



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

February 23, 2011

Illinois Environmental Protection Agency
Tom Reuter, FOIA Officer
1021 North Grand Avenue East
PO Box 19276
Springfield, IL
62794-9276

Re: Pre-authorization request – 2011 PAC 12366

Dear Mr. Reuter:

We have reviewed a request by the Illinois Environmental Protection Agency (IEPA) for pre-authorization to withhold records requested by Lara Hoffman under the Freedom of Information Act (FOIA). 5 ILCS 140/1 *et seq.*, as amended. Ms. Hoffman requested records regarding environmental conditions at two locations in Chicago. IEPA requested pre-authorization to withhold various records pursuant to Section 7(1)(f) (5 ILCS 140/7(1)(f)).

Section 7(1)(f) 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.” 5 ILCS 140/7(1)(f). The Section 7(1)(f) exemption applies to “inter- and intra-agency predecisional and deliberative material.” *Harwood v. McDonough*, 344 Ill. App. 3d 242, 247, 799 N.E.2d 859, 864 (1st Dist. 2003). The exemption is “intended to protect the communications process and encourage frank and open discussion among agency employees before a decision is made.” *Id.* at 248, 799 N.E.2d at 864.

Determination

The request for pre-authorization to withhold the records pursuant to Section 7(1)(f) is **approved**. We have reviewed copies of the records, which consist of notes and recommendations by a contractor for the United States Environmental Protection Agency (USEPA). Mr. Reuter has confirmed that USEPA and IEPA collaborated on formulating decisions to address environmental conditions at the locations referenced in the records.

Therefore, the records in question are pre-decisional in nature and contain opinions related to enforcement action. Moreover, IEPA has asserted that the records were not publicly cited and identified by the head of the public body. Accordingly, IEPA has sustained its initial burden of demonstrating that the records are exempt from disclosure under Section 7(1)(f).

This letter shall serve to close this file. If you have any questions, please feel free to contact me at 312-814-6756 or ssilverman@atg.state.il.us.

By:



Steve Silverman
Assistant Public Access Counselor

cc: Lara Hoffman
EPS Environmental
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