



Office of the
Saskatchewan Information
and Privacy Commissioner

REVIEW REPORT 141-2025

Ministry of Environment

October 22, 2025

Summary:

The Applicant submitted an access to information request to the Ministry of Environment (Environment) for: 1) the results of H₂S Air Quality Monitoring Program by a third party, Cargill Limited (Cargill); and 2) a Human Health Risk Assessment Report (HHRA Report) for Cargill. Environment notified the third party, Cargill, of the access request pursuant to section 34(1) of *The Freedom of Information and Protection of Privacy Act (FOIP)*. Cargill made representations to Environment, objecting to the release of the records responsive to the access request. Environment considered the representations from Cargill but made the decision to provide access to the responsive records except for a portion of the HHRA Report, to which Environment applied section 19(1)(b) of *FOIP* (financial, commercial, scientific, technical or labour relations information supplied by a third party). Cargill requested a review by the Office of the Saskatchewan Information and Privacy Commissioner (OIPC) and asked that sections 19(1)(a) (trade secrets), 19(1)(b) (financial, commercial, scientific, technical or labour relations information supplied by a third party), 19(1)(c)(i) (financial loss or gain to a third party) and 19(1)(c)(ii) (prejudice the competitive position of a third party) of *FOIP* be considered in the review.

The Commissioner found that section 19(1)(b) of *FOIP* applies to the diagram on page 46 of Record 1 (HHRA Report). However, section 19(1)(b) of *FOIP* does not apply to the remaining information in the records at issue. The Commissioner found that sections 19(1)(a), (b), (c)(i) and (c)(ii) of *FOIP* do not apply to the records at issue. The Commissioner also concluded that the release of the diagram on page 46 of Record 1 is not in the public interest and therefore section 19(3) (public interest override for section 19) of *FOIP* does not apply.

The Commissioner recommended that Environment continue to withhold the diagram that appears on page 46 of Record 1 (pursuant to section 19(1)(b) of *FOIP*), and that Environment release the remaining information in the records at issue to the Applicant.

I BACKGROUND

- [1] On March 31, 2025, the Ministry of Environment (Environment) received the following access to information request from the Applicant:

Results for the H₂S Air Quality Monitoring Program for Cargill Clavet referred to in Table 2, WSP letter to [Environment employee] Feb. 15/24

HHRA Report for Cargill Clavet

- [2] The Applicant specified the time period for the records they sought as follows:

AQM Program – April 2024 to current (March 2025)

HHRA Report – 2024 to current

- [3] In a letter dated April 25, 2025, Environment notified the third party, Cargill Limited (Cargill), of the access request pursuant to section 34(1) of *The Freedom of Information and Protection of Privacy Act (FOIP)*.¹ Environment invited Cargill to make representations.

- [4] On April 25, 2025, Environment informed the Applicant by letter that it was giving notice to a third party pursuant to section 34(1) of *FOIP*. Therefore, it was extending the response time of 30 days by an additional 30 days pursuant to section 12(1)(c) of *FOIP*.

- [5] On May 14, 2025, Cargill provided its representations to Environment. Cargill objected to the disclosure of any of the responsive records to the Applicant pursuant to sections 19(1)(a), 19(1)(b), 19(1)(c)(i) and 19(1)(c)(ii) of *FOIP*.

- [6] In a letter dated May 23, 2025, Environment informed Cargill of its decision. Specifically, Environment found that Cargill did not establish that third-party information exists within the record with respect to the sections of *FOIP* that it had claimed. Environment informed that it would redact the diagram on page 46 of the Human Health Risk Assessment (HHRA)

¹ [*The Freedom of Information and Protection of Privacy Act*](#), S.S., 1990-91 c F-22.01, as amended.

Report pursuant to section 19(1)(b) of *FOIP* and redact other portions pursuant to section 29(1) of *FOIP*. Otherwise, Environment intended to provide access to the remainder of the records unless Cargill or the Applicant requested a review by the Office of the Saskatchewan Information and Privacy Commissioner (OIPC).

- [7] On May 23, 2025, Environment informed the Applicant by letter that portions of the record have been denied pursuant to sections 19(1)(b) and 29(1) of *FOIP*. Environment indicated it would provide the Applicant access to the records after 20 days unless the third party or the Applicant requested a review by OIPC.
- [8] On June 10, 2025, Cargill requested a review by OIPC.
- [9] On July 24, 2025, this office notified Environment, Cargill and the Applicant that OIPC would be undertaking a review the decision of Environment with respect to section 19 of *FOIP*. The Applicant has not requested a review of the application of section 29(1) of *FOIP* so this section is no longer within the scope of this review.
- [10] On August 22, 2025, Environment provided OIPC with the index of records and the records at issue.
- [11] On September 12, 2025, Environment granted permission to OIPC to share the index of records with the Applicant. Therefore, on the same day, OIPC shared the index of records with the Applicant.
- [12] On September 16, 2025, Environment provided a submission to OIPC. Environment stipulated that its submission could not be shared with the Applicant.
- [13] On September 18, 2025, the Applicant provided a submission to OIPC.
- [14] On September 19, 2025, Cargill provided a submission to OIPC. Cargill stipulated that its submission could not be shared with the Applicant.

II RECORDS AT ISSUE

[15] The following table describes the records at issue:

Record #	Description	# of pages	Position of Cargill	Position of Environment
1	HHRA Report	62	19(1)(a), 19(1)(b), 19(1)(c)(i), 19(1)(c)(ii) of <i>FOIP</i> applies to the record in its entirety.	19(1)(b) applies to the diagram on page 46. No other exemptions apply to the remainder of the record.
2	Email dated 11/21/2024 from Cargill to Environment. Attached to the email are test results of passive monitoring of air quality, including certificates of analysis.	12	19(1)(a), 19(1)(b), 19(1)(c)(i), 19(1)(c)(ii) of <i>FOIP</i> applies to the record in its entirety.	No exemptions apply.
3	Email dated 12/17/2024 from Cargill to Environment. Attached to the email are test results of passive monitoring of air quality, including certificates of analysis.	12	19(1)(a), 19(1)(b), 19(1)(c)(i), 19(1)(c)(ii) of <i>FOIP</i> applies to the record in its entirety.	No exemptions apply.
4	Email dated 01/14/2025 from Cargill to Environment. Attached to the email are test results of passive monitoring of air quality, including certificates of analysis.	12	19(1)(a), 19(1)(b), 19(1)(c)(i), 19(1)(c)(ii) of <i>FOIP</i> applies to the record in its entirety.	No exemptions apply.
5	Email dated 02/14/2025 from Cargill to Environment. Attached to the email are test results of passive monitoring of air quality, including certificates of analysis.	12	19(1)(a), 19(1)(b), 19(1)(c)(i), 19(1)(c)(ii) of <i>FOIP</i> applies to the record in its entirety.	No exemptions apply.

6	Email dated 07/15/2024 from Cargill to Environment. Attached to the email are test results of passive monitoring of air quality, including a certificate of analysis.	6	19(1)(a), 19(1)(b), 19(1)(c)(i), 19(1)(c)(ii) of <i>FOIP</i> applies to the record in its entirety.	No exemptions apply.
7	Email dated 08/19/2024 from Cargill to Environment. Attached to the email are test results of passive monitoring of air quality, including certificates of analysis.	16	19(1)(a), 19(1)(b), 19(1)(c)(i), 19(1)(c)(ii) of <i>FOIP</i> applies to the record in its entirety.	No exemptions apply.
8	Email dated 09/16/2024 from Cargill to Environment. Attached to the email are test results of passive monitoring of air quality, including a certificate of analysis.	7	19(1)(a), 19(1)(b), 19(1)(c)(i), 19(1)(c)(ii) of <i>FOIP</i> applies to the record in its entirety.	No exemptions apply.
9	Email dated 10/16/2024 from Cargill to Environment. Attached to the email are test results of passive monitoring of air quality, including certificates of analysis.	12	19(1)(a), 19(1)(b), 19(1)(c)(i), 19(1)(c)(ii) of <i>FOIP</i> applies to the record in its entirety.	No exemptions apply.
10	Email dated 03/17/2025 from Cargill to Environment. Attached to the email are test results of passive monitoring of air quality, including certificates of analysis.	12	19(1)(a), 19(1)(b), 19(1)(c)(i), 19(1)(c)(ii) of <i>FOIP</i> applies to the record in its entirety.	No exemptions apply.

III DISCUSSION OF THE ISSUES

1. Does OIPC have jurisdiction?

[16] Environment is a “government institution” pursuant to section 2(1)(d)(i) of *FOIP*. Cargill is a “third party” pursuant to 2(1)(j) of *FOIP*. Therefore, OIPC has jurisdiction to undertake this review pursuant to PART VI of *FOIP*.

2. Does section 19(1)(a) of *FOIP* apply to the records at issue?

[17] Cargill's position is that section 19(1)(a) of *FOIP* applies to the records at issue in their entirety. Environment's position is that section 19(1)(a) of *FOIP* does not apply to the records at issue.

[18] Section 19(1)(a) of *FOIP* provides:

19(1) Subject to Part V and this section, a head shall refuse to give access to a record that contains:

(a) trade secrets of a third party;

[19] OIPC has defined "trade secret" as information, including a plan or process, tool, mechanism or compound, which possesses each of the four following characteristics:²

- i. the information must be secret in an absolute or relative sense (is known only by one or a relatively small number of people);
- ii. the possessor of the information must demonstrate he/she has acted with the intention to treat the information as secret;
- iii. the information must be capable of industrial or commercial application; and
- iv. the possessor must have an interest (e.g., an economic interest) worthy of legal protection.

[20] In *AstraZeneca Canada Inc. v. Canada (Minister of Health)*, Justice Phelan ruled that the type of information which could potentially qualify as a trade secret includes the chemical composition of a product and the manufacturing processes used. However, it is not every process or test which would fall into this class particularly where such process or test is common in a particular industry.³

² See [Merck Frosst Canada Ltd. v. Canada \(Health\)](#), 2012 SCC 3; See OIPC [Review Report 171-2023](#) at paragraph [42].

³ [AstraZeneca Canada Inc. v. Canada \(Minister of Health\)](#), 2005 FC 189 at paragraph [65]; appeal dismissed [AstraZeneca Canada Inc. v. Health Canada](#), 2006 FCA 241 (June 27, 2006).

[21] In its submission, Cargill asserted the information within the responsive records meet the criteria of a “trade secret” because:

- Only select individuals know the information within the responsive records such as limited staff at Cargill, Environment and select staff of the Cargill environmental consulting expert, WSP Canada Inc. (WSP), and the third party laboratory used by WSP, Bureau Veritas.
- It provided the information within the responsive records in confidence to Environment for ongoing regulatory compliance.
- Information within the HHRA Report describes a particular technology in detail employed by Cargill to assist in operations.
- Cargill has a significant business interest in ensuring the responsive records remain “legally protected and used solely for their intended use by” Environment.

[22] In contrast, Environment dismissed the contention that the responsive records contain trade secrets. Environment relied on the HHRA Report (Record 1), and explained that the Cargill contractor, WSP, referenced the [*American Meteorological Society/Environmental Protection Agency Regulatory Model*](#) (AERMOD) in compiling the air quality studies. Environment noted that this is a well-known model that was not created or invented by Cargill or WSP.

[23] Further, Environment reported that the certificates of analysis that appear in Record 2 to Record 10 do not qualify as trade secrets since they simply report the results of common tests or processes used in environmental reports.

[24] Based on review of the records, OIPC did not identify any information that could qualify as a trade secret. The information within the responsive records did not include a plan, process, tool, mechanism or compound which contained the four characteristics listed earlier. To Environment’s point, the AERMOD modeling system that was described in the HHRA Report (Record 1) is a well-known model that does not qualify as a trade secret. Further, Records 2 to Record 10 contain the results of monitoring and the analysis of air at

a Cargill site. The results of the air tests cannot qualify as a trade secret. With regard to the assertion by Cargill that the responsive records refer to a particular technology that out of defence we will not name here. Indeed, there are references to this technology. However, the references to the technology itself and the fact that Cargill employs such technology does not qualify as a trade secret since the technology is discussed publicly on several websites, one of them belonging to the Government of Canada.

[25] There will be a finding that section 19(1)(a) of *FOIP* does not apply to the records at issue.

3. Does section 19(1)(b) of *FOIP* apply to the records at issue?

[26] The position of Cargill is that section 19(1)(b) of *FOIP* applies to the records at issue in their entirety. The position of Environment is that section 19(1)(b) of *FOIP* does not apply to the records at issue except for the diagram on page 46 of Record 1 (HHRA Report).

[27] Section 19(1)(b) of *FOIP* provides:

19(1) Subject to Part V and this section, a head shall refuse to give access to a record that contains:

...

(b) financial, commercial, scientific, technical or labour relations information that is supplied in confidence, implicitly or explicitly, to a government institution by a third party;

[28] OIPC uses the following three-part test to determine if section 19(1)(b) of *FOIP* applies:⁴

1. Is the information financial, commercial, scientific, technical or labour relations information of a third party?
2. Was the information supplied by the third party to a government institution?
3. Was the information supplied in confidence implicitly or explicitly?

[29] Below is an analysis to determine if the three-part test is met.

⁴ See OIPC [Review Report 209-2023](#) at paragraph [17].

1. Is the information financial, commercial, scientific, technical or labour relations information of a third party?

[30] Cargill asserted that information within the records qualified as scientific and technical information. Environment indicated that only some of the information within the records at issue qualified as scientific and technical information.

[31] In past reports, OIPC has defined scientific and technical information as follows:⁵

- “Scientific information” is information exhibiting the principles or methods of science. The information could include designs for a product and testing procedures or methodologies. It is information belonging to an organized field of knowledge in the natural, biological or social sciences or mathematics. In addition, for information to be characterized as scientific, it must relate to the observation and testing of specific hypothesis or conclusions and be undertaken by an expert in the field. Finally, scientific information must be given a meaning separate from technical information.
- “Technical information” is information relating to a particular subject, craft or technique. Examples are system design specifications and the plans for an engineering project. It is information belonging to an organized field of knowledge which would fall under the general categories of applied sciences or mechanical arts. Examples of these fields would include architecture, engineering or electronics. It will usually involve information prepared by a professional in the field and describe the construction, operation or maintenance of a structure, process, equipment or thing. Finally, technical information must be given a meaning separate from scientific information

[32] The HHRA Report, Record 1, contains scientific information when it describes the testing of air quality, observations resulting from the testing, findings and conclusions. The testing was carried out by an engineering and professional services firm, WSP. Therefore, information within Record 1 qualifies as “scientific information”.⁶ Similarly, Records 2 to

⁵ See OIPC [Review Report 171-2022](#) at paragraphs [21] to [22].

⁶ See OIPC [Review Report 171-2023](#) at paragraph [65]; *Ibid*, at paragraph [23].

Record 10 each contain information such as chemical analyses of air, also carried out by WSP. Such information qualifies as “scientific information”.

[33] Further, Environment noted that page 46 of Record 1 contains information that qualifies as “technical information”. Environment described it as a drawing that outlines the process and flow of a system at a Cargill site. Based on a review, OIPC noted that the diagram on page 46 of Record 1 indeed contains specifications of a system. Since this office agrees that the information qualifies as “technical information”, we will refrain from a further description.

[34] Based on the above, the first part of the three-part test is met for all of the records at issue.

2. Was the information supplied by the third party to a government institution?

[35] “Supplied” means provided or furnished.⁷

[36] Cargill asserted that it supplied the records at issue to Environment. Based on a review of the records, it is evident that Records 1 to Record 10 were supplied by Cargill to Environment.

[37] The second part of the three-part test is met for all of the records at issue.

3. Was the information supplied in confidence implicitly or explicitly?

[38] Cargill asserted that it supplied information within the records at issue in confidence to Environment. However, Environment asserted that, with the exception of the diagram on page 46 of Record 1, the information was *not* supplied in confidence.

a. Information within all the responsive records except for the diagram on page 46 of Record 1

⁷ *Supra*, footnote 5 at paragraph [26].

- [39] Within its submission, Cargill stated: “The Responsive Records were prepared for the sole purpose of Cargill’s ongoing regulatory compliance, necessitated by...” Environment.
- [40] Environment referenced two OIPC reports, Review Report 197-2023 and Review Report 209-2023, where this office noted that the “compulsory supply” of information, or information required by statute will not ordinarily qualify as information supplied confidentially unless the relevant legislation requires confidentiality.⁸
- [41] Section 1-8(2)(b) of Chapter E.1.2 [*Industrial Source \(Air Quality\)*](#) of [*the Saskatchewan Environmental Code*](#), as established by *The Environmental Management and Protection (Saskatchewan Environmental Code Adoption) Regulations*,⁹ provides that every industrial source facility owner shall ensure the ambient air quality standards set out in [*Table 20 of the Saskatchewan Environmental Quality Standards*](#) are met. As such, Cargill duly supplied the information as required by the *Saskatchewan Environmental Code*.
- [42] Section 83 of *The Environment Management and Protection Act, 2010*¹⁰ (*EMPA*) provides information submitted to Environment pursuant to *EMPA* and the *Saskatchewan Environmental Code* is deemed to be public information. It says:
- 83(1)** Subject to subsections (3) to (11), all applications, information, data, test results, reports, returns and records and responses to a direction of the minister submitted to the minister pursuant to this Act, the regulations, the code or an accepted environmental protection plan are deemed to be public information.
- [43] Sections 83(3) to (11) of *EMPA* sets out a process where a person can submit a written request to have all or any part of the information submitted to Environment be kept confidential for only a prescribed amount of time. The Minister of Environment may or may not approve the written request. Cargill has not provided any information to this office

⁸ See OIPC [Review Report 197-2023](#) at paragraphs [31] to [35]; *Supra*, footnote 4 at [29] to [37].

⁹ [*The Environmental Management and Protection \(Saskatchewan Environmental Code Adoption\) Regulations*](#) RRS C. E-10.22, as amended.

¹⁰ [*The Environmental Management and Protection Act, 2010*](#) S.S 2010 c. E-10.22, as amended.

evidencing that it has engaged the process set out in sections 83(3) to (11) of *EMPA*, nor has it demonstrated that the Minister of Environment has approved such a request.

[44] As such, this office can only conclude that the supply of the information in the records at issue by Cargill was compulsory. Further, section 83(1) of *EMPA* provides that the information is deemed to be public. The only conclusion this office can draw is that the information in the records at issue, except for the diagram on page 46 of Record 1, was not supplied in confidence.

[45] Before a finding regarding section 19(1)(b) of *FOIP* is made, OIPC will now consider the diagram on page 46 of Record 1.

b. Diagram on page 46 of Record 1

[46] In its submission, Environment explained that it did not require Cargill to supply the diagram on page 46 of Record 1 as a part of the human health risk assessment. As such, Environment asserted that since the diagram was provided over and above what was required, it was provided by Cargill from a position of implicit confidence.

[47] For information to have been supplied implicitly in confidence, it means that confidentiality is understood between the two parties, even though there is no actual agreement or statement of confidentiality.¹¹ OIPC has used the following non-exhaustive list of factors to consider when determining if information was provided that was mutually understood to be kept in confidence:¹²

- What is the nature of the information? Would a reasonable person regard it as confidential? Would it ordinarily be kept confidential by the party providing it or by the government institution?
- Was the information treated consistently in a manner that indicated a concern for its protection by the party providing it and the government institution from the point at which it was provided until the present time?

¹¹ *Supra*, footnote 4 at paragraph [22].

¹² See OIPC [Review Report 013-2023](#) at paragraph [36].

- Does the government institution have any internal policies or procedures that speak to how records or information such as that in question are to be handled confidentially?

[48] Cargill agrees that the diagram was submitted in confidence. Environment acknowledges that normally, information submitted as part of a requirement of *EMPA* is not confidential but it treated the diagram as a confidential communication. This office accepts that there was an implied understanding of confidentiality between Environment and Cargill and that this understanding was reasonable. There is a finding that section 19(1)(b) of *FOIP* applies to the diagram on page 46 of Record 1. There is also a finding that section 19(1)(b) of *FOIP* does not apply to the remaining information in the records at issue.

4. Does section 19(1)(c) of *FOIP* apply to the records at issue?

[49] In its submission, Cargill asserted that the release of the information within the records at issue will result in a financial loss and prejudice the competitive position of Cargill. In other words, Cargill is asserting that sections 19(1)(c)(i) and (ii) of *FOIP* apply to the records at issue.

[50] Sections 19(1)(c)(i) and (ii) of *FOIP* provides:

19(1) Subject to Part V and this section, a head shall refuse to give access to a record that contains:

...

(c) information, the disclosure of which could reasonably be expected to:

- (i) result in financial loss or gain to a third party;
- (ii) prejudice the competitive position of a third party;

[51] OIPC uses the following two-part test to determine if section 19(1)(c)(i) of *FOIP* applies:¹³

1. What is the financial loss or gain being claimed?

¹³ See OIPC [Review Report 060-2024](#) at paragraph [103].

2. Could the release of the record reasonably be expected to result in financial loss or gain to a third party?

[52] The definitions of relevant terms are as follows:¹⁴

- “Financial loss or gain” must be monetary, have a monetary equivalent or value (e.g., loss of revenue or loss of corporate reputation).
- “Could reasonably be expected to” means there must be a reasonable expectation that disclosure could result in financial loss or gain to a third party.

[53] In *Kasprick v. Saskatchewan Power Corporation*, Davis J. provided valuable guidance with respect to the legal threshold as set out by “could reasonably be expected” in *FOIP*. Justice Davis interpreted this to mean a standard lower than probability but at least somewhat higher than mere possibility:¹⁵

[30] For exemptions under s. 17, a record-holder has the discretion to withhold a record that could reasonably be expected to disclose information subject to a statutory exemption. The “could reasonably” language is incorporated directly into the applicable provisions in the *FOIP Act*. A “could” standard generally invokes reasonable possibilities – not probabilities: *Giesbrecht* at para 44, *FOIP Act* at s 17. When combined with the word “expectation” the Legislature appears to be instituting a standard lower than probability, but at least somewhat higher than mere possibility: *Merck Frosst Canada Ltd. v Canada (Health)*, 2012 SCC 3 at para 196, [2012] 1 SCR 23 [*Merck Frosst*]. It should be noted that the Supreme Court in *Merck Frosst* was dealing with a standard involving a “reasonable expectation of probable harm” – something which I consider to be higher than the “could reasonably be expected” standard in the *FOIP Act*.

[Emphasis added]

[54] In its submission, Cargill did not identify a financial loss or gain. However, it asserted that that the records at issue contain the “internal workings of Cargill’s operations” and the release of the records “could open the door to competitors unfairly discovering and use the

¹⁴ *Ibid*, at paragraph [105].

¹⁵ See [*Kasprick v Saskatchewan Power Corporation*](#), 2025 SKKB 139 at paragraph [30].

same technology/processes that Cargill uses, allowing Cargill's competition to derive an undue benefit.”

[55] Environment indicated that it did not receive sufficient information from the third party to determine that section 19(1)(c)(i) of *FOIP* applies to the records at issue. The position of Environment is that no financial loss or gain can be established.

[56] Upon review, OIPC noted that the contents of the records at issue are the measurement of emissions from the operations of Cargill and its assessment of the risk to human health. It is not evident what financial loss or gain could reasonably be expected to result from the release of such information. There is a finding that section 19(1)(c)(i) of *FOIP* does not apply to the records at issue.

[57] OIPC uses the following two-part test to determine if section 19(1)(c)(ii) of *FOIP* applies:¹⁶

1. What is the prejudice to a third party's competitive position that is being claimed?
2. Could release of the record reasonably be expected to result in the prejudice?

[58] The definitions of the relevant terms are as follows:¹⁷

- “Prejudice” in this context refers to detriment to the competitive position of a third party.
- “Competitive position” means the information must be capable of use by an existing or potential business competitor, whether that competitor currently competes for the same market share. For example:
 - Information that discloses the profit margin on a private company's operations.

¹⁶ See OIPC [Review Report 148-2024, 163-2024](#) at paragraph [121].

¹⁷ See OIPC [Review Report 204-2022](#) at paragraph [58] to [59].

- Marketing plans, including market research surveys, polls.
- Information that reveals the internal workings of a private company.

[59] Cargill asserted that the HHRA Report (Record 1) contains information about technology and processes that Cargill currently employs. It did not identify the technology or processes. However, it asserted that such information is not in the public domain and forms the internal workings of Cargill.

[60] Environment indicated in its submission that it did not receive sufficient information from Cargill to determine that section 19(1)(c)(ii) of *FOIP* applies to the records. Its position is that the records at issue contain laboratory test results, the disclosure of which would not prejudice the competitive position of Cargill.

[61] The lack of specificity by Cargill in identifying the information within Record 1 that describes the technology and processes it is concerned with makes it very difficult for this office to determine whether section 19(1)(c)(ii) of *FOIP* actually applies. This office found it impossible to identify any information within the records the disclosure of which could reasonably be expected to prejudice the competitive position of Cargill. There was a technical process described in the records and our analysts found numerous reports online that discussed this technology in public. Still, without further information from Cargill on this issue, we must make a finding that section 19(1)(c)(ii) of *FOIP* does not apply to the records at issue.

5. Does section 19(3) of *FOIP* apply to the diagram on page 46 of Record 1?

[62] Earlier, this office found that section 19(1)(b) of *FOIP* applies to a diagram on page 46 of Record 1 (HHRA Report). In their submission, the Applicant asserted that the release of the HHRA Report (Record 1) would be in the public interest.

[63] Section 19(3) of *FOIP* is a discretionary provision that allows government institutions to release records where the disclosure “could reasonably be in the public interest as it relates

to public health, public safety or protection of the environment” where section 19(1) of *FOIP* applies to the record.

[64] Section 19(3) of *FOIP* provides:

19(3) Subject to Part V, a head may give access to a record that contains information described in subsection (1) if:

(a) disclosure of that information could reasonably be expected to be in the public interest as it relates to public health, public safety or protection of the environment; and

(b) the public interest in disclosure could reasonably be expected to clearly outweigh in importance any:

(i) financial loss or gain to;

(ii) prejudice to the competitive position of; or

(iii) interference with contractual or other negotiations of;

a third party.

[65] OIPC uses the following three-part test to determine if section 19(3) of *FOIP* applies to any given fact situation:¹⁸

1. Does the information relate to public health, public safety or protection of the environment?
2. Could the disclosure of the information reasonably be expected to be in the public interest?
3. Could the public interest in disclosure reasonably be expected to clearly outweigh the importance of the financial loss or gain, prejudice to competitive positions or interference with contractual relationship relating to a third party?

[66] The definitions of relevant terms are as follows:¹⁹

¹⁸ See OIPC [Review Report 057-2022](#) at paragraph [68].

¹⁹ *Ibid*, at paragraphs [70] to [73].

- “Relates to” should be given a plain but expansive meaning.
- “Public health” means the health of the community at large, the healthful or sanitary condition of the general body of people or the community collectively. Public health refers to the well-being of the public at large.
- “Public safety” means the welfare and protection of the general public, usually expressed as governmental responsibility.
- “Protection of the environment” refers to guarding or defending natural surroundings”.

[67] In its submission, Environment asserted that the release of the diagram on page 46 of Record 1 is not in the public interest. Similarly, Cargill submitted that the test for section 19(3) of *FOIP* is not met.

[68] Upon review, this office agreed that the release of the diagram on page 46 of Record 1 is not in the public interest. This is because the information does not relate to public health, public safety or the protection of the environment.

[69] There is a finding that section 19(3) of *FOIP* does not apply to the diagram on page 46 of Record 1.

[70] There will be a recommendation that Environment continue to withhold the diagram on page 46 of Record 1 pursuant to section 19(1)(b) of *FOIP*. There will be a recommendation that Environment release the remaining information of the records at issue to the Applicant.

IV FINDINGS

[71] OIPC has jurisdiction to undertake this review.

[72] Section 19(1)(a) of *FOIP* does not apply to the records at issue.

[73] Section 19(1)(b) of *FOIP* applies to the diagram on page 46 of Record 1. However, section 19(1)(b) of *FOIP* does not apply to the remaining information in the records at issue.

[74] Section 19(1)(c)(i) of *FOIP* does not apply to the records at issue.

[75] Section 19(1)(c)(ii) of *FOIP* does not apply to the records at issue.

[76] Section 19(3) of *FOIP* does not apply to the diagram on page 46 of Record 1.

V RECOMMENDATIONS

[77] I recommend that Environment continue to withhold the diagram on page 46 of Record 1 pursuant to section 19(1)(b) of *FOIP*.

[78] I recommend that Environment release the remaining information in the records at issue to the Applicant.

Dated at Regina, in the Province of Saskatchewan, this 22nd day of October, 2025.

Grace Hession David
Saskatchewan Information and Privacy Commissioner