



Information and Privacy
Commissioner/Ontario

Commissaire à l'information
et à la protection de la vie privée/Ontario

ORDER PO-1839

Appeals PA-000348-1, PA-000350-1, PA-000351-1, PA-000352-1,
PA-000353-1 and PA-000354-1

Ministry of the Environment



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NATURE OF THE APPEAL:

On May 30, 2000, the appellant submitted six identical requests to the Ministry of the Environment (the Ministry) under the *Freedom of Information and Protection of Privacy Act* (the *Act*) for information relating to six cities or towns for the period from January 1, 1994 to the present. The appellant is seeking correspondence between the Ministry or regional office and the named city or town, the public utilities commission in that town or a consultant/third party on their behalf, including any laboratory sampling test results.

In a letter to the appellant dated June 7, 2000, the Ministry confirmed that the scope of these requests had been clarified to include correspondence only in the Ministry's district or regional offices. The Ministry also advised the appellant that she could expect a reply or "additional communication" by July 5, 2000. At the same time, the Ministry advised that a fee may be cited for search time and photocopying of records.

However, the Ministry did not issue any decision letters to the requester as required by sections 26 and 29 of the *Act* within the 30-days prescribed by the *Act*, nor did the Ministry request a time extension to process the requests under section 27(1) of the *Act*. Accordingly, the Ministry placed itself in a "deemed refusal" situation pursuant to section 29(4) of the *Act*. This provision states:

A head who fails to give the notice required under section 26 or subsection 28(7) concerning a record shall be deemed to have given notice of refusal to give access to the record on the last day of the period during which notice should have been given.

On October 20, 2000, the appellant filed an appeal of the Ministry's deemed refusal to provide access to the records.

On November 7, 2000, this Office sent a Notice of Inquiry to both the appellant and the Ministry stating that the Ministry is in a "deemed refusal" situation because it did not issue decision letters within the required 30-day time-frame. The Notice also advised that if this matter was not settled by November 23, 2000, I may issue an order requiring the Ministry to issue a decision letter to the appellant.

On November 22, 2000, I contacted the Ministry regarding the status of the six decisions to be issued. The Ministry advised that it had received and was reviewing the records responsive to only four of the requests, and that it would issue access decisions for these requests by November 28, 2000. On November 30, 2000, I was advised that the decisions may be issued by December 4/5, 2000.

To date, the Ministry has not issued any decisions respecting the six requests which were made six months ago and which are the subject of the above six appeals.

ORDER:

- 1 I order the Ministry to provide the appellant with written notice of its decision on access to the records responsive to each of the six requests made on May 30, 2000 by **December 15, 2000**.

- 2 In order to verify compliance with Provision 1 of this order, I order the Ministry to provide me with a copy of each decision referred to in Provision 1 by December 21, 2000. This should be forwarded to my attention, Information and Privacy Commissioner/Ontario, 80 Bloor Street West, Suite 1700, Toronto, Ontario, M5S 2V1.

Original signed by: _____
Susan Ostapiec
Acting Adjudicator

December 7, 2000