

March 16, 2007

Kenneth Roe
3068 NW Lakeshore Drive
Macy, IN 46951

Re: Formal Complaint 07-FC-40; Alleged Violation of the Access to Public Records Act by the Nyona/South Mud Lake Conservancy District

Dear Mr. Roe:

This is in response to your formal complaint alleging that the Nyona/South Mud Lake Conservancy District (“District”) violated the Access to Public Records Act by failing to respond to your request for records. I find that the District did respond, but was unable to provide the records due to circumstances beyond the District’s control.

BACKGROUND

You requested records as they are kept in the computer of the District. You claim that the District has denied your request by virtue of the failure to respond. I sent a copy of your complaint to the District. The District’s response, sent by Jerry Caylor, Board member, is enclosed. The District sent you an e-mail on February 6, the day after your February 5 hand-delivered request. The District’s billing clerk left and the computer was returned to the District in boxes; the District expected to be able to get the records from the computer once the computer was running, by the middle of March. The files would be available for you to review as soon as that process was complete.

ANALYSIS

Any person may inspect and copy the public records of any public agency, except as provided in section 4 of the Access to Public Records Act (“APRA”). Ind. Code 5-14-3-3(a). If a public agency receives a request for a record in person or by telephone, the public agency is required to respond within 24 hours or the record is deemed denied. IC 5-14-3-9(a). A response may be just an acknowledgement that the request has been received, and some indication of how

or when the agency intends to comply. The provisions setting forth the time within which an agency must respond do not require that the record be produced within that time.

Here, the District did respond within 24 hours of your request, as evidenced by the enclosed electronic mail message. The District promised to give you access to the records stored in its computer as soon as it could solve its temporary computer problem. Although it is unfortunate that the District could not provide its electronically stored records sooner, it appears that the District did not intend to deny you the records. It was unable to access the records until the computer issues could be resolved.

I recommend that the District provide you access to its computer records as soon as possible if it has not already.

CONCLUSION

For the foregoing reasons, I find that the Nyona/South Mud Lake Conservancy District did not violate the Access to Public Records Act.

Sincerely,

Karen Davis
Public Access Counselor

cc: Jerry Caylor