site's CERCLA status pursuant to federal law and is a recommendation for establishing priority for further site assessment or no further action and (4) the executive summary was drafted for the USEPA to determine the site's status on the National Priority List.

Determinations

The IEPA's request for approval of its decision to withhold information pursuant to Section 7(1)(f) is approved. Our Office has reviewed the documents supplied to us by the IEPA and we have determined that the HRS score sheets, draft health consultation, CERCLA pre-score sheet and executive summary are deliberative and fall within the scope of Section 7(1)(f). These documents reflect internal research and express opinions by the IEPA staff about the site and possible courses of action for the site.

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).


Based on this analysis, the IEPA has met its burden under Section 7(1)(f) and may withhold the score sheets, draft health consultation, CERCLA pre-score sheet and executive summary.

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

By:


Matthew C. Rogina
Assistant Public Access Counselor

cc: Mr. Lawrence Falbe
Quarles & Brady, LLP
300 N. LaSalle Street, Suite 4000
Chicago, Illinois 60654