

REPORT WITH RESPECT TO THE APPLICATION
FOR REVIEW OF [REDACTED] WITH RESPECT TO INFORMATION
REQUESTED FROM THE DEPARTMENT OF RURAL DEVELOPMENT

By letter dated April 1, 1992, [REDACTED] made a Request for Information under The Freedom of Information and Protection of Privacy Act to the Department of Rural Development. Although not in the prescribed form, this letter was accepted by the Department as a request for access to information. The records requested were:

"I am interested in information relating to the budget cuts announced by Ed Tchorzewski March 25, 1992.

I would like any documents, briefing notes, memos, correspondence, and similar material which would explain how the cuts to rural municipalities would affect those municipalities."

In reply, [REDACTED] received a letter dated May 1, 1992, from the Department which reads in part:

"In reply to your application for access which was received on April 2, 1992, I wish to inform you that records you have requested will not be released at this time.

Information of this nature is exempt from access according to Section 16 or Section 17(1)(a) or (b) of The Freedom of Information and Protection of Privacy Act."

[REDACTED] requested a Review and the Department was given the thirty day notice of my intention to conduct a Review as required by Section 51 of the Act. Thereafter, I had a

meeting with officials of the Department at which time they produced all of the documents in the Department which they considered might come within the scope of the request. I am satisfied that this was done in a conscientious way and that the documents produced were responsive to the request.

A question arose as to whether the appropriate date for determination of the status of a document as an exempted record should be the date upon which the application for access was received by the Department, or the date upon which the Department issued its decision that the record was a document to which access should be given, or that it was exempt from disclosure under the Act. There is nothing in the Act which deals specifically with this point, but it appears to me that the status of any such record should be determined on the basis of the date upon which the Department responded to the request for access. This would also apply to a record which was created or came into the custody of the Department between the date the application for access was received and the date a response was made.

On this basis and on other considerations, it appeared to me that a number of documents should be disclosed. I requested the Department to take this under advisement, and to let me know as soon as possible, whether or not these documents would be made available to [REDACTED] pursuant to his request. I wish to observe, however, that the initial determination of the

status of these documents by the persons responsible in the Department should not be faulted in any way, and I do not wish to be taken as criticising their initial determination which I am satisfied was made conscientiously and in good faith.

In the result there are a number of documents which are exempt from disclosure under the provisions of Section 16 and Section 17(1)(a) and (b) of the Act. These documents include:

1. Briefing notes dated March 25, 1992, prepared for the Minister;
2. Relevant pages of Rural Development 1992-93 and 1993-94 Treasury Board Briefing Book dated March 19, 1992;
3. Working papers which include:
 - a) Budget Plan;
 - b) Revenue Sharing Options - March 23, 1992;
 - c) 1992-93 Grant Options Comparison;
 - d) Conditional Construction Grant;
 - e) Combined Conditional/Unconditional Grant Comparison - March 24, 1992;
 - f) Re: Gravel Grants - February 19/92;
 - g) Maintenance Grants - February 19/92;
 - h) Bridge Grants - February 24/92;
 - i) Inter-municipal Recreation Grants;
 - j) Timber Haul Road Maintenance;
 - k) Unconditional Revenue Sharing - February 21/92;
 - l) Unconditional Revenue Sharing Grants - No date.
4. 1992 Unconditional Grant Comparison trial runs, various computer print outs with options and financial results by municipality;
5. Correspondence from Deputy Minister of Rural Development to Minister re: 1992-93 road construction allocations dated April 6, 1992.

Documents which are not to be exempt and which the Department has agreed to make accessible to the Applicant are as

follows:

1. Correspondence from Minister of Rural Development to all rural municipalities April 9/92;
2. 1992/92 construction allocations for primary grid, grid main farm access, and special road programs attached for approval March 27/92;
3. Correspondence from Deputy Minister of Rural Development to President S.A.R.M. for 1992-93 Rural Revenue Sharing Grants;
4. 1992 Unconditional Grant Information Package prepared by Transportation Planning Branch April 9/92;
5. Working papers prepared by Transportation Services:
 - a) 1986-91 re: Gravel Program Analysis;
 - b) 1992-93 re: Gravel Program;
 - c) Unconditional Grant (basic and equalization) by R.M.;
 - d) 1992-93 eligible maintenance kilometres.

Accordingly, it is my conclusion and I recommend that the Applicant is not entitled to access to the first listed documents, but that the Applicant is entitled to and should have access to the second listed documents.

Dated at Regina, Saskatchewan this 7th day of October, 1992.

Derril G. McLeod, Q.C.,
Commissioner of Information and
Privacy for Saskatchewan