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

ORDER P-1001

Appeal P-9500215

Ministry of Northern Development and Mines

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NATURE OF THE APPEAL:

The Ministry of Northern Development and Mines (the Ministry) received a request under the Freedom of Information and Protection of Privacy Act (the Act) for access to any information concerning the formation of alliances or facilities-sharing arrangements between a named corporation (the Corporation) and three Ministry laboratories.

The Ministry advised the requester that the first laboratory was now closed and that no alliances or agreements had been entered into between the Corporation and the second laboratory. The Ministry identified 23 records as being responsive to that part of the request related to the third laboratory and, pursuant to section 28 of the Act, advised the Corporation of the request. The Corporation objected to the disclosure of some of the records.

The Ministry subsequently granted access to three records in their entirety and a portion of two others, including the joint facilities access agreement (the Access Agreement). The Ministry denied access to the balance of the documents under the following exemptions contained in the Act:

- advice and recommendations - section 13(1)
- third party information - section 17(1)
- economic and other interests - section 18(1)(c)

The requester appealed the denial of access.

A Notice of Inquiry was sent to the Ministry, the appellant and the Corporation. Representations were received from all three parties. After it submitted its representations, the Ministry forwarded another letter to this office indicating that it was now applying certain previously-claimed exemptions to additional records. The Corporation was represented by counsel in this inquiry.

The records at issue and the corresponding exemptions are set out in Appendix A to this order.

THE ISSUES

The Corporation submits that there are seven issues to be addressed in this appeal:

(1) The exclusion of the Corporation from the operation of the Act.

(2) A final agreement supersedes negotiations and draft documents leading up to the final agreement.

(3) The non-responsive nature of information contained in portions of Record 2 and parts of the electronic mail (E-mail) portion of Record 10.

(4) The application of sections 17(1)(a) and (c) of the Act to Records 2, 3, 7, 10, 15, 16, 17, 18, 20, 21 and 22.

(5) The application of section 19 to the E-mail portion of Record 10.

(6) The application of section 18(1)(c) to the records.
(7) The application of section 13(1) to the records.

I will consider issues (1) and (2) as preliminary matters in this order. In both cases, these issues must be determined before the remainder may be considered. I will also consider the additional discretionary exemptions claimed by the Ministry as a preliminary issue.

The appellant has indicated that he is not disputing the position of the Corporation that certain parts of Records 2 and 10 (the E-mail portion) are not responsive to his request. Accordingly, I need not consider issue (3).

The Ministry has claimed that section 17(1) applies to exempt the records indicated in Appendix A from disclosure. The Corporation submits that this exemption also applies to Records 2, 3, 7, 10, 15 and 17. As section 17(1) is a mandatory exemption, I will consider its application to these additional records in my discussion of issue (4).

Because of my findings on the application of section 17(1) to the E-mail portion of Record 10, I need not consider the Corporation's issue (5).

I will consider issues (6) and (7) in the usual course based on the submissions of the Ministry.

PRELIMINARY MATTERS

APPLICATION OF THE ACT TO THE CORPORATION

The Corporation correctly notes that it is not designated as an "institution" for the purposes of the Act. It maintains that, by excluding the Corporation from the application of the Act, the Legislature acknowledged the need to protect and maintain the confidential and privileged nature of information involving the Corporation and its clients.

The Corporation then refers to the legal principle that "a party cannot do indirectly that which it cannot do directly". Based on this principle, it believes that it would be wrong for the appellant to obtain information about the Corporation indirectly from the Ministry when the Corporation does not have a direct legislative obligation to disclose this information as an institution under the Act. The Corporation cites the case of Madden v. Nelson and Fort Sheppard Railway [1899] A.C. 626 (H.L.) in support of this proposition.

This case, however, was decided in the context of determining whether a statute which imposed certain obligations on a railway company, a federal undertaking, was beyond the jurisdiction of a provincial legislature. The Court referred to the principle cited by the Corporation in its discussion of the interpretation to be given to the provincial legislation, an issue entirely different from the statutory scheme set out in freedom of information legislation.

One of the purposes set out in section 1(a)(i) of the Act is to provide a right of access to information under the custody or control of an institution in accordance with the principle that information should be available to the public. It is my opinion that the issue raised by the Corporation must be based on the wording and intent of the Act.

Although the Corporation is not listed among those entities which are defined as "institutions" for the purposes of the Act, there is nothing in the Act which expressly excludes from its application records which originated from third parties such as the Corporation.

Section 10(1) of the Act provides as follows:

> Every person has a right of access to a record or a part of a record **in the custody or under the control of an institution** unless the record or the part of the record falls within one of the exemptions under sections 12 to 22. [emphasis added]

In Order P-239, Commissioner Tom Wright addressed a similar argument made by the Office of the Ontario Ombudsman. In that case, the Ombudsman submitted that because the Ombudsman's office is not an institution listed in the Act, it would be inappropriate to construe the Act as applicable to records prepared by the Ombudsman which might be found in the possession of institutions. Commissioner Wright stated:

> It is my opinion that to remove information originating from non-institutions from the jurisdiction of the Act would be to remove a significant amount of information from the right of public access, and would be contrary to the stated purposes and intent of the Act.

He concluded that the Act applied to information that originated in the Ombudsman's office which was in the custody or under the control of an institution. To state this proposition a bit differently, the Act will apply to information in the custody or control of an institution notwithstanding that it was created by a third party. I accept this approach and adopt it for the purposes of this appeal.

There are innumerable individuals, organizations, agencies and businesses that interact with government institutions on a daily basis. During the course of these interactions, information about these entities often comes into the possession of these institutions. In drafting its freedom of information legislation, the government determined that such information should be subject to the provisions of the Act, unless the exemptions contained in the statute applied. These exemptions are designed to not only protect the interests of government institutions, but also those of third parties (such as individuals, agencies and organizations) whose information may come into the custody or control of an institution as well. Based on the scheme of the Act, therefore, a third party, such as the Corporation, will have the opportunity to fully argue that its interests will be harmed by the release of such information.

In its representations, the Corporation has not provided any evidence to indicate that the Legislature intended that the Corporation should be treated differently from any other third party agency or business which provides information to an institution. Nor is there any dispute that the records at issue are in the custody of the Ministry.

For the reasons that I have outlined, I reject the Corporation's contention that the appellant should not be able to exercise his right under the Act to seek information from the Ministry about the Corporation. As indicated previously, the issue for me to decide is whether the exemptions claimed by the Ministry and the Corporation have been properly applied so as to deny access to such information.

A FINAL AGREEMENT SUPERSEDES NEGOTIATION AND DRAFT DOCUMENTS

The position of the Corporation on this issue is as follows:

> It is an accepted commercial principle that a final agreement supersedes all communications and negotiations that occurred in reaching the final agreement where those communications and negotiations are not found within the final agreement itself. With respect to the records at issue in this appeal, it is submitted that communications and negotiations between [the Corporation] and the Ministry leading up to the completion of the Access Agreement should remain confidential as they do not constitute part of the final executed agreement. The parties should not have to release this information as they have already released the superseding final agreement [Record 17].

The Corporation's representations then go on to cite the following passage from Order P-219:

> Negotiations leading up to the consummation of [agreements] ... and the supply of information in connection therewith and contained therein [are] implicitly made in confidence between the parties ... Such negotiations, supply of information and the resulting agreement are maintained in confidence as a matter of customary commercial practice to protect each party's business affairs and safeguard information and terms from the view of competitors.

This passage appeared in Order P-219 as part of the submissions of the institution in that appeal. It is cited by the then Assistant Commissioner Tom Wright in the context of determining whether the information contained in the record at issue had been **supplied** to the institution in confidence. It was not referred to for the proposition stated above by the Corporation. Whether the parties to the present appeal should have to release the draft documents will be decided on the basis of the application of the exemptions to deny disclosure. Merely because they are drafts of a final agreement which has been released does not remove these records from the scope of the application of the Act. Accordingly, I will consider all the records at issue in this appeal.

THE RAISING OF ADDITIONAL DISCRETIONARY EXEMPTIONS BY THE MINISTRY LATE IN THE APPEALS PROCESS

Upon receipt of this appeal, this office provided the Ministry with a Confirmation of Appeal notice. This notice indicated that the Ministry had 35 days from the date of the notice (until May 24, 1995) to raise any additional discretionary exemptions not claimed in the decision letter. No additional exemptions were raised during this period.

Subsequently, in a letter dated August 4, 1995, the Ministry indicated for the first time that it wished to claim additional discretionary exemptions for six records identified in its decision letter. The Ministry now wishes to apply section 18(1)(c) of the Act to Records 18, 20, 21 and 22 and section 13(1) to Records 21 and 22.

Previous orders issued by the Commissioner's office have held that the Commissioner or his delegate has the power to control the manner in which the inquiry process is undertaken. This includes the authority to set time limits for the receipt of representations and to limit the time frame during which an institution can raise new discretionary exemptions not originally cited in its decision letter.

In Order P-658, I explained why the prompt identification of discretionary exemptions is necessary to maintain the integrity of the appeals process. I indicated that, unless the scope of the exemptions being claimed is known at an early stage in the proceedings, it will not be possible to effectively seek a mediated settlement of the appeal under section 51 of the Act.

I also pointed out that, where a new discretionary exemption is raised after the Notice of Inquiry has been issued, it will be necessary to re-notify all parties to an appeal to solicit additional representations on the applicability of a new exemption. The result is that the processing of the appeal will be further delayed. Finally, I made the point that, in many cases, the value of information which is the subject of an access request diminishes with time. In these situations, appellants are particularly prejudiced by delays arising from the late raising of new exemptions.

The objective of the policy enacted by the Commissioner's office is to provide government organizations with a window of opportunity to raise new discretionary exemptions but not at a stage in the appeal where the integrity of the process is compromised or the interests of the appellant are prejudiced.

In this appeal, the Ministry did claim the exemptions in question but only for other records. In effect, the Ministry now seeks to extend the application of sections 13(1) and 18(1)(c) to include additional records. In Orders P-883 and P-952, I held that the fact that the Ministry has previously applied an exemption to one category of records should not presumptively mean that it can extend this provision to other documents. I decided that the 35-day policy applies to this situation and I adopt this approach for the purposes of this appeal.

The Ministry was advised of the policy in question yet now wishes to apply the discretionary exemptions cited above to the records indicated some two and a half months after the deadline set out in the Confirmation of Appeal and some five weeks after providing its submissions to this office.

The Ministry has provided no explanation for the delay in claiming that section 13(1) applies to Records 21 and 22 and that section 18(1)(c) applies to Records 18, 20, 21 and 22.

The Ministry suggests that the appellant should now be given notice of these additional sections and be given the opportunity to respond to them. I note that the processing of this appeal has already been delayed to provide the Corporation with more time to submit its representations. I also note that the appellant has already agreed to place some of his other files involving the Ministry and the Corporation on hold pending

resolution of this appeal and three others. The appellant made this agreement at the suggestion of this office in response to a request from the Corporation for additional time to prepare its submissions on the other appeals.

Having considered these circumstances, I find that a departure from the 35-day time frame is not justified in the circumstances of this appeal. Therefore, I will not consider the application of section 13(1) to Records 21 and 22 and section 18(1)(c) to Records 18, 20, 21 and 22.

THE APPLICATION OF THE EXEMPTIONS

THIRD PARTY INFORMATION

The Ministry claims that Records 16, 18, 20, 21 and 22 are exempt pursuant to section 17(1) of the Act. The Corporation submits that this exemption also applies to Records 2, 3, 7, 10, 15 and the fee schedule attached to Record 17.

Section 17(1) of the Act states:

> A head shall refuse to disclose a record that reveals a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence implicitly or explicitly, where the disclosure could reasonably be expected to,
>
> (a) prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;
>
> (b) result in similar information no longer being supplied to the institution where it is in the public interest that similar information continue to be so supplied;
>
> (c) result in undue loss or gain to any person, group, committee or financial institution or agency; or
>
> (d) reveal information supplied to or the report of a conciliation officer, mediator, labour relations officer, or other person appointed to resolve a labour relations dispute.

The appellant suggests that section 17(1)(a) cannot apply to the Corporation as it is designated by Management Board of Cabinet as a Schedule III Operating Agency of the government of Ontario. He refers to the fact that the term "agency" is only used in section 17(1)(c) and is not included in section 17(1)(a) as one of the entities which should be protected from the harms described in this section.

I disagree. The Interpretation Act, which applies to all provincial legislation including the Act, provides that the definition of "person" includes a corporation. Therefore, I am of the view that section 17(1)(a) can apply to the Corporation.

I will now consider the application of sections 17(1)(a) and (c) to the relevant records.

For a record to qualify for exemption under section 17(1)(a), (b) or (c) the institution and/or the affected party must satisfy each part of the following three-part test:

1. the record must reveal information that is a trade secret or scientific, technical, commercial, financial or labour relations information; **and**

2. the information must have been supplied to the institution in confidence, either implicitly or explicitly; **and**

3. the prospect of disclosure of the record must give rise to a reasonable expectation that one of the harms specified in (a), (b) or (c) of subsection 17(1) will occur.

[Order 36]

All three parts of the test must be satisfied in order for the exemption to apply.

Part One

The Corporation submits that the information contained in these records constitutes commercial information. I agree. The information relates to contractual agreements, negotiations and correspondence between the Ministry and the Corporation concerning a facilities sharing arrangement and subsequent joint research and development collaborations. Therefore, I find that part one of the test has been satisfied.

Part Two

In order for this part of the section 17(1) test to be met in this case, the information must have been supplied to the Ministry, in confidence, either explicitly or implicitly. In addition, information will be considered to have been supplied if its disclosure would permit the drawing of accurate inferences with respect to the information actually supplied to the institution.

Records 2, 3, 16, 18, 20, 21, 22 and the E-mail Portion of Record 10

Records 2, 3, 16 and 18 are correspondence from the President of the Corporation to the Ministry related to the development of the Access Agreement and future commercial endeavours. I accept the Corporation's submissions that they contain commercial information supplied to the Ministry.

Records 20, 21 and 22 consist of various versions of a planning report (the Planning Report) regarding joint initiatives between the Ministry and the Corporation. These documents detail a number of commercial projects which the Corporation intends to expand or pursue. The Corporation states that disclosure of

these records would permit the drawing of accurate inferences with respect to the information about these projects actually supplied to the Ministry by the Corporation. The Corporation indicates that the Ministry would not have had knowledge of these plans but for the provision of this information during the course of their joint planning initiatives.

The E-mail portion of Record 10 is an internal Ministry memorandum which discusses the drafting of the Access Agreement. The Corporation submits that it contains information which, if disclosed, would reveal commercial information actually supplied by the Corporation to the Ministry.

Having reviewed Records 2, 3, 16, 18, 20, 21, 22 and the E-mail portion of Record 10, I am satisfied that they either contain commercial information supplied by the Corporation to the Ministry or would permit the drawing of accurate inferences with respect to the information actually supplied.

The Corporation maintains that it was clearly understood by both its own personnel and Ministry staff that the discussions and negotiations concerning their collaboration would be held in confidence. The Corporation also explains that, in addition to this joint understanding of the context in which discussions were to take place, it was explicitly agreed on a number of occasions that the negotiations were to be kept confidential. Based on this information, I find that the Corporation held a reasonable expectation that the commercial information it provided to the Ministry would be kept confidential.

In summary, I find that the commercial information contained in Records 2, 3, 16, 18, 20, 21, 22 and the E-mail portion of Record 10 was supplied in confidence to the Ministry by the Corporation. Thus, the second part of the section 17(1) test has been met with respect to this information.

Records 7, 10 (the draft agreement), 15 and 17 (the fee schedule)

Records 7, 10 (the draft agreement) and 15 contain copies of the draft Access Agreement, with Schedule 1, the fee schedule attached. Record 17, the executed copy of the Access Agreement, was disclosed with the exception of the fee schedule.

The Corporation admits that the terms of both the fee schedule and the Access Agreement were negotiated by the Corporation and the Ministry. Several previous orders of the Commissioner's office have found that information contained in a negotiated agreement is not "supplied" for the purposes of section 17(1) of the Act if its disclosure would not reveal information actually supplied to an institution by an affected party. The Corporation acknowledges the general thrust of these past decisions but maintains that each case must be decided on its own facts.

It is the position of the Corporation that, in this case, disclosure of the draft agreements and fee schedule would affect the fundamental nature of the Corporation's business. In the research and development sector, the viability of the Corporation's business is in large part dependent on its ability to ensure absolute confidentiality of information belonging to its clients. The Corporation maintains that if it is required to release any confidential information whatsoever, its clients and partners will no longer view it as a completely confidential and safe organization with which to do business. It is on this basis that the Corporation seeks to distinguish the facts of this case from previous orders involving negotiated agreements.

I do not accept the Corporation's submissions on this point. The language of section 17(1) clearly contemplates that, in order to qualify for exemption, the information must be "supplied". It is not sufficient that disclosure of the information would result in certain harms, regardless of the nature of the harms. As I have previously indicated, all three parts of the test must be satisfied before the exemption will be found to apply.

Thus, I find that part two of the section 17(1) test has not been met with respect to Records 7, 10 (the draft agreement), 15 and the fee schedule to Record 17.

Part Three

I will now consider whether disclosure of the commercial information contained in Records 2, 3, 16, 18, 20, 21, 22 and the E-mail portion of Record 10 could reasonably be expected to result in the harms described in sections 17(1)(a) and/or (c) of the Act.

The appellant states that the Corporation has always had a consistent policy of non-competition with public and private sector organizations. He therefore claims that the competitive position of the Corporation could not be affected by the disclosure of the records.

The Corporation submits that disclosure of the commercial information would prejudice its competitive position and result in undue loss. It indicates that it competes internationally with other research and development companies which are much larger than itself, although it attempts to avoid competition with other Ontario companies.

The Corporation maintains that should the information at issue be disclosed, its clients would turn to other research and development organizations, its competitors, which could guarantee confidentiality for their research and development needs. In particular, the Corporation notes that the Planning Report contains information related to marketing initiatives, business strategies, commercial strategies and proposals for the development of new technology. The Corporation's competitors could use this information to their advantage to frustrate the Corporation's efforts to control its market and negotiate to its advantage. In this way, the competitors would receive an unfair competitive advantage in the research and development field, while the Corporation would suffer the undue loss of some of its clients and contracts.

I am satisfied that the Corporation has provided evidence of a reasonable expectation of the probable harm which could occur as a result of the disclosure of Records 2, 3, 16, 18, 20, 21, 22 and the E-mail portion of Record 10. As all three parts of the section 17(1) test have been met with respect to these documents, I find that they are properly exempt from disclosure.

ADVICE TO GOVERNMENT/ECONOMIC AND OTHER INTERESTS

Of the remaining records, the Ministry claims that section 13(1) applies to Records 6, 7, 8, 9, 10 (the draft agreement), 12, 13, 14 and 15, and that section 18(1)(c) applies to Records 4, 6, 7, 8, 9, 10 (the draft

agreement), 11, 12, 13, 14, 15, and 17 (the fee schedule). The Corporation indicates that it supports the representations made by the Ministry with respect to the application of sections 13(1) and 18(1)(c).

Section 13(1) of the Act states that:

> A head may refuse to disclose a record where the disclosure would reveal advice or recommendations of a public servant, any other person employed in the service of an institution or a consultant retained by an institution.

It has been established in a number of previous orders that advice and recommendations for the purpose of section 13(1) must contain more than mere information. To qualify as "advice" or "recommendations", the information contained in the records must relate to a suggested course of action, which will ultimately be accepted or rejected by its recipient during the deliberative process.

Section 18(1)(c) of the Act reads as follows:

> A head may refuse to disclose a record that contains,
>
> > information where the disclosure could reasonably be expected to prejudice the economic interests of an institution or the competitive position of an institution.

The Ministry's submissions state:

> Section 13 of the Act was used to support non-disclosure of records 6-10, 12-16 and 20 as the records in question contained recommendations and/or advice by a public servant, either in the form of a briefing note or in suggested/proposed input to memos, letters or proposals.
>
> Section 18 of the Act was used to support non-disclosure of records 2-4 and 6-17 as disclosure of the records would significantly jeopardize the economic and competitive position of the Ministry both now and in the foreseeable future.

As is apparent, the representations of the Ministry are of a very general nature. They lack particularity in that they do not refer specifically to any of the records at issue in this appeal. Nor is there any link or clear connection made between the application of each of the exemptions claimed and any of the records, either in whole or in part. Both sections 13(1) and 18(1)(c) require proof that particular consequences would result from disclosure; none is provided. In short, these submissions constitute nothing more than a restatement of the exemptions contained in the Act.

Pursuant to section 53 of the Act, the Ministry bears the burden of proof that the records or parts of records fall within the exemptions claimed. The Divisional Court, in the cases of Corporation of the Township of Maidstone v. K.S. et al. (10 January 1994), London Doc. 796972 and Ontario (Attorney General) v. Fineberg (1994), 19 O.R. (3d) 197, 25 Admin L.R. (2d) 123, 73 O.A.C. 311 has stated that, in discharging its burden of proof, an institution is obliged to do more than just baldly state its position, and

that sufficient information and reasoning must be provided to the Commissioner or his delegate in order that he or she may make an informed assessment on the application of any exemptions claimed by an institution.

In the recent case of Ontario (Workers' Compensation Board) v. Ontario (Assistant Information & Privacy Commissioner) (1995), 23 O.R. (3d) 31 at p. 40 (Div. Ct.), the Court considered the interpretation of the phrase "where the disclosure could reasonably be expected to" as found in section 17(1) of the Act. The same phrase appears in section 18(1)(c). The Court stated as follows:

> There is nothing in section 17(1)(c) that requires <detailed and convincing' evidence. The Act only requires that there be evidence that <disclosure could reasonably be expected' to cause harm which of necessity involves some speculation. This point has been considered and settled by the Federal Court of Appeal in Canada Packers v. Canada [1989] 1 F.C. 47 at p. 57 and 60 where it considered similar wording. There need only be evidence of a reasonable expectation of probable harm which of necessity involves some speculation.

In this case, the Ministry has merely stated its conclusion that the exemptions contained in sections 13(1) and 18(1)(c) apply. It has not provided **any** evidence or reasoning in support of its position. In these circumstances, I find that the Ministry has not satisfied the burden of proof under section 53 of the Act. Accordingly, I find that Records 4, 6, 7, 8, 9, 10 (the draft agreement), 11, 12, 13, 14, 15 and 17 (the fee schedule) do not qualify for exemption pursuant to section 13(1) and/or section 18(1)(c) of the Act and should be disclosed to the appellant.

ORDER:

1. I uphold the decision of the Ministry to deny access to Records 2, 3, 16, 18, 20, 21 and 22 in their entirety and the E-mail portion of Record 10.

2. I order the Ministry to disclose to the appellant Records 4, 6, 7, 8, 9, 11, 12, 13, 14, and 15 in their entirety and the copy of the draft Access Agreement attached to Record 10 and the fee schedule portion of Record 17.

3. I order the Ministry to disclose the records listed in Provision 2 to the appellant within thirty-five (35) days of the date of this order and not earlier than the thirtieth (30th) day after the date of this order.

4. In order to verify compliance with the provisions of this order, I reserve the right to require that the Ministry provide me with a copy of the records which are disclosed to the appellant pursuant to Provision 2.

Original signed by: September 20, 1995
Anita Fineberg

Inquiry Officer

APPENDIX A

INDEX OF RECORDS AT ISSUE
Appeal Number P-9500215

RECORD NUMBER(S)	DESCRIPTION OF RECORDS WITHHELD IN WHOLE OR IN PART	EXEMPTIONS OR OTHER SECTION(S) CLAIMED	DECISION ON RECORD
2	Letter dated September 13, 1993 from the Corporation to the Ministry with attached Ministry log sheet	18(1)(c)	Do not disclose
3	Letter dated March 24, 1994 from the Corporation to the Ministry	18(1)(c)	Do not disclose
4	Letter dated April 29, 1994 from the Ministry to the Corporation	18(1)(c)	Disclose in full
6	Electronic mail transmission (E-mail) dated June 20, 1994 concerning comments on Access Agreement with personal notes	13(1), 18(1)(c)	Disclose in full
7	Draft Access Agreement between the Ministry and the Corporation with handwritten notes	13(1), 18(1)(c)	Disclose in full
8	Facsimile transmission from the Ministry re: clause in the Access Agreement	13(1), 18(1)(c)	Disclose in full
9	E-mail re: comments on draft Access Agreement	13(1), 18(1)(c)	Disclose in full
10	E-mail re: comments on draft Access Agreement, and copy of draft Access Agreement	13(1), 18(1)(c)	Disclose in part (only the draft Access Agreement)
11	E-mail re: issue involving the Access Agreement	18(1)(c)	Disclose in full
12	E-mail re: issue involving the Access Agreement	13(1), 18(1)(c)	Disclose in full
13	E-mail re: issue involving the Access Agreement	13(1), 18(1)(c)	Disclose in full
14	E-mail re: issue involving the Access Agreement and personal notes	13(1), 18(1)(c)	Disclose in full
15	Signed note and draft Access Agreement for Minister's approval	13(1), 18(1)(c)	Disclose in full
16	Draft copy of letter from Corporation to the Ministry with attached Ministry facsimile transmission	13(1), 17(1), 18(1)(c)	Decision upheld

RECORD NUMBER(S)	DESCRIPTION OF RECORDS WITHHELD IN WHOLE OR IN PART	EXEMPTIONS OR OTHER SECTION(S) CLAIMED	DECISION ON RECORD
17	Signed Access Agreement between the Ministry and the Corporation dated October 14, 1994 (the fee schedule only)	18(1)(c)	Disclose in full
18	Letter dated October 18, 1994 from the Corporation to the Ministry re: joint business planning process	17(1)	Decision upheld
20	Facsimile transmission dated January 26, 1995 from the Corporation to the Ministry enclosing draft business plan	13(1), 17(1)	Decision upheld
21	Letter to Ministry from Laboratory with attached preliminary joint business plan (business plan only)	17(1)	Decision upheld
22	Letter dated January 25, 1995 from the Corporation to the President of the Corporation enclosing preliminary joint business plan	17(1)	Decision upheld