



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

April 11, 2011

Mr. Thomas Reuter
Freedom of Information Act Officer
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794

RE: Pre-Authorization Request - 2011 PAC 13246

Dear Mr. Reuter:

We have reviewed the written notice from the Illinois Environmental Protection Agency (Illinois EPA) of its intention to deny disclosure of 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 January 13, 2011, Jennifer Martin, on behalf of Hodge, Dwyer, & Driver, submitted a FOIA request to IEPA seeking to "review paper, electronic, or microfiche copies of any and all documents with regard to any landfill sites and/or former landfill sites accepted in the Site Remediation Program."

In its March 29, 2011 Notice of Intent to Deny, the IEPA asserted that certain records with regard to 10 sites are exempt from disclosure pursuant to Section 7(1)(f) of FOIA 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."

Determination

IEPA's request for approval of its decision to withhold the information pursuant to Section 7(1)(f) is approved. The Section 7(1)(f) exemption is intended to encourage government officials to openly and frankly discuss matters of governmental concern in order to make informed policy decisions. See *N.L.R.B. v. Sears*, 421 U.S. 132 (1975), *Hoffman v. Ill. Dept. of Corrections*, 158 Ill.App.3d 473, 511 N.E.2d 759 (1st Dist. 1987).

This Office has reviewed the documents that IEPA seeks to withhold and we have concluded that they consist of a recommendations and opinions by the IEPA about several different sites that were part of the Site Remediation Program.

Additionally, there is no evidence that these documents have been publicly cited and identified by IEPA. 5 ILCS 140/7(1)(f).

Accordingly, we find that IEPA has met its initial burden under Section 7(1)(f) and may withhold the documents.

If you have any questions, please feel free to contact me at (312) 814-5383. This correspondence shall serve to close this matter.

Sincerely,



Matthew C. Rogina
Assistant Public Access Counselor

cc: Ms. Jennifer Martin
Hodge Dwyer & Driver
3150 Roland Avenue
P.O. Box 5776
Springfield, Illinois 62705-5776

13246 pre-auth at 7(1)(f) prelim sa