



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

Lisa Madigan  
ATTORNEY GENERAL

August 9, 2010

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

RE: Pre-Authorization Request – 2010 PAC 8842

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).

On July 19, 2010, [REDACTED] submitted a FOIA request to the IEPA for information concerning BNSF Eola Yard Facility at 685 McClure Road, Aurora, IL. In its written notice, the IEPA asserts that certain documents contained within the requested records, specifically, two memoranda and a preliminary evaluation report, have been withheld from disclosure under Section 7(1)(f) of FOIA.

**Determination**

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.”

The IEPA’s use of the Section 7(1)(f) exemption with regard to the withheld documents is **approved**. We have determined that the memoranda and preliminary report contain opinions and recommendations that were relied upon by the IEPA in formulating actions regarding a specific site. Further, the IEPA has indicated that none of the withheld documents have been publicly cited by the IEPA’s Director. Accordingly, the IEPA has met its burden of demonstrating that the withheld documents are exempt from disclosure under Section 7(1)(f) of FOIA.

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If you have any questions or concerns, please feel free to contact me directly at (312) 814-6437.  
This correspondence shall serve to close this matter.

Sincerely,

Cara Smith  
Public Access Counselor

By:

  
Tola Adewola  
Assistant Public Access Counselor

cc:

