



Office of the
Saskatchewan Information
and Privacy Commissioner

REVIEW REPORT 280-2024

Ministry of Environment

October 22, 2025

Summary:

The Applicant submitted an access to information request to the Ministry of Environment (Environment) for financial assurance information with respect to mining operations in Saskatchewan.

Environment provided the Applicant with partial access to the records, applying the exemptions in sections 18(1)(b) (financial or commercial information in which government institution has a right of use and that has monetary value), 19(1)(b) (financial, commercial, scientific, technical or labour relations information supplied in confidence by a third party to a government institution), 19(1)(c)(i) (result in financial loss to a third party), 19(1)(c)(ii) (would prejudice the competitive position of a third party), and 19(1)(d) (statement of financial account relating to a third party) of *The Freedom of Information and Protection of Privacy Act (FOIP)* to the withheld information. The Applicant requested a review by the Office of the Saskatchewan Information and Privacy Commissioner (OIPC).

The Commissioner found that Environment properly considered that the portions of the records outlined in this Report are non-responsive to the Applicant's access to information request. In addition, the Commissioner found that Environment properly applied section 18(1)(b) of *FOIP* to the redacted portions of the records as outlined in this Report. The Commissioner found that the exercise of discretion by Environment for the application of section 18(1)(b) of *FOIP* was reasonable.

The Commissioner recommended that Environment continue to withhold the portions of the records outlined in this Report that are non-responsive to the Applicant's access to information request. The Commissioner also recommended that Environment continue to withhold the redacted portions of the records, as outlined in this Report, pursuant to section 18(1)(b) of *FOIP*.

I BACKGROUND

- [1] On September 30, 2024, the Applicant submitted the following access to information request to the Saskatchewan Ministry of Energy and Resources for “Mineral Exploration and Mining” records with respect to 33 mines for the time period that they described as those “held as of September 30, 2024”:

Financial assurance amount and form (i.e. cash, bond, bank guarantee, etc.) held by the provincial government for the following mines:

- Eagle Point Uranium Mine
- Vanscoy Mine
- Rocanville Mine
- Saskatoon Processing Facility
- CVE Mankota 10-3-5-8
- Lanigan Mine
- 777 Mine
- Bienfait Mine
- Unity Mine
- Cigar Lake Uranium Mine
- K-3 Esterhazy Mine
- Plainsman Quarry 2
- K-2 Esterhazy Mine
- Eagle Point South Uranium Deposit
- Poplar River Mine
- CVE Mankota 12-10-5-8
- Ravendale Peat Bog
- Cory Mine
- Santoy Lake Gold Zones 1 to 8; Santoy Gap
- Colonsay Mine
- Seabee Au Mine, Seabee No. 2 Zone/Vein, Seabee No. 5 Zone/Vein, 161 Zone, Currie Rose Option 10 Vein West Extension
- K-1 Esterhazy Mine
- Allan Mine
- Eagle Point North Uranium Deposit
- Plainsman Quarry 4
- Canfrac Silica Sand
- P2 North Uranium Deposit or McArthur River Uranium Deposit
- Truax Mine
- Wapa Bay Lignite-Leonardite Deposits
- McClean Lake Uranium Deposit
- Big Quill Mine

- Boundary Dam Mine
- Willow Bunch Clinker Shale Mine

- [2] On October 1, 2024, the Ministry of Energy and Resources forwarded the Applicant's access to information request to the Ministry of Environment (Environment). On October 2, 2024, the Ministry of Energy and Resources informed the Applicant by email that their access to information request had been transferred to Environment pursuant to section 11(2) of *The Freedom of Information and Protection of Privacy Act* (FOIP).¹
- [3] Upon receiving the Applicant's access to information request, Environment conducted an initial search for records. Environment identified spreadsheets, known as "financial assurance tracking sheets," that held information responsive to the Applicant's request.
- [4] The spreadsheets represented an assemblage of data for third parties associated with mining operations in Saskatchewan. Subsequently, it was found that the spreadsheets captured more information than the Applicant originally requested in their access to information request. Environment identified several third parties completely unrelated to the Applicant's request.
- [5] Environment indicated it only possessed the financial assurance information for 25 of the 33 mines identified by the Applicant. These 25 mines are owned and operated by 12 distinct third parties as outlined below. The third party information of these 12 third parties are responsive to the Applicant's request:

1. Denison Mines Corp;
2. Cameco;
3. Compass Minerals;
4. ERCO Worldwide
5. Hudbay Minerals Inc.;
6. Nutrien;
7. Orano Canada Inc.;
8. Prairie Mine & Royalty ULC/Westmoreland;
9. Premier Tech Horticulture Ltd.;
10. SGO Mining Inc./SSR Mining;

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

- 11. SIL Industrial Minerals; and
- 12. The Mosaic Company.

- [6] On November 27, 2024, Environment provided a section 7 *FOIP* decision letter to the Applicant. In that letter Environment denied the Applicant access to records in full, pursuant to sections 18(1)(b), 19(1)(b), 19(1)(c)(i), 19(1)(c)(ii), 19(1)(d), and 20(a) of *FOIP*.
- [7] On December 10, 2024, the Applicant requested a review by the Office of the Saskatchewan Information and Privacy Commissioner (OIPC).
- [8] On January 9, 2025, Environment informed OIPC that, while it no longer wished to rely on section 20(a) of *FOIP*, it asked to add a “non-responsive” category to portions of the records and to apply sections 18(1)(f) and 18(1)(h) and 29(1) of *FOIP* to its consideration of the records.
- [9] On January 14, 2025, Environment issued a new section 7 *FOIP* decision letter to the Applicant. Whereas Environment had previously denied access to the record in its entirety, Environment now communicated that a decision was made to grant the Applicant partial access to 117 pages of redacted records.
- [10] On January 15, 2025, OIPC emailed the Applicant to assess their level of satisfaction with the redacted records.
- [11] On January 24, 2025, after considering the submission on the matter provided by Environment, former Saskatchewan Information and Privacy Commissioner Kruzeniski, K.C., communicated to Environment that OIPC refused to consider the belated request to raise further discretionary exemptions. Environment did not raise any satisfactory exceptional circumstances to justify the request.²

² OIPC [*Rules of Procedure*](#) at section 2-4(3) states: “Discretionary exemptions, not included in the head’s decision under *FOIP/LAFOIP*, will not be considered by the commissioner’s office unless there are exceptional circumstances.”

- [12] On January 29, 2025, the Applicant indicated to OIPC that they wished to proceed with a review.
- [13] On January 30, 2025, OIPC notified Environment, the Applicant, and the 12 third parties, that the Commissioner would be undertaking a review of the decision of Environment to withhold portions of the records pursuant to 18(1)(b), 19(1)(b), 19(1)(c)(i), 19(1)(c)(ii) and 19(1)(d) of *FOIP*, as well as how it concluded some portions of the record were non-responsive. OIPC requested that Environment provide an unredacted copy of the records, an index or records and third party correspondence by March 3, 2025. Environment fulfilled that request. All parties were invited to provide submissions by March 31, 2025.
- [14] On March 27, 2025, Environment provided a submission to OIPC.
- [15] By March 31, 2025, eight of the 12 third parties engaged in this review chose to provide a submission.
- [16] The Applicant did not provide a submission.

II RECORDS AT ISSUE

- [17] There are four records at issue, which comprise a total of 117 pages, withheld in full and in part:
- Record 1: “Central Financial Assurance Tracking Sheet” (26 pages);
 - Record 2: “North Central Financial Assurance Tracking Sheet” (34 pages);
 - Record 3: “Northern Financial Assurance Tracking Sheet” (18 pages); and
 - Record 4: “Southern Financial Assurance Tracking Sheet” (39 pages).
- [18] The financial assurance tracking sheets are spreadsheets that document the commitments made by mining companies operating in specific regions of Saskatchewan (hence, the “central,” “north central,” “northern,” and “southern” regions). Environment maintains

these spreadsheets to record the financial assurance information of all third parties with which it is engaged across the four regions of Saskatchewan.

- [19] Mining companies that operate in these specific regions are obligated to fulfill contractual commitments that demonstrate compliance with Saskatchewan's *The Mineral Industry Environmental Protection Regulations, 1996 (MIEPR Regulations)*.³ Third party mining operations are required to apply to the Minister of Environment for approval. Approval is incumbent upon third parties submitting plans (including proof of financial capacity) to decommission and reclaim operation sites. Definitions of these terms are provided at sections 2(c), (d), and (n) of *MIEPR Regulations*:

2 In these regulations:

...

(c) "decommission" means to remove or retire permanently from service or take any action to remove or retire all or part of a mining site;

(d) "decommissioning and reclamation plan" means a plan, including any amendments to a plan, to decommission and reclaim all or part of a mining site;

...

(n) "reclaim" means to rehabilitate all or part of the land, water or watercourses used or disturbed by the construction or operation of a pollutant control facility, mine or mill

- [20] In other words, the records capture evidence of the respective financial capacities of a third party to decommission and/or reclaim the provincial sites to protect the natural environment in which they operate.

- [21] The following categories of information were withheld by Environment pursuant to sections 18(1)(b), 19(1)(b), 19(1)(c)(i), 19(1)(c)(ii) and 19(1)(d) of *FOIP*:

³ [*The Mineral Industry Environmental Protection Regulations, 1996*](#), c. E-10.2 Reg. 7 (March 6, 1996), as amended.

- Amounts;⁴
- Document numbers;⁵
- Agreement dates;⁶ and
- Associated financial institutions.⁷

[22] There was also a fifth category of records deemed as non-responsive by Environment.

III DISCUSSION OF THE ISSUES

1. Ascertaining Jurisdiction

[23] Environment qualifies as a “government institution” pursuant to section 2(1)(d)(i) of *FOIP*. OIPC has jurisdiction to complete a review of this matter, pursuant to PART VII of *FOIP*.

[24] Third parties also appear to be engaged in this matter, given that Environment applied sections 19(1)(b), 19(1)(c)(i), 19(1)(c)(ii) and 19(1)(d) of *FOIP* to the responsive records. In order for section 19 of *FOIP* to apply, by definition, there must be a valid third party engaged. The basis for determining the presence of a third party is informed by section 2(1)(j) of *FOIP*, which provides:

2(1) In this Act:

...

(j) “**third party**” means a person, including an unincorporated entity, other than an applicant or a government institution.

⁴ In the submission, Environment described this category as the total value of a financial assurance required for a given mining project. This is the dollar amount deemed necessary to decommission and/or reclaim mining sites.

⁵ In the submission, Environment described this category as unique identifiers used to track financial assurances and related transactions.

⁶ In the submission, Environment described this category as the dates on which financial assurances were initially provided, amended, or cancelled.

⁷ In the submission, Environment described this category as the bank or other financial institution holding the assurance and ensuring funds are accessible when needed.

[25] For the entities that Environment identified as a third party, none are applicants or government institutions as defined by *FOIP*. Therefore, each meets the statutory definition of a third party.

2. Non-responsive records

[26] When a government institution receives an access to information request, it must determine what information is “responsive” to the access request. “Responsive” means information that is relevant and reasonably related to the request. It follows that any information or records that do not reasonably relate to an applicant’s request will be considered “not responsive.”⁸

[27] The following factors should be considered when determining if information is non-responsive:⁹

- The boundaries of relevancy will be set out by the applicant’s request.
- The government institution may treat portions of a record as not responsive if they are separate, distinct, and entirely unrelated to the access request. However, use it sparingly and only where necessary.
- If it is just as easy to release the information as it is to claim not responsive, the information should be released (i.e., releasing the information will not involve time-consuming consultations nor considerable time weighing discretionary exemptions).
- The purpose of *FOIP* is best served when a government institution adopts a liberal interpretation of a request. If it is unclear what the applicant wants, a government institution should contact the applicant for clarification. Generally, ambiguity in the request should be resolved in the applicant’s favour.

[28] As noted above, the Applicant requested the financial assurance amount and form (such as cash, bonds, or bank guarantees) for 33 mines.

⁸ See OIPC [Review Report 002-2025](#) at paragraph [49].

⁹ *Ibid*, at paragraph [50].

- [29] Environment withheld information from the records it considered non-responsive to the Applicant's access to information request in full and in part. The following tables reflect the pages and redactions that Environment considered non-responsive:

Record 1: Central Financial Assurance Tracking Sheet		
Pages	Redactions	Descriptions
1	Withheld in part	The cover page ¹⁰
2 to 9	Withheld in full	Financial assurance information ¹¹
11	Withheld in full	Financial assurance information
13	Withheld in full	Financial assurance information
15 to 19	Withheld in full	Financial assurance information
21 to 26	Withheld in full	Financial assurance information

Record 2: North Central Financial Assurance Tracking Sheet		
Pages	Redactions	Descriptions
1	Withheld in part	The cover page
2 to 6	Withheld in full	Financial assurance information
8	Withheld in full	Financial assurance information
10 to 34	Withheld in full	Financial assurance information

Record 3: Northern Financial Assurance Tracking Sheet		
Pages	Redactions	Descriptions
1	Withheld in part	The cover page
2 to 3	Withheld in full	Financial assurance information
5 to 7	Withheld in full	Financial assurance information
10	Withheld in full	Financial assurance information
12 to 13	Withheld in full	Financial assurance information
15 to 17	Withheld in full	Financial assurance information

Record 4: Southern Financial Assurance Tracking Sheet		
Pages	Redactions	Descriptions
1	Withheld in part	The cover page
2 to 21	Withheld in full	Financial assurance information
23	Withheld in full	Financial assurance information
25 to 39	Withheld in full	Financial assurance information

¹⁰ Each cover page for Records 1 through 4 withheld the operation names, operator names, and amounts for mines not specified by the Applicant in the access to information request.

¹¹ Each subsequent page for Records 1 through 4 withheld operation names, operator names, locations, amounts, document numbers, agreement dates, and associated financial institutions for mines not specified by the Applicant in the access to information request.

- [30] The 25 mines for which Environment has financial assurance information regarding are owned or operated by just 12 third parties. The information of any other third parties captured within the spreadsheets is non-responsive to the Applicant's access to information request.
- [31] In the submission to OIPC, Environment explained that they determined any responsivity based on the specific mining operations as outlined by the Applicant in the access request. Any sites that were not specified in the request were withheld. This office has reviewed the records and can confirm that the non-responsive parties identified by Environment were, indeed, not specified by the Applicant in their access to information request.
- [32] There will be a finding that Environment properly considered that the portions of the records outlined at paragraph [29] of this Report are non-responsive to the Applicant's access to information request. Based on that finding, there is a recommendation that Environment continue to withhold the portions of the records outlined at paragraph [29] of this Report that are non-responsive to the Applicant's access to information request.

3. Did Environment properly apply section 18(1)(b) of *FOIP*?

- [33] We are now left with an analysis of only 21 pages withheld in part through the application of section 18(1)(b) of *FOIP*. The following tables reflect the pages at which Environment withheld information pursuant to section 18(1)(b) of *FOIP*:

Record 1: Central Financial Assurance Tracking Sheet (26 pages total)		
Pages	Redactions	Descriptions
1	Withheld in part	Cover page
10	Withheld in part	Responsive financial assurance information
12	Withheld in part	Responsive financial assurance information
14	Withheld in part	Responsive financial assurance information
20	Withheld in part	Responsive financial assurance information

Record 2: North Central Financial Assurance Tracking Sheet (34 pages total)		
Pages	Redactions	Descriptions
1	Withheld in part	Cover page

7	Withheld in part	Responsive financial assurance information
9	Withheld in part	Responsive financial assurance information
12	Withheld in part	Responsive financial assurance information

Record 3: Northern Financial Assurance Tracking Sheet (18 pages total)		
Pages	Redactions	Descriptions
1	Withheld in part	Cover page
4	Withheld in part	Responsive financial assurance information
8	Withheld in part	Responsive financial assurance information
9	Withheld in part	Responsive financial assurance information
11	Withheld in part	Responsive financial assurance information
14	Withheld in part	Responsive financial assurance information
18	Withheld in part	Responsive financial assurance information

Record 4: Southern Financial Assurance Tracking Sheet (39 pages total)		
Pages	Redactions	Descriptions
1	Withheld in part	Cover page
19	Withheld in part	Responsive financial assurance information
20	Withheld in part	Responsive financial assurance information
22	Withheld in part	Responsive financial assurance information
24	Withheld in part	Responsive financial assurance information

[34] Section 18(1)(b) of *FOIP* provides:

18(1) A head may refuse to give access to a record that could reasonably be expected to disclose:

...

(b) financial, commercial, scientific, technical or other information:

(i) in which the Government of Saskatchewan or a government institution has a proprietary interest or a right of use; and

(ii) that has monetary value or is reasonably likely to have monetary value;

[35] As a discretionary, class-based exemption, section 18(1)(b) of *FOIP* permits refusal of access in situations where release of a record could reasonably be expected to disclose financial, commercial, scientific, technical or other information for which a government institution has:

- a proprietary interest (or a right of use); and

- monetary value (or reasonably likely will have monetary value) for that government institution.

[36] OIPC uses the following three-part test to determine if section 18(1)(b) of *FOIP* was properly applied:¹²

1. Does the information contain financial, commercial, scientific, technical or other information?
2. Does the public body have a proprietary interest or a right to use it?
3. Does the information have monetary value for the public body or is it likely to?

[37] The following analysis is to determine if Environment properly applied section 18(1)(b) of *FOIP* to the information redacted within the record.

1. Does the information contain financial, commercial, scientific, technical or other information?

[38] Environment withheld the following types of information pursuant to section 18(1)(b) of *FOIP*:

- Amounts;
- Document numbers;
- Agreement dates;
- Associated financial institutions.

[39] In the submission, Environment explained the following for each category of information withheld:

... the amounts related to financial assurance forms, such as cash deposits, bonds, or bank guarantees, qualify as financial information because they

¹² See OIPC [Review Report 004-2022](#) at paragraph [104].

represent monetary commitments made by third parties to fulfill regulatory or contractual obligations.

... account numbers and document numbers qualify as financial and commercial information because they are essential for tracking financial transactions and obligations between third parties and the Ministry... These numbers are assigned to track financial assurances, bond agreements, and security deposits, making them an integral part of financial records...

... agreement dates, including current, amendment, and cancelled dates, qualify as financial and commercial information because they indicate the timing of financial commitments between third parties and the Ministry...

... financial institution names qualify as financial and commercial information because they identify where financial assurances are held and managed...

[40] The submission provided by Environment emphasizes the presence of financial or commercial information in the records at issue. As such, the following definitions merit consideration:¹³

- “Financial information” is information regarding monetary resources, such as financial capabilities, assets and liabilities, past or present. Common examples are financial forecasts, investment strategies, budgets, and profit and loss statements. The financial information must be specific to a third party.
- “Commercial information” is information relating to the buying, selling or exchange of merchandise or services. This can include third party associations, past history, references and insurance policies and pricing structures, market research, business plans, and customer records.

[41] Based on a review of the submission and the records, OIPC observed the following:

- The amounts redacted within the records are clearly dollar figures that appear to be representations of financial assurance commitments of the third parties (and therefore, financial capabilities). Consequently, OIPC concludes that the amounts appear to represent financial information.
- The account numbers redacted within the records are numerical signifiers that appear to correspond to a system used by Environment for identifying third parties and organizing the associated information. As a result, OIPC

¹³ See OIPC [Review Report 078-2020](#) at paragraph [39].

concludes that the account numbers appear, like customer records, to represent commercial information.

- The document numbers redacted within the records are alphanumerical signifiers that correlate with specific paperwork related to financial assurance commitments of third parties. Given that the document numbers appear to account for the corroboration of financial capabilities of third parties, OIPC concludes that the document numbers appear to represent financial information. In addition, OIPC recognises that, like the account numbers, the document numbers likely represent commercial information in their usefulness in cataloguing critical third party transactions.
- The agreement dates redacted within the records document on what months, dates, and years financial assurance commitments were initially made, amended, or cancelled by third parties. With an awareness that the agreement dates appear to be essentially linked with the financial information being provided to Environment by the third parties, OIPC concludes that the agreement dates appear to represent financial information.
- The financial institution names redacted within the records reflect an array of banks and insurance companies through which the third parties provided their financial assurance commitments. Subsequently, OIPC concludes that the financial institution names appear to represent financial information.

[42] OIPC agrees that the amounts, account numbers, document numbers, agreement dates, and financial institution names consist of financial or commercial information. Therefore, the first part of the test is met for those data elements.

2. Does the public body have a proprietary interest or a right to use it?

[43] In the submission, Environment explained its role in the enforcement of *The Environmental Management and Protection Act, 2010 (EMPA)*.¹⁴ The Ministry of the Environment has a mandate to ensure that mining companies within this province abide by their statutory duty and carry out their business in full compliance with *EMPA*. Environment has a proprietary interest in the financial assurances because those financial assurances serve as security for obligations such as environmental remediation, or contract fulfillment in the event of

¹⁴ [*The Environmental Management and Protection Act, 2010*](#), S.S. 2010, c. E-10.22, as amended.

environmental damage. It cannot be disputed that Environment must use the financial assurances as part of its financial oversight and regulatory enforcement functions.

[44] To analyze a “proprietary interest” or “right of use,” the following definitions must be weighed:¹⁵

- “Proprietary” means of, relating to or holding as property.
 - “Proprietary interest” is the interest held by a property owner together with all appurtenant rights, such as a stockholder’s right to vote the shares. It signifies simply “interest as an owner” or “legal right or title.”
 - “Owner” means someone who has the right to possess, use and convey something; a person in whom one or more interests are vested.
- “Right of use” means a legal, equitable or moral title or claim to the use of property, or authority to use.

[45] Section 18(1)(a) of the Ontario *Freedom of Information and Protection of Privacy Act* (*FIPPA*) provision bears resemblance to Saskatchewan’s section 18(1)(b) of *FOIP*.¹⁶ However, whereas *FOIP* employs the terms “proprietary interest” or “right of use,” *FIPPA* employs this alternative language: “that belongs to the Government of Ontario or an institution.” Specifically, an Information and Privacy Commissioner of Ontario (Ontario IPC) Adjudicator has explained:¹⁷

... the term “belongs to” refers to “ownership” by an institution ... the concept of “ownership of information” requires more than the right to simply possess, use or dispose of information, or control access to the physical record in which the information is contained. For information to “belong to” an institution, the institution must have some proprietary interest in it either in a traditional intellectual property sense - such as copyright, trademark, patent or industrial design - or in the sense that the law would recognize a substantial interest in protecting the information from misappropriation by another party. ...

¹⁵ See OIPC [Review Report 185-2022](#) at paragraph [56].

¹⁶ Ontario [Freedom of Information and Protection of Privacy Act](#), RSO 1990, c. F.31, as amended.

¹⁷ See Ontario IPC [Order MO-1746](#) at page 6 in the PDF version.

[Emphasis added]

[46] The account and document numbers at issue are assigned by Environment to financial and commercial information related to third parties with whom Environment is engaged in business. In other words, it appears that Environment does *own* the account and document numbers as identifiers of financial and commercial information. Moreover, Environment has demonstrated its right of use of the information as part of the ministry's financial oversight and regulatory enforcement functions, as provided for in *MIEPR Regulations*, enacted under *EMPA*.

[47] Based on a review of the submission and the records, OIPC observed the following:

- The amounts (and corresponding names of financial institutions engaged to facilitate the amounts) appear to corroborate commitments made by third parties in partnership with Environment to be able to decommission and reclaim sites, as required by *MIEPR Regulations* and *EMPA*.
- The account and document numbers appear to be, inherently, intellectual property, as identifiers that represent (and account for) Environment's distinct partnerships with third parties with whom commercial interests are shared.
- The agreement dates appear to reflect ongoing commitments by third parties with whom Environment has partnered to evaluate the efficacy of financial assurance plans.
- Environment has a "right to use" all of this information in effort to ensure compliance with regulatory requirements.

[48] For these reasons, it appears that Environment has a right of use for amounts, account and document numbers, agreement dates, and names of financial institutions redacted within the records. Therefore, the second part of the test is met.

3. *Does the information have monetary value for the public body or is it likely to?*

[49] In the submission, Environment indicated that it was concerned that the release of this financial information could jeopardize regulatory operations. There is a concern that release of the amounts, account and document numbers, agreement dates, and names of

financial institutions to the Applicant could allow competitors to learn how financial assurance requirements are determined, and that this could undermine the entire process. Environment indicated that this information has a valid monetary value because it is central to the enforcement of financial obligations, the determination of when funds may be accessed or released. This information is crucial and allows Environment to plan for future regulatory enforcement actions.

[50] The party that relies on the term “monetary value” must show that the information itself has an intrinsic financial value. This may be demonstrated by evidence of potential for financial return to the government institution.¹⁸ In this case, the financial return is connected to the protection of the environment and the regulation thereof.

[51] Section 18(1)(b) of *FOIP* provides that access may be refused where the information “could reasonably be expected to disclose” financial information in which the Government of Saskatchewan has a right of use and that has a monetary value.

[52] In *Saskatchewan Government Insurance v Giesbrecht*, Chief Justice Leurer explained that the threshold required to justify non-disclosure under an exemption that depends on the possibility that disclosure *could* cause a stated harm is that of “objective possibility”.¹⁹ In conjunction with this, Justice Davis in *Kasprick v Saskatchewan Power Corporation*, explained that when the word “could” is combined with the word “expectation” with respect to *FOIP*, the Legislature appears to be instituting a standard lower than probability, but at least somewhat higher than mere possibility.²⁰

¹⁸ See OIPC [Review Report 068-2024](#) at paragraph [20].

¹⁹ See [Saskatchewan Government Insurance v Giesbrecht](#), 2025 SKCA 10 at paragraph [78].

²⁰ See [Kasprick v Saskatchewan Power Corporation](#), 2025 SKKB 139 at paragraph [30] where Justice Davis adopts the guidance from the Saskatchewan Court of Appeal and notes that the threshold as stated in [Merck Frosst Canada Ltd. v Canada \(Health\)](#), [2012] 1 SCR 23 adopted too high a standard in its interpretation of reasonable expectation of probable harm.

- [53] With this guidance in mind, OIPC must evaluate Environment's assertion that providing the amounts, account and document numbers, agreement dates, and names of financial institutions to the Applicant *could reasonably be expected to* disclose information that has monetary value for Environment.
- [54] The amounts overtly reflect monetary value, as they stand for funds that Environment may mobilize in the event that third parties fail to fulfill their commitments. These amounts are "well beyond" the "reasonable expectation" threshold and clearly reflect a monetary value.
- [55] While more implicit, the account and document numbers, agreement dates, and names of financial institution also have evident monetary value, as they facilitate the accounting by Environment for financial assurance plans of third parties. In other words, without this information, there would be no evidence of financial assurances by the third parties. Each data element implicitly reflects monetary value insofar as they allow Environment to account for decommission and reclamation plans mutually developed with third parties. Based on the submission, and on their faces, the account and document numbers, agreement dates, and names of financial institutions are "well beyond" the "reasonable expectation" threshold.
- [56] Therefore, the third and final part of the test is met for the amounts, account and document numbers, agreement dates, and names of financial institution.
- [57] As such, there will be a finding that Environment properly applied section 18(1)(b) of *FOIP* to the redacted portions of the records, as outlined at paragraph [33] of this Report. Based on this finding, there is a recommendation that Environment continue to withhold the redacted portions of the records, as outlined at paragraph [33] of this Report, pursuant to section 18(1)(b) of *FOIP*. Therefore, this office will not proceed with a consideration of the exemptions as applied in sections 19(1)(b), 19(1)(c)(i), 19(1)(c)(ii) and 19(1)(d) of *FOIP*.

4. Is there a public interest in dissemination of this material?

[58] In *Ontario (Public Safety and Security) v. Criminal Lawyers' Association*, the Supreme Court of Canada explained the importance of the public interest in the application of a discretionary exemption. That case focused on the discretionary exemptions provided for in the Ontario privacy legislation dealing with section 14(2) of *FIPPA* (law enforcement investigations) and section 19 of *FIPPA* (solicitor/client privilege). In that case, the Supreme Court ruled that the section 23 *FIPPA* “public interest override” section did not specifically include a further consideration of the public interest in sections 14(2) and 19 of *FIPPA* because both of sections adequately provided for a consideration of the public interest by virtue of the very nature of the exemption itself. However, the case went on to outline the nature of the obligation upon the Information and Privacy Commissioner in reviewing the exercise of discretion on the part of the head:²¹

[71] The Commissioner may quash the decision not to disclose and return the matter for reconsideration where: the decision was made in bad faith or for an improper purpose; the decision took into account irrelevant considerations; or the decision failed to take into account relevant considerations.

[59] In the matter at hand, Environment has taken into consideration a host of viable factors in coming to the decision to withhold the information in question. The protection of the Environment in this province is not only a sacral duty but it is a statutory obligation. To release this information would surely hinder that mandate. There were ample valid reasons given for the refusal to disclose this information as discussed in this Report. As the Commissioner, I have a duty to review that discretion within a consideration of the public interest. There is a finding that the exercise of discretion by Environment for the application of section 18(1)(b) of *FOIP* was reasonable.²²

²¹ See [*Ontario \(Public Safety and Security\) v Criminal Lawyers' Association*](#), 2010 SCC 23 at paragraph [71].

²² *Ibid*, at paragraph [68].

IV FINDINGS

[60] OIPC has jurisdiction to conduct this review.

[61] Environment properly considered that the portions of the records outlined at paragraph [29] of this Report are non-responsive to the Applicant's access to information request.

[62] Environment properly applied section 18(1)(b) of *FOIP* to the redacted portions of the records, as outlined at paragraph [33] of this Report.

[63] The exercise of discretion by Environment for the application of section 18(1)(b) of *FOIP* was reasonable.

V RECOMMENDATIONS

[64] I recommend that Environment continue to withhold the portions of the records outlined at paragraph [29] of this Report that are non-responsive to the Applicant's access to information request.

[65] I recommend that Environment continue to withhold the redacted portions of the records, as outlined at paragraph [33] of this Report, pursuant to section 18(1)(b) of *FOIP*.

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

Grace Hession David
Saskatchewan Information and Privacy Commissioner