



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

March 8, 2011

Mr. Tom Reuter
Freedom of Information Act Officer
Illinois Environmental Protection Agency
Tom.reuter@illinois.gov

RE: FOIA Pre-Authorization Request 2011-PAC-12679

Dear Mr. Reuter:

We have received and reviewed the written notice from the Illinois Environmental Protection Agency (IEPA) of its intention to deny certain information as exempt from disclosure under Sections 7(1)(f) of the Freedom of Information Act ("FOIA") (5 ILCS 140/1 *et seq.*, as amended).

Specifically, on February 11, 2011, [REDACTED] submitted a FOIA request to IEPA seeking copies of information relating to the JL Clark Facility.

On March 2, 2011, the IEPA submitted a Pre-Authorization Request to this Office explaining that certain memoranda are exempt from disclosure pursuant to Section 7(1)(f) of FOIA (5 ILCS 140/7(1)(f)), which exempts from inspection and copying any "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."

Determinations

The IEPA's request for approval of its decision to withhold information pursuant to Section 7(1)(f) is approved. This Office has reviewed the memoranda by the IEPA relating and we have determined that the documents consist of recommendations and opinions by IEPA personnel about a particular course of action with regard to the facility.

Additionally, there is no evidence that this information has been publicly sited and identified by the head of the public body. 5ILCS 140/7(1)(f).

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

The IEPA also stated its intention to withhold certain reports on the ground that such material constituted attorney work product and internal memos pursuant to Section 7(1)(m) which exempts from inspection and copying "communications between a public body and an attorney or auditor representing the public body that would not be subject to discovery in litigation, and materials prepared or compiled by and for a public body in anticipation of a criminal, civil or administrative proceeding upon the request of an attorney advising the public body, and materials prepared or compiled with respect to internal audits of public bodies." Please be advised that use of the 7(1)(m) exemption does not require prior approval from the Office of the Public Access Counselor. Accordingly, we will not in this context address the applicability of this exemption to the reports in question.

Please be advised that use of the 7(1)(m) exemption does not require prior approval from the Office of the Public Access Counselor.

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:



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