

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER F2018-19

May 3, 2018

ALBERTA AGRICULTURE AND FORESTRY

Case File Number 008202

Office URL: www.oipc.ab.ca

Summary: On October 31, 2017, the Applicant made an access request to Alberta Agriculture and Forestry (the Public Body) pursuant to the *Freedom of Information and Protection of Privacy Act* (the Act) for:

Any communication between Agriculture and Forestry staff ...and the Minister's offices of Agriculture and Forestry and Environment and Parks regarding the Denhoff Report "Setting Alberta on the Path to Caribou Recovery" and Draft Little Smoky and A La Peche Caribou Range Plan and it's recommendations on timber supply including but not limited technical analysis, minister briefings, risk assessment, credibility of the timber supply, congruency with existing timber supply in W15, recommendations to the ministers on accepting Denhoff's recommendations, legal implications of said reports/recommendations on existing forest tenure holders rights.
Timeframe: May 1, 2015 to October 30, 2017

The Public Body communicated with the Applicant and on November 6, 2017, clarified his request. The Public Body also extended its time for responding to the Applicant citing section 14(1)(b) of the Act. To date, the Applicant has not received a response to his access request from the Public Body.

The Adjudicator found that the Public Body did not respond to the Applicant within the time limit set out in section 11 of the Act. Therefore, the Adjudicator ordered them to do so.

Statutes Cited: AB: *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 11, and 72.

I. BACKGROUND

[para 1] On October 31, 2017, the Applicant made an access request to Alberta Agriculture and Forestry (the Public Body) pursuant to the *Freedom of Information and Protection of Privacy Act* (the Act) for:

Any communication between Agriculture and Forestry staff ...and the Minister's offices of Agriculture and Forestry, and Environment and Parks regarding the Denhoff Report "Setting Alberta on the Path to Caribou Recovery" and Draft Little Smoky and A La Peche Caribou Range Plan and it's recommendations on timber supply including but not limited technical analysis, minister briefings, risk assessment, credibility of the timber supply, congruency with existing timber supply in W15, recommendations to the ministers on accepting Denhoff's recommendations, legal implications of said reports/recommendations on existing forest tenure holders rights.
Timeframe: May 1, 2015 to October 30, 2017

[para 2] The Public Body communicated with the Applicant and on November 6, 2017, clarified his request to the following:

Any communication between the following Agriculture and Forestry staff ...and the Minister's offices of Agriculture and Forestry and/or Environment and Parks regarding (1) the Denhoff Report "Setting Alberta on the Path to Caribou Recovery" and (2) the Draft "Little Smoky and A La Peche Caribou Range Plan"

Copy of high level documents such as briefing notes, minister briefings, memorandums, reports, etc. regarding the Denhoff Report "Setting Alberta on the Path to Caribou Recovery" and Draft "Little Smoky and A La Peche Caribou Range Plan" and its recommendations on timber supply; including but not limited to technical analysis, risk assessments, credibility of the timber supply, congruency with existing timber supply in W15, recommendations to the ministers on accepting Denhoff's recommendations, and legal implications of said reports/recommendations on existing forest tenure holders rights.

Excluding duplicates and drafts. If there is no final copy, the last draft is requested.

Timeframe: May 1, 2015 to October 30, 2017

[para 3] On November 29, 2017, the Public Body extended its time for responding to the Applicant citing section 14(1)(b) of the Act. The Public Body provided the Applicant with status updates regarding its response, including notification that it started third party consultations. However, to date, the Applicant has not received a response to his access request from the Public Body.

[para 4] On January 29, 2018, the Applicant requested a review of the Public Body's failure to respond to the request. On April 11, 2018, the Office of the Information and Privacy Commissioner issued a Notice of Inquiry. I received submissions from the Public Body.

II. ISSUE

[para 5] The Notice of Inquiry dated April 11, 2018 states the issue in this inquiry as follows:

Did the Public Body comply with section 11 of the Act (time limit for responding)?

III. DISCUSSION OF ISSUE

Did the Public Body comply with section 11 of the Act (time limit for responding)?

[para 6] Section 11 of the Act states:

11(1) The head of a public body must make every reasonable effort to respond to a request not later than 30 days after receiving it unless

(a) that time limit is extended under section 14, or

(b) the request has been transferred under section 15 to another public body.

(2) The failure of the head to respond to a request within the 30-day period or any extended period is to be treated as a decision to refuse access to the record.

[para 7] The Public Body acknowledges that it has missed the deadline imposed by section 11. It further states that unless there is a third party request for review, a response will be provided to the Applicant by June 19, 2018.

[para 8] Section 11 of the Act sets out a statutory obligation which has not been met. Therefore, I find that the Public Body has breached section 11 of the Act.

IV. ORDER

[para 9] I make this Order under section 72 of the Act.

[para 10] I find that the Public Body did not respond to the Applicant within the time limit set out in section 11 of the Act. While it is too late for the Public Body to now

comply with that section of the Act, I order the Public Body to respond to the Applicant in accordance with the Public Body's remaining duties under the Act.

[para 11] I order the Public Body to notify me in writing, within 50 days of being given a copy of this Order, that it has complied with it.

Keri H. Ridley
Adjudicator