



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

August 31, 2010

Tom Reuter
FOIA Officer (Acting)
Illinois EPA
1021 N. Grand Ave. East
P.O. Box 19276
Springfield, Illinois 62794-9276

RE: FOIA Pre-Authorization Request - 2010 PAC 9231

Dear Mr. Reuter:

We have reviewed the Illinois EPA's pre-authorization request and associated documents that your office submitted on August 27, 2010. John Gaines, on behalf of Forest Road Consulting, Inc., submitted a Freedom of Information Act ("FOIA") request to the EPA seeking documents on July 21, 2010. The EPA granted the request in part, but claims that two documents are exempt from disclosure under Section 7(1)(f) of FOIA, 5 U.S.C. 552/7(1)(f).

We approve the use of Section 7(1)(f) to withhold the requested documents.

Section 7(1)(f) 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." *Id.*

Here, the withheld documents fall within the purview of section 7(1)(f). The first document is a memo created by a "Permit Reviewer" for the EPA, examining the requirements for issuance of a permit to a particular facility. It makes a recommendation concerning the owner/operator's explanation for complying or not complying with the permit requirements. This document is in draft form.

The second document is a memo created by an "FOS Engineer Reviewer," and it also makes recommendations regarding the allegations made by the owner/operator of the facility. Additionally, this document makes a recommendation as to whether an existing expired state permit should be modified. This document also is in draft form.

Finally, neither document has been publicly cited or identified by the head of the EPA. Accordingly, EPA has met its burden of demonstrating that the documents are exempt from disclosure pursuant to Section 7(1)(f) of FOIA.

If you have any questions or concerns, please contact me at (312) 814-5044. This correspondence shall serve to close this matter.

Sincerely,

Cara Smith
Public Access Counselor

By:



Assistant Attorney General

cc: John Gaines
Forest Road Consulting, Inc.
51 Forest Rd.
Davenport, Iowa 62803