



Order F20-20

MINISTRY OF ENERGY, MINES & PETROLEUM RESOURCES

Erika Syrotuck
Adjudicator

May 14, 2020

CanLII Cite: 2020 BCIPC 23
Quicklaw Cite: [2020] B.C.I.P.C.D. No. 23

Summary: The applicant made a request to the Ministry of Energy, Mines and Petroleum Resources for records relating to the Site C Clean Energy Project. The Ministry disclosed information in some of the responsive records but withheld other parts under ss. 12(1) (Cabinet confidences), 13(1) (advice or recommendations), 14 (solicitor client privilege), 15(1)(l) (harm to security of a property or system), 16 (harm to intergovernmental relations), 17(1) (harm to financial or economic interests of a public body), 21(1) (harm to third party business interests) and 22 (disclosure an unreasonable invasion of third party privacy) of FIPPA. The adjudicator found that the Ministry was authorized to refuse to disclose all of the information in dispute under s. 15(1)(l), and was required or authorized to refuse to disclose some but not all of the information in dispute under ss. 12(1), 13(1), 16(1) and 17(1). The adjudicator concluded that the Ministry was not required to refuse to disclose the information in dispute under s. 22(1).

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, ss. 12(1), 12(2), 13(1), 15(1), 16(1), 17(1), and 22.

INTRODUCTION

[1] The applicant made a request to the Ministry of Energy, Mines and Petroleum Resources (Ministry) under the *Freedom of Information and Protection of Privacy Act* (FIPPA) for all emails, including attachments, and documents exchanged between the Ministry and the British Columbia Hydro and Power Authority (BC Hydro) relating to the Site C Clean Energy Project (Site C).

[2] The Ministry identified hundreds of pages of records as responsive to the request. It disclosed some of this information to the applicant but withheld some information under ss. 12(1) (Cabinet confidences), 13(1) (advice or recommendations), 14 (solicitor client privilege), 15(1)(l) (harm to security of a property or system), 16(1)(harm to intergovernmental relations), 17(1)(harm to financial or economic interests of a public body), 21(1) (harm to third party

business interests) and 22(1)(disclosure an unreasonable invasion of third party privacy) of FIPPA. The applicant asked the Office of the Information and Privacy Commissioner (OIPC) to review the Ministry's decision. Mediation did not to resolve the issues in dispute, so the matter proceeded to inquiry.

[3] After the inquiry commenced, the Ministry identified more records responsive to the applicant's request, bringing the total number of pages at issue to over 1000.¹ It also released some additional information to the applicant. Further, the Ministry submitted that it would no longer be relying on ss. 14 and 21, so those issues are no longer in dispute.²

[4] Under s. 54(b), the OIPC invited BC Hydro and another third party to the inquiry. BC Hydro provided evidence as part of the Ministry's submissions. The other third party provided a submission, which was accepted *in camera* by the OIPC.

ISSUES

[5] The issues I must decide are:

1. Is the Ministry authorized to withhold the information in dispute under ss. 13(1), 15(1)(l), 16(1) and 17(1) of FIPPA?
2. Is the Ministry required to withhold the information in dispute under ss. 12(1) and 22(1) of FIPPA?

[6] Under s. 57(1) of FIPPA, the Ministry bears the burden of proving that ss. 12(1), 13(1), 15(1)(l), 16(1), and 17(1) authorize it to refuse to disclose the information in dispute. Section 57(2) says that the applicant must prove that disclosure of the information would not be an unreasonable invasion of a third party's personal privacy under s. 22(1).

DISCUSSION

Background

[7] Site C is a project to build a dam and hydroelectric power generating station on the Peace River in northeastern BC. The Ministry explains that Site C has a budget of \$10.7 billion³, making it one of the largest capital projects in the history of BC.⁴ The Ministry also explains that BC Hydro is primarily responsible

¹ Ministry's August 15, 2019 email to the OIPC and parties.

² Ministry's September 16, 2019 letter and Ministry's initial submissions, para. 12.

³ Including Treasury Board Reserve.

⁴ Ministry's initial submissions, para 21. See also applicant's submissions.

for Site C, however, the province of BC is its sole shareholder and the guarantor of its debt.⁵

[8] The Ministry provided evidence that, in December 2014, Cabinet and Treasury board spent four days deliberating on whether or not to invest in Site C.⁶ Later that month, the Province publicly announced its decision to proceed with the project.⁷ The Ministry says that records are being continuously created for the purpose of on-going oversight of the project by Treasury Board and by the BC Utilities Commission (BCUC), which is the province's independent energy regulator.⁸

[9] The applicant says there is an unprecedented degree of public interest in Site C, and points to factors such as the cost, issues surrounding treaty rights with Indigenous groups and the environmental impact of the project.⁹

Information at issue

[10] The Ministry provided approximately 1000 pages of emails and attachments in response to the applicant's access request. The records relate to the ongoing oversight of Site C.

[11] The Ministry disclosed much of this information to the applicant but withheld a significant portion of the emails and attachments. Where the Ministry refused to disclose information in an email, it has done so only in the body of the email. It did not withhold subject lines, dates, senders, recipients or signature blocks.

[12] Most of the attachments are various types of reports. There are also versions of a briefing note and a letter. The information that the Ministry refused to disclose ranges from small portions of an attachment to entire pages within the attachment and, in some cases, the whole attachment.

Section 12 – Cabinet confidences

[13] Section 12(1) requires a public body to refuse to disclose information that would reveal the substance of deliberations of the Executive Council or any of its committees. The relevant parts of s. 12 are:

(1) The head of a public body must refuse to disclose to an applicant information that would reveal the substance of deliberations of the Executive Council or any of its committees, including any advice,

⁵ Ministry's initial submissions, para. 22.

⁶ Affidavit of the ADM at para. 17.

⁷ Affidavit of the ADM at para. 22.

⁸ Ministry's initial submissions, paras. 29 and 30.

⁹ Applicant's submissions.

recommendations, policy considerations or draft legislation or regulations submitted or prepared for submission to the Executive Council or any of its committees.

(2) Subsection (1) does not apply to

...

(c) information in a record the purpose of which is to present background explanations or analysis to the Executive Council or any of its committees for its consideration in making a decision if

(i) the decision has been made public,

(ii) the decision has been implemented, or

(iii) 5 or more years have passed since the decision was made or considered.

(5) The Lieutenant Governor in Council by regulation may designate a committee for the purposes of this section.

[14] Section 12(1) protects the substance of deliberations of the Executive Council, also known as Cabinet, and its committees from disclosure. The Supreme Court of Canada has explained the rationale for this exception is that “those charged with the heavy responsibility of making government decisions must be free to discuss all aspects of the problems that come before them and to express all manner of views, without fear that what they read, say or act on will later be subject to public scrutiny.”¹⁰ In the context of s. 12(1), the phrase “substance of deliberations” refers to the body of information which Cabinet considered (or would consider in the case of submissions not yet presented) in making a decision.¹¹

[15] Under s. 12(2)(c), information in a record the purpose of which is to present background explanations or analysis cannot be withheld under s. 12(1). “Background explanations” include everything factual that Cabinet used to make a decision, and “analysis” includes discussion about the background explanations but not analysis of policy options presented to Cabinet.¹² Section 12(2)(c) does not apply to background explanations and analysis that are interwoven with the substance of deliberations within the meaning of s. 12(1).¹³

¹⁰ *Babcock v. Canada (Attorney General)*, 2002 SCC 57 at para. 18.

¹¹ *Aquasource Ltd. v. British Columbia (Freedom of Information and Protection of Privacy Commissioner)*, 1998 CanLII 6444 (BC CA) [*Aquasource*] at para. 39.

¹² Order 48-1995, BCIPD No. 21 at para. 13. This approach was confirmed by the BC Court of Appeal in *Aquasource* *supra* note 11.

¹³ *Aquasource* *supra* note 11 at para. 50.

[16] The applicant submits that I should reconsider how this office interprets s.12. Specifically, that I should interpret s. 12(2) in a way that “disentangles” background explanations or analysis from the substance of deliberations in s. 12(1). The applicant says that s. 12(1) and (2) should not be interpreted so broadly as to render s. 12(2) “devoid of content and application.”

[17] The interpretation I have set out above was confirmed by the BC Court of Appeal in *Aquasource Ltd. v. British Columbia (Freedom of Information and Protection of Privacy Commissioner)*. I see no basis on which to depart from the Court of Appeal’s reasoning.

[18] In addition, the applicant suggests that s. 12(1) should not apply to the substance of deliberations of a previous government. There is nothing in s. 12 that limits this exception to the current government.¹⁴

Is the Treasury Board a committee of the Executive Council?

[19] The Ministry says the records at issue would reveal the substance of deliberations of Cabinet as well as Treasury Board. Section 12(1) protects information that would reveal the substance of deliberations of the Executive Council (i.e. Cabinet) or any of its committees. For this reason, I must first determine whether the Treasury Board is a committee for the purpose of s. 12(1). Under s. 12(5) the Lieutenant Governor in Council may designate a committee for the purpose of s. 12. The Ministry submitted that, at the relevant time, the Treasury Board was a committee under the *Committee of the Executive Council Regulation*.¹⁵ Based on my review of this regulation, I am satisfied that the Treasury Board was a designated committee for the purpose of s. 12(1) during the time period covered by the applicant’s access request.

Substance of Deliberations

[20] The Ministry applied s. 12(1) to information in the following groups of records:

- Draft and final presentation to Cabinet and related emails;¹⁶
- Treasury Board materials, which can be further categorized as:
 - draft and final Treasury Board Submission and related emails;¹⁷
 - and

¹⁴ The applicant made a similar argument about s. 16(1) and in my view, it does not apply for the same reasons.

¹⁵ BC Reg 229/2005, s. 1(b).

¹⁶ At pages 191 – 225, 228 – 261, 290 – 320, 663 – 694, 752 – 783, and 987 – 1016 of the records in dispute.

¹⁷ At pages 2, 186, 389 – 390, 398 – 425, 503 – 662, 695 – 698, 700 – 721, 727 – 741, 788 – 871 of the records in dispute.

- draft and final Treasury Board Staff Briefing Note and related emails;¹⁸
- An Appendix to a BCUC progress report and related emails;¹⁹ and
- A letter.²⁰

[21] The Ministry says that it provided the necessary evidence to show that the records at issue would reveal information provided to Cabinet and Treasury Board for their deliberations about the final investment decision and subsequent oversight of the Site C project.²¹

[22] In support of its submissions, the Ministry provided affidavit evidence from the Assistant Deputy for the Minister Electricity and Alternative Energy Division (ADM) and the Office of the Premier’s Executive Director, Cabinet Operations (Executive Director).

[23] I will discuss each of the categories of records in turn. I will first determine whether the information would reveal the substance of deliberations within the meaning of s. 12(1) before turning to whether the information is background explanations or analysis under s. 12(2)(c).

Presentation to Cabinet and related emails

[24] The Ministry withheld some information in iterations of the same presentation to Cabinet. The ADM says that the Ministry worked with BC Hydro to prepare this presentation. There are three versions prepared for an initial meeting date, which was then deferred.²² The other versions are a draft²³ and final²⁴ presentation prepared for the rescheduled date. All versions are substantially similar. The Ministry withheld some information in each version.

[25] The ADM says that the information the Ministry withheld in the presentations would reveal the substance of deliberations at the Cabinet meeting where the Ministry delivered the presentation.²⁵ In support of this, the Executive Director provided a copy of the “Record of Decision” from the Cabinet meeting and says that it expressly references the presentation.²⁶

¹⁸ At pages 399 – 435, 531 – 536, 872 – 877 of the records in dispute.

¹⁹ At pages 327 (again at page 329) and 487 – 500 of the records in dispute.

²⁰ At pages 501 – 502 of the records in dispute (again at pages 806 – 807).

²¹ Ministry’s initial submissions, paras. 65 – 66.

²² At pages 291 – 320, 665 – 694, 753 – 758, and 987 – 1016 of the records in dispute. See Affidavit of the ADM at paras. 89 – 91.

²³ At pages 229 – 261 of the records in dispute. See Affidavit of the ADM at para. 92.

²⁴ At pages 193 – 225 of the records in dispute. See Affidavit of the ADM at para. 93.

²⁵ Affidavit of the ADM at para. 94.

²⁶ Affidavit of the Executive Director at para. 17 and Exhibit D (submitted *in camera*).

[26] While I am limited in what I can say about the “Record of Decision” because it was submitted to the OIPC *in camera*, I confirm that it does expressly reference the final presentation that is at issue in this inquiry. The information in the “Record of Decision” also satisfies me that Cabinet deliberated on the submission. Since all the versions of the presentation are substantially similar, in my view, disclosing the content of the presentations would reveal the substance of deliberations of Cabinet.

[27] The Ministry has withheld titles and title pages throughout the presentation. The Executive Director says that the release of titles in the materials would disclose the substance of Cabinet deliberations because they show that “the materials are focused on certain aspects of the Site C project” and would enable someone to infer other information withheld from the presentation.²⁷

[28] I accept that the more detailed headings on specific pages relate closely to the content of the presentation and therefore to the substance of deliberations. However, it is unclear to me, based on the evidence and materials before me, how the title of the presentation and the section title pages would reveal the substance of deliberations of Cabinet. Past orders have said that s. 12(1) does not apply to titles and other such bare-bones information about the topics of discussion.²⁸ In my view, these titles do not reveal the substance of deliberations and cannot be withheld under s. 12(1).

[29] The Ministry has also withheld information in two emails that are about the presentations.²⁹

[30] In my view, most of the information withheld from one of the emails³⁰ would reveal the substance of deliberations as it relates directly to the content of the presentation. However, the rest of the withheld information in that email and all of the withheld information in the second email³¹ would not reveal the substance of deliberations of Cabinet. This is because these portions are of an administrative nature but do not reveal the content of the presentation.

[31] I have considered whether s. 12(2)(c) applies to the information to which I have found that s. 12(1) applies. Based on my review of the disputed information and the evidence the Ministry provided *in camera* (i.e., the Record of Decision), I conclude that the information at issue in the presentations is not background explanations or analysis presented to Cabinet in order to make a decision.

²⁷ Affidavit of the Executive Director at paras. 18 and 19.

²⁸ See for example, Order F18-41, 2018 BCIPC 44 at para 47; Order F12-01, 2012 BCIPC 1 at para. 22; and Order F19-17 2019 BCIPC 19 at para. 48.

²⁹ At pages 191 and 290 of the records in dispute.

³⁰ At page 290 of the records in dispute.

³¹ At page 191 of the records in dispute.

Treasury Board Materials

[32] Many of the records at issue relate to materials that the Ministry says were prepared for Treasury Board. The information in these records falls into two categories.

[33] First, the information at issue includes portions of versions of a Treasury Board Submission³² along with emails discussing the efforts to develop it.³³ Some of these emails include short excerpts of the drafts.³⁴ The Ministry also withheld information in some emails that it says are about information that Treasury board members wanted to see in the Treasury Board Submission.³⁵ The ADM says that the final version of this submission was presented to Treasury Board and ratified by Cabinet.³⁶

[34] Second, the information at issue includes versions of a Treasury Board Staff Briefing Note³⁷ along with emails discussing the development of the briefing note.³⁸ The ADM says that the purpose of this briefing note was to ensure that staff who attend Cabinet meetings have the information they need to answer any questions a Cabinet member may have.³⁹ They are also created to provide the Minister of Finance with information necessary to support his or her participation in Cabinet's discussions about fiscal matters.⁴⁰ The ADM says that this particular briefing note was prepared to support the presentation to Cabinet, discussed above.⁴¹ The ADM says that the information in the briefing note reflects the materials submitted to Cabinet in 2014, the Treasury Board Submission and the presentation to Cabinet at issue in this inquiry.⁴²

[35] I accept the Ministry's evidence that disclosing the information at issue in the Treasury Board Submissions and the Treasury Board Staff Briefing Note would reveal the substance of deliberations within the meaning of s. 12(1). Specifically, I accept that the fact that Cabinet ratified the final Treasury Board Submission means that it deliberated on it. Regarding the briefing note, I accept that this was prepared for the purpose of Treasury Board answering questions from Cabinet about the matters Cabinet deliberated on at their meeting.

³² At pages 503 – 527, 538 – 562, 580 – 603, 612 – 633, 639 – 662, 707 – 727, 729 – 749, 790 – 804, 808 – 823, 825- 839, 852 – 854, and 856 – 870 of the records in dispute.

³³ At pages 528, 563 – 570, 571 – 572, 608 – 611, 634 – 636, 637 – 638, 695 – 697, 700 – 701, 702 – 703, 704 – 706, 728, 788, 789, 805, 824, 840 – 849, 851, and 855 of the records in dispute.

³⁴ See for example pages 661 – 662 of the records in dispute.

³⁵ At pages 2 and 186 of the records in dispute. See Affidavit of the ADM at para. 39.

³⁶ Affidavit of the ADM at para 43.

³⁷ At pages 404 – 409, 419 – 425, 531 – 536, and 872 – 877 of the records in dispute.

³⁸ For example, page 399 – 402, and 563 of the records in dispute. See affidavit of the ADM at para. 98.

³⁹ Affidavit of the ADM at para. 95.

⁴⁰ *Ibid.*

⁴¹ *Ibid.*

⁴² Affidavit of the ADM at para. 96.

[36] However, only some of the emails discussing the development of these materials reflects the substance of deliberations. For example, some of the portions of the related emails do not discuss the actual content of the materials at issue.⁴³ Rather, these portions discuss how the Ministry chose to organize and format the materials. In my view, this does not reflect the substance of deliberations within the meaning of s. 12(1).

[37] There is also a portion of an email that references broad topics in the Treasury Board Submission.⁴⁴ In my view, these broad topics are bare-bones information and I do not think disclosing it would reveal the substance of deliberations.

[38] There are also some email discussions about questions that Ministry employees expected to be asked by Treasury Board about the information in the Treasury Board Submission.⁴⁵ I am satisfied that the information the Ministry has withheld in these emails was information about policy considerations that was prepared for submission to Treasury Board. Therefore, I find disclosing this information would reveal the substance of deliberations within the meaning of s. 12(1).

[39] With regards to s. 12(2)(c), I do not think that it applies to any of the information in the Treasury Board materials or related emails that I have found would reveal the substance of deliberations under s. 12(1). None of it is standalone background explanations or analysis not interwoven with the substance of deliberations.

Appendix to BCUC Progress Report

[40] The ADM explains that, since the Province announced its decision to proceed with Site C, the Province has been submitting quarterly progress reports to the BCUC.

[41] The Ministry has withheld the content of an entire appendix to a BCUC progress report.⁴⁶ The ADM says that the information in this appendix was originally part of the information provided to Cabinet to make its decision in December 2014 about whether to invest in Site C, and therefore disclosing the content of the appendix would reveal the substance of deliberations of Cabinet.⁴⁷ The Ministry has provided me with the information that it provided to Cabinet in December 2014.⁴⁸

⁴³ At pages 528 and 696 (again at 701, 703 and 705) of the records in dispute.

⁴⁴ At page 789 of the records in dispute (again at 805, 824 and 856).

⁴⁵ At pages 389 – 390 of the records in dispute. See Affidavit of the ADM at para. 56.

⁴⁶ At pages 487 – 500 of the records in dispute. It has disclosed headings, footers and page numbers.

⁴⁷ Affidavit of the ADM, at para 69(a).

⁴⁸ Affidavit of the Executive Director, Exhibit A (submitted *in camera*).

[42] I am satisfied that the information provided to Cabinet in 2014 is the information that Cabinet deliberated on in order to decide whether to invest in Site C. I note that the information in the appendix is not in an identical format to that in the 2014 information; however, the content overlaps significantly and I am satisfied that it is substantially similar. Therefore, I am satisfied that the information in the appendix would reveal the substance of Cabinet's 2014 deliberations about whether to invest in Site C.

[43] The Ministry has also withheld information in an email relating to the BCUC progress report.⁴⁹ The Ministry says that this email discusses instructions and direction from Treasury Board.⁵⁰

[44] In my view part of the information in this email would reveal the substance of deliberations of Treasury Board because it specifically discussed Treasury Board's direction or would allow a direct inference to be made about what Treasury Board discussed. However, the remaining portion of the email is not about direction from Treasury Board; rather it is general information about compiling the BCUC Progress Report.

[45] In my view, s. 12(2)(c) does not apply to the information in the BCUC Progress Report appendix and emails that I have found would reveal the substance of deliberations. While some of the information is background analysis or explanations for Treasury Board, it is interwoven with the information that is the substance of deliberations.

Letter

[46] The Ministry also withheld all of a letter under s.12(1).⁵¹ Much of the Ministry's description of this letter is *in camera*,⁵² therefore, I am very limited in what I can say about it. In my view, there is no question that the content of the letter would reveal the substance of deliberations under s. 12(1). However, I fail to see how the header, footer, sender, recipient, or date would reveal the substance of deliberations and the Ministry did not explain.

[47] In addition, no part of the letter is background explanations or analysis within the meaning of 12(2)(c).

Summary

[48] In summary, the Ministry is required to refuse to disclose most of the information in dispute under s. 12(1) because it would reveal the substance of

⁴⁹ At page 327 of the records in dispute (again at page 329).

⁵⁰ Ministry's initial submissions, para. 68.

⁵¹ At pages 501-502 of the records in dispute (again at pages 806-807).

⁵² See Affidavit of the ADM at paras. 19 – 20.

deliberations of Cabinet or of Treasury Board. I have highlighted the information that the Ministry is required to disclose because s.12(1) does not apply.

[49] I turn now to the Ministry's application of s. 13(1) to the records in dispute.

Section 13 – advice or recommendations

[50] Section 13(1) allows a public body to withhold advice or recommendations developed by or for a public body, subject to certain exceptions in ss. 13(2) and 13(3).

[51] The relevant portions of s. 13 are:

13 (1) The head of a public body may refuse to disclose to an applicant information that would reveal advice or recommendations developed by or for a public body or a minister.

(2) The head of a public body must not refuse to disclose under subsection (1)

(a) any factual material,

....

(3) Subsection (1) does not apply to information in a record that has been in existence for 10 or more years.

[52] The purpose of s. 13(1) is to preserve an effective and neutral public service and permit public servants to provide full, free and frank advice,⁵³ recognizing that some degree of deliberative secrecy fosters the decision making process.⁵⁴

[53] Recommendations include material relating to a suggested course of action that will ultimately be accepted or rejected by the decision maker.⁵⁵ Advice is broader than recommendations⁵⁶ and includes an opinion that involves exercising judgment and skill to weigh the significance of matters of fact.⁵⁷ It also includes expert opinion on matters of fact on which a public body must make a decision on future action.⁵⁸

⁵³ *John Doe v Ontario (Finance)* 2014 SCC 36 [*John Doe*] at para. 43.

⁵⁴ *College of Physicians of BC v British Columbia (Information and Privacy Commissioner)*, 2002 BCCA 665, [*College*] at para. 105.

⁵⁵ *John Doe supra* note 53 at para. 23. See also Order F19-28, 2018 BCIPC 30 at para. 14.

⁵⁶ *Ibid* at para 24. See also Order F19-28, 2018 BCIPC 30 at para. 14.

⁵⁷ *College supra* note 54 at para. 113.

⁵⁸ *Ibid*.

[54] Section 13(1) applies to information that directly reveals advice or recommendations as well as information that would allow an accurate inference to be made about advice or recommendations.⁵⁹

[55] The Ministry applied s. 13(1) to much of the same information I have found the Ministry is required to refuse to disclose under s. 12(1). I will only consider whether s. 13(1) applies to the information that the Ministry is not required to withhold under s. 12(1).

[56] I will first decide if the information in dispute is advice or recommendations within the meaning of s. 13(1) before determining whether any exceptions in s. 13(2) or 13(3) apply.

Section 13(1)

[57] The information at issue under s. 13(1), which I will detail further below, can be broken down as follows:

- Feedback on drafts;
- Two briefing notes and related emails;
- A letter; and
- Emails relating to various issues.

[58] I will examine each group in turn.

Feedback on drafts

[59] Under s. 13(1), the Ministry has withheld feedback about the content of some of the draft reports at issue. Some of the feedback is embedded in drafts reports, either in text or in a comment.⁶⁰ Some of the feedback is in the body of an email.⁶¹

[60] The Ministry has also withheld feedback on how to respond to a media request.⁶²

[61] In my view, most of these comments are advice and/or recommendations within the meaning of s. 13(1). I can see that the commenter has used their expertise and professional judgment to give their opinion on the content of the

⁵⁹ Order F17-43, 2017 BCIPC 47 at para. 16.

⁶⁰ At pages 346 – 388, 419 – 421, 541 – 562, 612 – 633, 640 – 660, 709 – 727, 731 – 749, and 808 – 823 of the records in dispute.

⁶¹ At pages 327 of the records in dispute (again at pages 329), and pages 395, 399, 528, and 696 (again at pages 701, 703 and 705).

⁶² At page 74 of the records in dispute. See Affidavit of the ADM at para. 117.

materials. This is consistent with findings in past orders that editorial advice about the content and wording in drafts can be withheld under s. 13(1).⁶³

[62] However, two of these emails are not advice or recommendations. One is about actions taken and does not reveal advice or recommendations.⁶⁴ The other is about the organization of some of the materials.⁶⁵ In my view, these portions of emails do not contain advice within the meaning of s. 13(1).

Briefing Notes and related emails

[63] The Ministry has withheld several portions of a briefing note about federal funding for transmission projects under s. 13(1).⁶⁶ The other briefing note is about changes to Site C's environmental requirements.⁶⁷ The Ministry has also withheld parts of an email chain related to this briefing note.

[64] In my view, the portions of both briefing notes and the emails at issue are advice or recommendations. The withheld information sets out options and discusses the implications of certain courses of action. This is the type of information that is clearly captured by s. 13(1).

Letter

[65] The Ministry applied s. 13(1) to the entirety of a letter.⁶⁸ Above, I found that s. 12(1) applied to the letter except for the headings, footer, sender, recipient or date. I also find that these parts of the letter are not advice or recommendations under s. 13(1).

Emails related to specific issues

[66] The remainders of the records at issue under s. 13(1) are emails about specific issues. For the most part, I find that the content of these emails are advice or recommendations within the meaning of s. 13(1).

[67] A portion of one email in dispute discusses considerations in relation to a decision.⁶⁹ I find that this is advice.

[68] There is another email, that the ADM describes as providing advice on "next steps and management of information."⁷⁰ In my view, this is an accurate

⁶³ Order F14-44, 2014 BCIPC 47 at para. 32; Order F19-27, 2019 BCIPC 29 at para. 37.

⁶⁴ At page 327 of the records in dispute (again at page 329).

⁶⁵ At page 696 of the records in dispute (again at pages 701, 703 and 705).

⁶⁶ At pages 391 – 394 of the records in dispute.

⁶⁷ At pages 126 – 131 of the records in dispute.

⁶⁸ At pages 501 – 502 of the records in dispute (again at pages 806 – 807).

⁶⁹ At page 186 of the records in dispute.

⁷⁰ At page 324 of the records in dispute. See Affidavit of the ADM at para. 118.

description of the information in dispute and I accept that it is advice or recommendations under s. 13(1).

[69] The Ministry applied s. 13(1) to a portion of an email⁷¹ discussing another record. The other record has been disclosed as part of this inquiry,⁷² however part of the email would reveal advice in relation to it. The remaining part of the email reveals what the other record is, but not any advice in relation to it.

[70] Finally, there is one email⁷³ that provides a list of topics included in the Treasury Board materials. I do not think a list of topics, without further explanation, is advice or recommendations.

Sections 13(2) and (3)

[71] As I mentioned above, sections 13(2) and (3) set out certain types of information that cannot be withheld under s. 13(1).

[72] The Ministry submits that none of the exceptions under s. 13(2), in particular factual material under s. 13(2)(a), apply. In addition, the Ministry says that the records at issue have not been in existence for more than 10 years, and therefore s. 13(3) does not apply.

[73] I find that ss. 13(2) and 13(3) do not apply. In particular, I agree that none of the information is discrete material distinct from information of a factual nature.⁷⁴

Summary - s. 13(1)

[74] In summary, the Ministry is authorized to withhold some but not all of the information in dispute under s. 13(1). The Ministry must disclose the information highlighted in blue.

[75] I turn now to whether s. 15(1)(l) applies to some of the information in dispute.

Section 15(1)(l) – harm to a property or system

[76] The Ministry applied s. 15(1)(l) to a direct web link to a pdf copy of slides and to a teleconference call ID number.⁷⁵

⁷¹ At page 750 of the records in dispute.

⁷² See pages 1017 – 1018 of the records in dispute.

⁷³ At page 789 of the records in dispute (again at pages 805, 824 and 855).

⁷⁴ See *Provincial Health Services Authority v. British Columbia (Information and Privacy Commissioner)*, 2013 BCSC 2322 at para. 91.

⁷⁵ At pages 325 – 326 of the records in dispute.

[77] Section 15(1)(l) allows a public body to withhold information if the disclosure could reasonably be expected to harm the security of any property or system, including a building, a vehicle, a computer system or a communications system.

[78] The language “could reasonably be expected to” means that a public body must establish that there is a reasonable expectation of probable harm. In order to establish this, the public body must provide evidence that the likelihood of the harm occurring is “well beyond” or “considerably above” a mere possibility.⁷⁶ There should be a clear and direct connection between the disclosure of the information and the harm alleged.⁷⁷

Teleconference ID number

[79] The Ministry submits that disclosure of the teleconference ID number could allow an individual to gain unauthorized access to future teleconference calls or meetings. The Assistant Deputy Minister says that disclosure of the teleconference ID number would allow someone to call the toll-free number that appears alongside the ID number, enter the ID number and gain access to confidential government phone calls.⁷⁸ In addition to potentially harming the security of the Province’s phone calls, the Ministry says that unauthorized access could result in a privacy breach.⁷⁹

[80] The Ministry points to Order F17-23, where the adjudicator found that teleconference ID numbers are related to a communications system and could reasonably be expected to result in harm because the number would allow someone access to confidential phone calls.⁸⁰

[81] I note that the adjudicators in Orders F15-32 and F20-08 also found that disclosing a teleconference call ID number could reasonably be expected to harm the security of a communications system.⁸¹

[82] In the present case, I am satisfied that disclosure of the teleconference call ID number could reasonably be expected to harm the security of a communications system. Since the Ministry has already disclosed the telephone number of the teleconference line, disclosure of the teleconference ID number is all that an unauthorized individual would need to access the private teleconferencing line. For this reason, I am satisfied that disclosure of the ID

⁷⁶ *Ontario (Community Safety and Correctional Services) v. Ontario (Information and Privacy Commissioner)*, 2014 SCC 31 [*Ontario (Community Safety and Correctional Services)*] at para. 54.

⁷⁷ Order 02-50, 2002 CanLII 42486 (BCIPC) at para. 137.

⁷⁸ Affidavit of the ADM at para. 121.

⁷⁹ Ministry’s initial submissions, para. 92.

⁸⁰ Ministry’s initial submissions, para. 91, citing Order F17-23, 2017 BCIPC 24.

⁸¹ Order F15-32, 2015 BCIPC 35 at para. 12 and Order F20-08, 2020 BCIPC 09 at para. 72.

number creates a real risk of unauthorized access. Therefore, disclosure of the ID number could reasonably be expected to harm the security of a communications system.

Web link

[83] The Ministry also applied s. 15(1)(l) to a web link to materials, including a slide deck, prepared for a special joint meeting of the Site C Project Board and BC Hydro Board of Directors.

[84] The Ministry submits that the web link is to an externally accessible site that BC Hydro uses to provide access to a small number of people who attend Board of Director meetings. It says that the information accessible via the web link is sensitive and includes infrastructure details and security, pending decisions that have not yet been made public, discussions relating to personnel and project plans.⁸²

[85] The Ministry provided evidence from the Senior Manager of Cybersecurity at BC Hydro (Senior Manager).⁸³ The Senior Manager explains that limiting disclosure of the web link to those who need to know is part of BC Hydro's overall strategy to secure its systems against cyber threats. The Senior Manager says that there have been numerous hacking attempts against BC Hydro and because it is extremely difficult to prevent a well-funded and determined hacker from compromising BC Hydro's systems, it relies on layers of protection. In this case, one of those layers is limiting disclosure of the web link. Other measures include using a password to protect the site, for example.

[86] I accept that a web link to a secure location for documents is related to the security of a computer system. In addition, the evidence that the Ministry has provided has satisfied me that disclosure of the web link could reasonably be expected to harm the security of the location of sensitive documents.

[87] I turn now to the Ministry's decision to refuse to disclose some information in dispute under s. 16(1). I will not consider the application of s. 16(1) to information that I have already concluded may be withheld under other FIPPA exceptions.

Section 16 – harm to intergovernmental relations

[88] Section 16 allows a public body to withhold information that could reasonably be expected to harm the conduct of relations between the government of British Columbia and another government.

⁸² Ministry's initial submissions, para. 95.

⁸³ Affidavit of the Senior Manager at paras. 9-15.

[89] The parts of s. 16 that are relevant in this case say:

(1) The head of a public body may refuse to disclose information to an applicant if the disclosure could reasonably be expected to

(a) harm the conduct by the government of British Columbia of relations between that government and any of the following or their agencies:

(i) the government of Canada or a province of Canada;

....

(iii) an aboriginal government;

....

(2) Moreover, the head of a public body must not disclose information referred to in subsection (1) without the consent of

(a) the Attorney General, for law enforcement information, or

(b) the Executive Council, for any other type of information.

(3) Subsection (1) does not apply to information that is in a record that has been in existence for 15 or more years unless the information is law enforcement information.

[90] Like s. 15(1)(l), s. 16(1)(a) uses the language “could reasonably be expected to harm”. This means that the Ministry must provide evidence showing that the likelihood of the harm occurring is “well beyond” or “considerably above” a mere possibility.⁸⁴

Section 16(1)(a)(i) – relations with the government of Canada or a province

[91] The Ministry has withheld a small amount of information in an email about federal funding for an “inter-tie” with Alberta⁸⁵ that it says could reasonably be expected to harm the conduct of its relations with the government of Canada or with the province of Alberta.

[92] The email summarizes a meeting that the Ministry had with a member of the joint review panel that undertook the environmental assessment of Site C.⁸⁶

⁸⁴ *Ontario (Community Safety and Correctional Services)*, *supra* note 76 at para. 54.

⁸⁵ At page 69 of the records in dispute.

⁸⁶ Affidavit of the ADM at para. 115.

[93] The Ministry explains that BC pursues strategic partnerships with Alberta and with the federal government in order to increase transmission capacity to specific areas of BC. This requires negotiation, it says, which in turn requires a well developed and maintained relationship.⁸⁷

[94] The ADM says that this information discloses the “best case scenario” for a funding negotiation with the federal government.⁸⁸ I understand this to mean that the information would reveal the most funding the Province hoped to receive from the federal government through negotiations.

[95] I understand the Ministry’s argument to be that releasing this information would equate to disclosing the Province’s negotiating position. In the Ministry’s view, this would undermine the Ministry’s relationship with the federal government and therefore harm its ability to pursue strategic partnerships.⁸⁹

[96] I do not see how this is the case. I accept the Ministry’s evidence that it requires a good relationship with the federal government in order to negotiate federal funding for projects such as Site C. However, I do not think the Ministry has adequately explained how disclosure of this amount would undermine that relationship to such a degree that it could reasonably be expected to harm conduct of relations with the federal government. In particular, I note that the ADM states that disclosure of this amount will harm the Ministry’s relationship with the federal government but does not explain why they believe this is the case.⁹⁰ For these reasons, I find that the Ministry has not proven that it is authorized to withhold this information under s. 16(1)(a)(i).

[97] I turn now to the Ministry’s application of s. 16(1)(a)(iii).

Section 16(1)(a)(iii) – relations with aboriginal government

[98] The Ministry has withheld small amounts of information on a number of pages in dispute⁹¹ on the basis that this information, if disclosed, could reasonably be expected to harm the conduct of its relations with certain aboriginal governments.

[99] The information in dispute under s. 16(1)(a)(iii) is:

- information identifying First Nations who have been consulted;⁹²

⁸⁷ Ministry’s initial submissions, paras. 114 and 115.

⁸⁸ Affidavit of the ADM at para. 116.

⁸⁹ See Ministry’s submissions, para. 115.

⁹⁰ See Affidavit of the ADM at para. 116.

⁹¹ At pages 47, 204, 240, 300, 370, 385, 468, 484, 520, 525 – 526, 555 – 556, 560 – 561, 596 – 597, 601 – 602, 628, 631, 655, 658, 674, 722, 725, 743 – 744, 747, 763, 803, 822, 838, 869, 920, 933, and 996 of the records in dispute.

⁹² At pages 525, 560, 601, 631, 658, 725, and 747 of the records in dispute.

- details of particular agreements with aboriginal groups;⁹³
- the amount BC Hydro has provided to aboriginal groups for engagement and consultation, land use studies and environmental assessment (engagement fund);⁹⁴ and
- the value of a compensation fund to aboriginal groups affected by Site C to address the impacts of land use and resources (compensation fund).⁹⁵

[100] First, I must determine whether the information at issue relates to “aboriginal governments” within the meaning of FIPPA. Under FIPPA, “aboriginal government” means an aboriginal organization exercising governmental functions.⁹⁶

[101] The Ministry points to past orders from this office in support of the proposition that “aboriginal government” includes a “band” as defined in the *Indian Act*.⁹⁷ The Ministry’s submissions indicate that the impacted Indigenous groups are signatories or adherents to Treaty 8, which are bands within the meaning of the *Indian Act*.⁹⁸ In addition, the Ministry has provided evidence from the Director of BC Hydro’s Indigenous Relations Group (Director) that the impacted groups are “bands” within the meaning of the *Indian Act*.⁹⁹ I note that some of this evidence is *in camera*.

[102] I accept the evidence provided by the Director, that the impacted Indigenous groups are “bands” within the meaning of the *Indian Act*. I am satisfied that they are “aboriginal governments” within the meaning of FIPPA. This is consistent with past orders from this office, which have also said that “aboriginal government” under FIPPA includes a “band” within the meaning of the *Indian Act*.¹⁰⁰

[103] Next, I turn to whether disclosure of the information at issue could reasonably be expected to harm the conduct of relations with these aboriginal governments.

[104] The Ministry explains that BC Hydro is responsible for fulfilling the Crown’s obligations to consult with Indigenous groups and accommodate their

⁹³ At pages 47, 204, 240, 300, 370, 385, 468, 484, 520, 674, 722, 743, 763, 803, 822, 838, 869, 920, 933, and 996 of the records in dispute.

⁹⁴ At pages 525, 560, 601, 631, 658, 725, and 747 of the records in dispute.

⁹⁵ At pages 521, 556, 597, 628, 655, 722, 744, 803, 822, 838, and 869 of the records in dispute.

⁹⁶ See FIPPA, Schedule 1.

⁹⁷ Ministry’s initial submissions at para. 119, referring to Order 14-1994, as cited in Order 01-13, 2001 CanLII 21567 (BCIPC) at para. 14.

⁹⁸ Ministry’s initial submissions, paras. 118 and 119.

⁹⁹ Affidavit of the Director at para. 8.

¹⁰⁰ See Order 01-13, 2001 CanLII 21567 (BCIPC) at para. 14. See also Order F19-38, 2019 BCIPC 43 at para. 110.

interests.¹⁰¹ The Ministry says that BC Hydro's dealing with Indigenous groups with respect to Site C are an important part of reconciliation and has a direct impact on the ability of the government of BC to work with these same Indigenous groups on other initiatives.¹⁰² The Ministry says that BC Hydro has negotiated various agreements with affected Indigenous groups, for example, agreements about economic and contracting opportunities.¹⁰³

[105] The Ministry says that releasing the information in dispute would harm the government of British Columbia's relationship with various aboriginal governments because it would compromise the negotiating relationship between the Province and a particular aboriginal government or damage all of the Province's relationships with aboriginal governments by causing strife between them.¹⁰⁴

[106] The applicant says that disclosure of this kind of information could enhance intergovernmental relations in the future and that it may cause aboriginal governments to insist on a "level playing field".¹⁰⁵

[107] In my view, the information in dispute detailing particular agreements could reasonably be expected to harm the conduct of relations with aboriginal governments.¹⁰⁶ The Director explains why the Director believes that disclosing information about a certain agreement would harm the relationship between an aboriginal government and both BC Hydro and the Province.¹⁰⁷ Much of this information is *in camera*. I accept the Director's evidence that if disclosed, this information would harm the conduct of relations.

[108] However, some of the information in dispute under s. 16(1)(a)(iii) could not, in my view, reasonably be expected to harm the Province's conduct of its relations with aboriginal governments because it is too general.¹⁰⁸ This information is about the status of negotiations but does not reveal specific details about the content of any agreement. The fact that these negotiations were ongoing is revealed in the records.¹⁰⁹ For these reasons, I am not satisfied that disclosure of this information could reasonably be expected to harm the conduct of relations with aboriginal governments.

¹⁰¹ Ministry's initial submissions, para. 120.

¹⁰² Ministry's initial submissions, para. 121.

¹⁰³ Ministry's initial submissions, para. 122.

¹⁰⁴ Ministry's initial submissions, para. 129.

¹⁰⁵ Applicant's submissions.

¹⁰⁶ At pages 47, 204, 240, 300, 370, 385, 468, 484, 520, 674, 722, 743, 763, 803, 838, 869, 920, 933, and 996 of the records in dispute.

¹⁰⁷ Affidavit of the Director.

¹⁰⁸ At pages 521, 526, 561, 597, 602, 628, 655, 722, 744, 803, 822, 838, and 869 of the records in dispute.

¹⁰⁹ See page 526 of the records in dispute, for example.

[109] In addition, I am not persuaded that the amounts of the engagement and compensation funds, if disclosed, could reasonably be expected to harm the conduct of relations with aboriginal governments. The Ministry has asserted disclosure of these amounts will harm its negotiating position,¹¹⁰ but the Ministry did not explain why it believes this to be the case. No explanation is apparent to me. I note that these amounts do not appear to relate to a specific negotiation. As a result, I am not satisfied that disclosing the amounts of the two funds could reasonably be expected to harm the conduct of its relations with an aboriginal government.

[110] Finally, I am not satisfied that s. 16(1)(a)(iii) applies to information identifying First Nations who have been consulted. It is not clear to me how any of the Ministry's arguments, set out in paragraphs 104 and 105 above, apply to this information. In particular, I do not see how this information, if disclosed, could cause strife between aboriginal governments. On the whole, I am not satisfied that this information, if disclosed, could reasonably be expected to harm the conduct of the Ministry's relations with an aboriginal government.

[111] In summary, the Ministry may only withhold information relating to specific agreements with aboriginal governments under s. 16(1)(a)(iii). I have highlighted the information that the Ministry is not authorized to withhold under this exception.

[112] I turn now to whether the Ministry is authorized to withhold some information at issue under s. 17(1).

Section 17 – harm to the financial or economic interests of a public body

[113] Section 17 allows a public body to refuse to disclose information that could reasonably be expected to harm its financial or economic interests. The relevant parts of s. 17 are:

17 (1) The head of a public body may refuse to disclose to an applicant information the disclosure of which could reasonably be expected to harm the financial or economic interests of a public body or the government of British Columbia or the ability of that government to manage the economy, including the following information:

....

(f) information the disclosure of which could reasonably be expected to harm the negotiating position of a public body or the government of British Columbia.

¹¹⁰ See Ministry's initial submissions, para. 129.

[114] As with ss. 15 and 16, s. 17 is a harms-based exception. The Ministry must show that the information in dispute, if disclosed, could reasonably be expected to result in the alleged harm.

[115] The Ministry applied s. 17 to the amounts of contingency funds allocated but not spent at various time periods in the project.¹¹¹ In some cases, the contingency allocation is broken down by scope of work.

[116] The Ministry says that disclosing this information would harm the financial or economic interests of BC Hydro. The Ministry points to Order F18-51 in support of its position that disclosing the amount of contingency funds not already spent or only partially spent compromises a public body's ability to negotiate future contracts and to manage current contracts.¹¹²

[117] Order F18-51 also relates to Site C.¹¹³ In that order, Adjudicator Lott found that disclosure of the amounts that BC Hydro had set aside for unforeseen changes to the scope of the Site C project would put BC Hydro at a disadvantage during negotiations. In light of the factual similarities between this and the present case, I conclude that the same reasoning applies here.

[118] The only exception is where the Ministry is refusing to disclose the total amount of the contingency funds allocated at a given time, when it has already disclosed that figure elsewhere.¹¹⁴ I do not see how disclosing this particular figure again would harm BC Hydro's financial or economic interests. Therefore, the Ministry may not withhold this same total project contingency amount.¹¹⁵

[119] I conclude that the Ministry may withhold all the information at issue under s. 17(1), except for the amount already disclosed.

[120] I turn to the final issue in this order: whether disclosure of personal information is an unreasonable invasion of a third party's personal privacy under s. 22.

¹¹¹ At pages 57, 285, 378, 454, 507, 542, 583, 615, 710, 732, and 929 – 930 of the records in dispute.

¹¹² Ministry's submissions, para 135.

¹¹³ This order was judicially reviewed, but not regarding the Adjudicator's s. 17 order; see *British Columbia Hydro and Power Authority v. British Columbia (Information and Privacy Commissioner)*, 2019 BCSC 2128.

¹¹⁴ For example, the total amount allocated is disclosed at the bottom page 453 of the records in dispute.

¹¹⁵ At page 454 of the records in dispute.

Section 22 – personal information

[121] Section 22 requires a public body to refuse to disclose personal information that would be an unreasonable invasion of a third party's personal privacy.

[122] The Ministry has applied s. 22 to one sentence in an email describing how an employee is spending their leave.¹¹⁶

Personal information

[123] The first step in any s. 22 analysis is to determine whether the information in dispute is personal information.

[124] FIPPA defines “personal information” as “recorded information about an identifiable individual other than contact information” and “contact information” as “information to enable an individual at a place of business to be contacted and includes the name, position or title, business telephone number, business address, business email or business fax number of the individual.”¹¹⁷

[125] In my view, the information at issue is personal information because it is identifiable information about the employee taking the leave. The employee's name appears in the email and has already been disclosed.

Section 22(4)

[126] The next step in the s. 22 analysis is to determine whether any circumstances in s. 22(4) apply. Section 22(4) lists circumstances where disclosure of personal information is not an unreasonable invasion of a third party's personal privacy. Neither the applicant nor the Ministry addressed this in their submissions. I do not see how any of the circumstances in s. 22(4) apply.

Section 22(3)

[127] The next step is to determine whether any part of s. 22(3) applies. Section 22(3) sets out circumstances where disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy.

[128] The Ministry argues that s. 22(3)(d) applies. Under s. 22(3)(d) personal information relating to a third party's employment, occupational or educational history is presumed to be an unreasonable invasion of a third party's personal privacy.

¹¹⁶ At page 2 of the records in dispute.

¹¹⁷ FIPPA, Schedule 1.

[129] Past orders have found that information “about an employee’s vacation”¹¹⁸ and information about “employees... on vacation leave”¹¹⁹ was related to those employees’ employment history. I am not persuaded that these cases apply. There is not enough detail in the above cases for me to determine whether the facts are similar to the present case.

[130] Other past orders have found that information relating to an employee’s leave entitlement is related to employment history under s. 22(3)(d).¹²⁰

[131] In this case, the information in dispute describes how an employee spent their vacation. It reveals nothing about their leave entitlements. The only association with that person’s employment is that it was vacation *from* work. In my opinion, this is not sufficiently connected to a person’s employment so as to constitute their employment history. I find that s. 22(3)(d) does not apply.

Section 22(2)

[132] Next, I must identify any other relevant circumstances, including those set out in s. 22(2)(a) through (i).

[133] The Ministry argues that the information in dispute was provided in confidence, and therefore s. 22(2)(f) favours withholding the information in dispute. The Ministry also provided an affidavit from the third party who sent the email. The third party only says that the email describes details of their vacation.¹²¹ The third party does not provide evidence about whether this information was provided in confidence.

[134] I am not persuaded that the employee sent the email describing their vacation in confidence. The details are relatively vague. This is the type of information that a person would freely share about their vacation.

[135] In addition, the applicant submits that I should consider the time that has elapsed. The email in question is from 2016. In my view, the time that has elapsed further contributes to the benign nature of the personal information in question.

Finding

[136] As stated above, the statement in dispute is personal information, but its disclosure is not presumed to be an unreasonable invasion of the third party’s

¹¹⁸ Order F16-46, 2016 BCIPC 51 at para. 28.

¹¹⁹ Order F12-01, 2012 BCIPC 1 at para. 36; these reasons were adopted in Order F14-56, 2014 BCIPC 60 at para. 50.

¹²⁰ See, for example, Order F15-17, 2015 BCIPC 18 at paras 35-36; and Order F17-01, 2017 BCIPC 1 at para. 60.

¹²¹ See affidavit of the ADM at para. 122.

privacy under s. 22(3). In my view, disclosing it would not be an unreasonable invasion of the third party's personal privacy. There is no evidence that it was supplied in confidence, and several years have elapsed since the vacation, and the information shared about it, took place. It is the type of vague and innocuous information that a person would regularly share about their vacation. I find that the Ministry is not required to withhold it under s. 22(1).

CONCLUSION

[137] For the reasons given above, under s. 58 of FIPPA,

1. I require the Ministry to refuse access, in part, to the records in dispute under s. 12(1). The Ministry must give the applicant access to the information highlighted in blue in the copy of the records I have provided along with this order.¹²²
2. I confirm the decision of the Ministry, in part, to refuse access to the information in dispute under ss. 13(1), 16(1) and 17(1). I require the Ministry to give the applicant access the information highlighted in blue in the copy of the records I have provided along with this order.
3. I confirm the decision of the Ministry to refuse access to the information in dispute under s. 15(1)(l).
4. The Ministry is not required to refuse access to the information in dispute under s. 22(1). It must give the applicant access to this information.
5. The Ministry must concurrently copy the OIPC registrar of inquiries on its cover letter to the applicant, together with a copy of the records.

[138] Under s. 59(1), the Ministry of Energy, Mines and Petroleum Resources is required to give the applicant access to the highlighted information by 26 June, 2020, which is 30 days after being given a copy of this order. Taking notice of the present state of emergency in the province, I retain conduct of this matter in case the Ministry wishes to seek an extension of the 30-day period.

May 14, 2020

ORIGINAL SIGNED BY

Erika Syrotuck, Adjudicator

OIPC File No.: F17-70967

¹²² However, page 413 of the records already contained blue highlighting and the Ministry is not required to disclose this information.