OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

August 5, 2010

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

Re: Pre-Authorization Request 2010 PAC 8731

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 documents as exempt under Section 7(1)(f) of the Freedom of Information Act. 5 ILCS 140/1 *et seq.*, as amended (FOIA).

[redacted] submitted a FOIA request on June 11, 2010 seeking "[a]ny plans, specifications, correspondence or other records related to asbestos at Johnson Motors a/k/a Outboard Marine, Waukegan, Illinois." In its written notice, the IEPA asserts that certain documents are exempt under Section 7(1)(f) of FOIA as they contain "conclusions and recommendations" and are "pre-decisional in nature." In addition, the IEPA asserts that the documents have not been publicly cited by its Director.

Section 7(1)(f) of FOIA exempts from disclosure records that constitute "[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 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).

Determination

The IEPA's proposed use of the exemption found in Section 7(1)(f) of FOIA to deny disclosure of the specified documents is approved. We have reviewed the documents provided by IEPA and have determined that they consist of letters, memoranda, and draft reports and comments, which include opinions, conclusions, and recommendations, which the IEPA asserts have not been publicly cited by the Director of the IEPA. Thus, these document are considered exempt from disclosure under Section 7(1)(f) of FOIA.

Accordingly, IEPA may issue a partial denial letter withholding the specified documents.

If you have any questions, please feel free to contact me at (312) 814-1003. This correspondence shall serve to close this matter.

Sincerely,

Cara Smith
Public Access Counselor

By: [redacted]

Jessica O'Leary
Assistant Attorney General

cc: [redacted]