



Indian and Northern
Affairs Canada

Affaires indiennes
et du Nord Canada

Access to Information and Privacy
Ottawa, Ontario
K1A 0H4

Facsimile: (819) 953-5492

Your file Votre référence

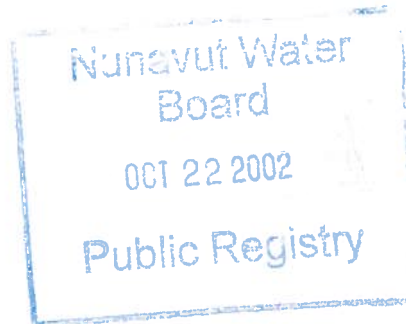
October 15, 2002

Our file Notre référence

A-2002-0166/rd

PRIORITY POST

Mr. Philippe di Pizzo
Executive Director
Nunavut Water Board
P.O. Box 119
Gjoa Haven, Nunavut
X0B 1J0



INTERNAL	
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Dear Mr. Di Pizzo:

We have received a request under the *Access to Information Act* for information regarding: **"Bathurst Inlet port and road"**. The enclosed documentation originating from or relevant to your organization is relevant to the request.

The *Access to Information Act* requires that we disclose all information relevant to a request unless it falls under a specific exemption provision. We, therefore, require your assistance in order to assess whether section 20 (third party information - copy attached) can be applied to any of the enclosed information. Therefore, this letter is to provide you with the opportunity to make written representations regarding the disclosure of your records, as per section 27 of the *Access to Information Act* (copy attached).

Please identify any information you consider exempt and explain why you believe this information should be protected. As section 25 of the *Act* (copy attached) does not allow us to protect a whole page or document simply because a portion of it contains protected information, please be specific in identifying any portions you feel should not be disclosed.

You should be aware that the *Act* grants you the opportunity, **within 20 days of receipt of this notice**, to provide me with your comments in writing. Any representation you make will be considered when making our decision regarding the disclosure.

If you have no objections to the disclosure of the enclosed material, please confirm this by signing below and returning this letter to use within the above-noted 20 days. For your convenience, our facsimile number is (819) 953-5492.

Canada

Your prompt attention would be appreciated. Should you have any questions regarding this matter, please contact Robert Dupuis at (819) 953-4799. Kindly quote the above-noted file number in any correspondence.

Yours sincerely,



Marie Dauray Chartrand
A/Coordinator
Access to Information and Privacy

Enclosures: Pages 000306-000314

A-2002-0166/rd

I have no objection to the disclosure of this information.

Nunavut Water Board

Date

SECTION 20

Third party information

20. (1) Subject to this section, the head of a government institution shall refuse to disclose any record requested under this Act that contains

- (a) trade secrets of a third party;
- (b) financial, commercial, scientific or technical information that is confidential information supplied to a government institution by a third party and is treated consistently in a confidential manner by the third party;
- (c) information the disclosure of which could reasonably be expected to result in material financial loss or gain to, or could reasonably be expected to prejudice the competitive position of, a third party; or
- (d) information the disclosure of which could reasonably be expected to interfere with contractual or other negotiations of a third party.

SECTION 25

Severability

25. Notwithstanding any other provision of this Act, where a request is made to a government institution for access to a record that the head of the institution is authorized to refuse to disclose under this Act by reason of information or other material contained in the record, the head of the institution shall disclose any part of the record that does not contain, and can reasonably be severed from any part that contains, any such information or material.

SECTION 27

Notice to third parties

27. (1) Where the head of a government institution intends to disclose any record requested under this Act, or any part thereof, that contains or that the head of the institution has reason to believe might contain

- (a) trade secrets of a third party,
- (b) information described in paragraph 20(1)(b) that was supplied by a third party, or
- (c) information the disclosure of which the head of the institution could reasonably foresee might effect a result described in paragraph 20(1)(c) or (d) in respect of a third party,

The head of the institution shall, subject to subsection (2), if the third party can reasonably be located, within thirty days after the request is received, give written notice to the third party of the request and of the fact that the head of the institution intends to disclose the record or part thereof.

SECTION 28

Representations of third party and decision

28. (1) Where a notice is given by the head of a government institution under subsection 27(1) to a third party in respect of a record or a part thereof,

- (a) the third party shall, within twenty days after the notice is given, be given the opportunity to make representations to the head of the institution as to why the record or the part thereof should not be disclosed; and
- (b) the head of the institution shall, within thirty days after the notice is given, if the third party has been given an opportunity to make representations under paragraph (a), make a decision as to whether or not to disclose the record or the part thereof and give written notice of the decision to the third party.

CONSULTÉE GUIDE/GUIDE DE CONSULTATION

<u>Section 20(1)(a) of the Access to Information Act</u>	<u>Alinéa 20(1)(a) de la Loi sur l'accès à l'information</u>
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☞ Is any information considered to be a trade secret?

☞ If so, in what way is the information a trade secret?

For a record to qualify as a trade secret, it must meet **ALL** of the following requirements:

- it must consist of information;
- the information must be secret in an absolute or relative sense (i.e.,: known only by one or a relatively small number of people);
- the possessor of the information must demonstrate that he has acted with the intention to treat the information as secret;
- the information must be capable of industrial or commercial application; **AND**,
- the possessor must have an interest (i.e.: an economic interest worthy of legal protection).

Information or data not meeting the requirements of a trade secret may nevertheless qualify for exemption under other provisions of subsection 20(1).

☞ Est-ce que vous croyez qu'un renseignement est un secret industriel?

☞ Si oui, pourquoi le renseignement est-il un secret industriel?

Pour qu'un renseignement puisse être considéré comme un secret industriel, il doit avoir **TOUTES** les caractéristiques suivantes:

- il renferme de l'information;
- l'information doit être secrète dans un sens absolu ou relatif (i.e.: qu'elle est connue d'une seule ou de quelques personnes seulement);
- le détenteur de l'information doit démontrer qu'il a agi dans l'intention de traiter l'information comme si elle était secrète;
- l'information doit avoir une application pratique dans le domaine industriel ou commercial; **ET**,
- le détenteur doit avoir un intérêt (i.e.: un intérêt économique digne d'être protégé par la loi).

Les renseignements ou les données qui ne satisfont pas aux critères de secret industriel peuvent néanmoins faire l'objet d'autres exceptions au paragraphe 20(1).

Section 20(1)(b) of the Access to Information Act

- ☞ Is the information financial, commercial, scientific or technical?
- ☞ Who provided the information to the Department?
- ☞ Has the information been consistently treated as confidential?
- ☞ What measures have been taken to consistently treat the information as confidential?
- ☞ Is ANY information in the records publicly known or readily available from the third party itself or another source upon request?

Alinéa 20(1)(b) de la Loi sur l'accès à l'information

- ☞ Est-ce que les renseignements sont financiers, commerciaux, scientifiques ou techniques?
- ☞ Qui a fourni les renseignements au ministère?
- ☞ Les renseignements ont-ils toujours été traités de façon confidentielle?
- ☞ Quelles mesures ont été prises pour toujours traiter les renseignements de façon confidentielle?
- ☞ Est-ce que CERTAINES parties de ces renseignements sont connues du public ou sont disponibles sur demande (faite au tiers ou autre)?

Section 20(1)(c) of the Access to Information Act

- ☞ Could the disclosure of the information reasonably be expected to result in material financial loss to you?
- ☞ Could the disclosure of the information reasonably be expected to result in material financial gain to someone else?
- ☞ Describe in what way there could be a material financial loss or gain resulting from the disclosure of information.
- ☞ Could the disclosure of information prejudice your competitive position?

Alinéa 20(1)(c) de la Loi sur l'accès à l'information

- ☞ Est-ce que la divulgation des renseignements risquerait vraisemblablement de vous causer des pertes financières appréciables?
- ☞ Est-ce que la divulgation des renseignements risquerait vraisemblablement de causer des profits financiers appréciables à quelqu'un d'autre?
- ☞ Décrivez de quelle façon la divulgation des renseignements pourrait causer des pertes ou des profits financiers appréciables.
- ☞ Est-ce que la divulgation des renseignements pourrait nuire à votre compétitivité?

- ☞ Describe in what way there could be a prejudice to your competitive position resulting from the disclosure of the information.

NOTE:

A simply conclusive statement to the effect that the disclosure of the information could reasonably be expected to be injurious will not be sufficient. The above points are intended to elicit from you a precise indication of how or in what way the release of particular information would be injurious.

- ☞ Décrivez de quelle façon la divulgation des renseignements pourrait nuire à votre compétitivité.

NOTA:

Il ne suffit pas de dire que la divulgation des renseignements risquerait vraisemblablement de porter préjudice. Le but des questions mentionnées ci-haut est de convoiter des précisions à savoir comment et de quelle façon la divulgation des renseignements particuliers causerait un tort.

<u>Section 20(1)(d) of the Access to Information Act</u>	<u>Alinéa 20(1)(d) de la Loi sur l'accès à l'information</u>
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- ☞ Could the disclosure of the information reasonably be expected to interfere with contractual or other negotiations of your organization?
- ☞ If so, in what way?
- ☞ Are such contractual or other negotiations now underway or are they clearly expected in the NEAR future?

- ☞ Est-ce que la divulgation des renseignements risquerait vraisemblablement d'entraver des négociations que vous menez en vue de contrats ou à d'autres fin?
- ☞ Si oui, de quelle façon?
- ☞ Est-ce que ces négociations sont déjà en cours ou le seront-elles TRÈS prochainement?