



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

Lisa Madigan
ATTORNEY GENERAL

June 22, 2010

Dustin McLane
FOIA Officer
Jo Daviess County Soil and Water Conservation District
227 North Main Street
Elizabeth, Illinois 61028

RE: Pre-Authorization Request – 2010 PAC 7931

Dear Mr. McLane:

We have received and reviewed the written notice from the Jo Daviess County Soil and Water Conservation District (District) of its intention to deny certain information as exempt from disclosure under Section 7(1)(f) of the Freedom of Information Act (FOIA). 5 ILCS 140/7(1)(f).

On June 8, 2010, [REDACTED] submitted a FOIA request to the District seeking the following:

construction drawings and what ever other information that was used to design the Missouri crossing that will be installed on the creek entering the end of President Bay at Apple Canyon Lake. This includes the materials lists and specification for such materials. What are the design flow, or expected rain fall before the water flows over the top of the crossing.

In its written notice, the District asserts that part of [REDACTED]'s request for "any other information" used for the design of the trail crossing plan is exempt from disclosure under Section 7(1)(f) of FOIA because they are preliminary drafts, notes, recommendations, and formulated actions used in the preparation and design of the trail crossing construction plans.

During an phone call inquiry from our office on June 18, 2010, Mr. Kyle Embry, on behalf of the District, explained that the documents that the District seeks to withhold from disclosure pursuant to Section 7(1)(f) of FOIA are: (1) design drafts, and (2) employees' site notes which contain opinions regarding the employees' survey of the site for the trail crossing plans.

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."

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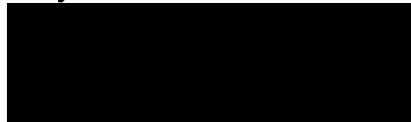
The District's use of the Section 7(1)(f) exemption with regard to the design drafts and employees' site notes containing the expression of the employees' opinions is **approved**. The drafts and site notes are pre-decisional documents in which opinions were expressed and were relied upon by the District in formulating its construction plans for the trail crossing at Apple Canyon Lake. Further, the District has noted that none of these documents has been publicly identified or cited by the District. Accordingly, the District has met its burden of demonstrating that these drafts and site notes are exempt from disclosure under Section 7(1)(f) of FOIA.

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:

