



Information and Privacy
Commissioner/Ontario
Commissaire à l'information
et à la protection de la vie privée/Ontario

ORDER P-429

Appeal P-9200662

Ministry of the Environment



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ORDER

The Ministry of the Environment (the Ministry) received a request under the Freedom of Information and Protection of Privacy Act (the Act) for access to the results of analyses from Ontario municipal wells showing measurable levels of the chemicals trichloroethylene and tetrachloroethylene. The requester specifically asked that the responsive records should include data for wells in Angus, Alliston, Orillia and Penetanguishene.

The Ministry responded to the request by providing access to the 1992 results in the Drinking Water Surveillance Program (DWSP) database for the above-mentioned chemicals for municipal ground water supplies. The Ministry however, advised the requester that the DWSP monitors only 19 of the approximately 300 municipal ground water supplies in Ontario and none of the four wells specifically requested were monitored by DWSP. The Ministry further responded that to locate any additional records responsive to the request would involve extensive searches in six regional offices and provided the requester with a fee estimate.

The appellant appealed the fee estimate and that appeal was assigned file number P_9200487. In mediation, the appellant narrowed his request to any data for the above-mentioned chemicals available at the Ministry's Drinking Water Section, Water Resources Branch in Toronto, Ontario. On August 18, 1992, the Ministry issued a new decision letter in response to the narrowed request and disclosed information from the Drinking Water Section's manual records to the appellant without charge. Accordingly, appeal file number P-9200487 was closed.

The appellant subsequently wrote this office requesting an appeal of the Ministry's decision of August 18, 1992, on the basis that he was not provided with all the information requested. The appeal was assigned file number P-9200662 and it is this appeal which is now being considered. In accordance with the usual practice, the appeal was assigned to an Appeals Officer who contacted the appellant and the Ministry. The appellant claimed that the Ministry should have responsive records for the Fergus, Angus and Manotick areas and most likely numerous others. The Ministry maintained its position that no additional records exist at the Drinking Water Section, Water Resources Branch, Toronto, which is the only office subject to the narrowed request. Mediation was not successful, and notice that an inquiry was being conducted to review the Ministry's decision was sent to the appellant and the Ministry. Written representations were received from both parties.

In his representations, the appellant outlines his reasons for believing that additional records exist. The appellant believes that data for the communities of Fergus, Angus and Manotick must exist at the Water Resources Branch in Toronto because, according to the appellant, the Ministry was clearly aware of the pollution. The appellant included with his representations copies of correspondence and media articles, which he submitted as evidence that the Ministry was aware of drinking water pollution caused by the chemicals trichloroethylene and tetrachloroethylene in those communities.

As part of its representations, the Ministry acknowledged that additional responsive records would be available from the six regional offices of the Ministry. It also stated that during the mediation phase of the appeal, the requester made additional requests pursuant to the Act for the records from the regional offices. The Ministry replied with a fee estimate, and the requester withdrew his requests. The Ministry submitted an affidavit sworn by the Head of the Quality Surveillance Group, Drinking Water Section, outlining the steps taken to locate any responsive records within the Drinking Water Section of the Ministry. The affidavit affirms that both a computer and manual search were conducted and that all records within that section which were responsive to the initial and narrowed request have been identified and disclosed to the requester.

Having carefully reviewed the representations of both parties, and the affidavit evidence submitted to me, I am satisfied that the Ministry has taken all reasonable steps to locate additional records at the Ministry's Drinking Water Section, Water Resources Branch in Toronto that would respond to the appellant's request, and I find that the search conducted by the Ministry was reasonable, in the circumstances of this appeal.

Original signed by: _____
Asfaw Seife
Inquiry Officer

_____ March 3, 1993