



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

ORDER P-1060

Appeal P-9500054

Ministry of Natural Resources



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NATURE OF THE APPEAL:

The Ministry of Natural Resources (the Ministry) received a request under the Freedom of Information and Protection of Privacy Act (the Act) for access to information relating to mining operations conducted on or around the requester's property since 1988 and all topographical pictures taken during that time. Partial access was granted. The requester appealed the decision to deny access to the remaining records and indicated that he believed additional responsive records should exist.

During mediation, the Ministry reconsidered its position on some of the records to which access had been denied and granted access to the appellant. The appellant confirmed that access to the remaining records was not an issue.

The appellant suggested that two maps (Records 7 and 15), provided by the Ministry, had been altered. In this regard, I note that there is nothing in the Act which addresses this possible situation directly. The provisions in the Act which provide a right of access and correction to records are limited to the records which contain the personal information of the requester. The records at issue in this appeal do not contain the personal information of the appellant.

The appellant maintains that additional responsive records in the form of maps, work permits and aerial photographs should exist. The sole issue in this appeal is whether the Ministry's search for records responsive to the appellant's request was reasonable in the circumstances of the appeal.

A Notice of Inquiry was provided to the appellant and the Ministry. Representations were received from both parties.

DISCUSSION:

REASONABLENESS OF SEARCH

The appellant submits that the Ministry should have in its possession additional records relating to mining activity conducted in the area adjacent to his property. The appellant explains that only two maps provided to him indicate claim blocks and drill holes adjacent to his property. The appellant points out that the information in these maps relates to mining activity which took place in 1994 and 1995, that similar activity occurred between 1988 and 1991 and consequently, maps showing this information must exist. The appellant submits further that this earlier mining activity should also have been indicated on Records 7 and 15 and that these records have been altered.

The appellant submits that additional work permits for a named corporation and other corporations should exist. The appellant states that the work permits previously disclosed to him refer to base maps by specific numbers. He is also seeking access to these base maps and finally, the appellant claims that more recent aerial photographs than those provided should exist.

With its representations, the Ministry provided an affidavit sworn by a Freedom of Information Officer (the Officer) in the Ministry's District Office. The affiant explains that as part of his search for responsive records, he contacted a Staff Geologist with the Ministry of Northern Development and

Mines who provided him with the names of companies that had been conducting exploratory work in the township in which the appellant's property is situated, during the period of time covered by this request.

The Officer indicates that he also contacted the Acting Senior Area Technician (the Technician) to ascertain the location of mining activity files for the last six years. The Officer states that he was advised that mining activity files for the previous two years were maintained in a work permit file in the Technician's office and that any older files would be located in the Ministry's warehouse cold storage area. The Technician's office was searched and the records found, namely, Records 17, 18, 19, 20 and 21, were disclosed to the appellant.. The Officer states that he spent a total of three hours searching for relevant records in the Ministry's warehouse and was not able to find any records prior to 1989.

The Officer affirms that a search of the computerized work permit system was also conducted but no records of mining activity were found. Printed records for a more current period including a work permit were located. The work permit has since been disclosed to the appellant.

The Officer states that he was advised by an employee familiar with the Ministry's work permit system, that the Ministry is not responsible for licencing or regulating mining activities but is only responsible for issuing permits for certain activities that fall under the Public Lands Act, the Lakes and Rivers Improvement Act and the Forest Fire Prevention Act. As the Ministry would have no involvement with a mining company other than for the issuance of work permits, searches for work permits were conducted in the District files under the heading of "Mining".

With respect to the portion of the request dealing with aerial photographs, the Officer states that a search of the aerial photograph files resulted in the two 1982 aerial photographs which have been disclosed to the appellant. The Officer indicates that these two photographs are the most current photographs that the Ministry had.

The Officer affirms that during mediation, he repeated the search procedure to search for additional records. None were found. The Officer also affirmed that he provided an accurate copy of every responsive record he located, including Records 7 and 15, and that no alterations were made to any of the responsive records.

With respect to the appellant's submission that Records 7 and 15 were altered, the Officer points out that the Ministry has no vested interest in the records and would have no reason to alter them. As noted previously, the Act only provides for correction of **personal information to which access has been granted**. In the present case, the information requested and at issue does not contain the appellant's personal information.

Finally, with respect to the base maps referred to in the work permits, the Ministry states that these maps are publicly available and may be purchased from its Natural Resources Information Centre in Peterborough.

Where a requester provides sufficient details about the records to which he or she is seeking access and the Ministry indicates that additional records do not exist, it is my responsibility to ensure that the Ministry has made a reasonable search to identify responsive records. In my view, the Act does not require that the Ministry prove to the degree of absolute certainty that additional records do not exist. However, in order to properly discharge its obligations under the Act, the Ministry must provide me with sufficient evidence to show that it has made a **reasonable** effort to identify and locate records responsive to the request.

I have carefully reviewed representations of the parties and the affidavit provided by the Ministry. Based on the evidence before me, I am satisfied that the Ministry has taken all reasonable steps to locate records responsive to the appellant's request. Accordingly, I find that the Ministry's search for responsive records was reasonable in the circumstances of this appeal.

ORDER:

I uphold the decision of the Ministry.

Original signed by: _____
Mumtaz Jiwan
Inquiry Officer

_____ November 23, 1995