



# STATE OF INDIANA

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March 11, 2013

Mr. Mike Kobliska  
24 Beech Street  
Minooka, Illinois 60447

*Re: Formal Complaint 13-FC-47; Alleged Violation of the Access to Public Records Act by the Indiana Department of Natural Resources, Division of Fish and Wildlife*

Dear Mr. Kobliska:

This advisory opinion is in response to your formal complaint alleging the Indiana Department of Natural Resources, Division of Fish and Wildlife ("Department") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* Cam Clark, Chief Legal Counsel, responded on behalf of the Department. His response is enclosed for your reference.

## BACKGROUND

In your formal complaint, you allege that you emailed a written request for records to the Department on January 24, 2013. As of February 12, 2013, the date you filed your formal complaint with the Public Access Counselor's Office, you further allege that the Department has not responded to your request in any fashion.

In response to your formal complaint, Mr. Clark advised that the Department responded to your request on January 25, 2013, the day after its receipt. You were informed that upon receipt of the respective fees, the records would be mailed to you. A copy of the Department's January 25, 2013 response is enclosed for your reference.

## ANALYSIS

The public policy of the APRA states that "(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information." *See* I.C. § 5-14-3-1. The Department is a public agency for the purposes of the APRA. *See* I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the Department's public records during regular business hours unless the records are

excepted from disclosure as confidential or otherwise nondisclosable under the APRA. *See* I.C. § 5-14-3-3(a).

A request for records may be oral or written. *See* I.C. § 5-14-3-3(a); § 5-14-3-9(c). If the request is delivered in person and the agency does not respond within 24 hours, the request is deemed denied. *See* I.C. § 5-14-3-9(a). If the request is delivered by mail or facsimile and the agency does not respond to the request within seven (7) days *of receipt*, the request is deemed denied (emphasis added). *See* I.C. § 5-14-3-9(b). A response from the public agency could be an acknowledgement that the request has been received and information regarding how or when the agency intends to comply.

You provide that you have never received a response from the Department regarding your January 24, 2013 records request. The Department maintains that it responded to your request the day after its receipt. The Public Access Counselor is not a finder of fact. *See Opinion of the Public Access Counselor 10-FC-15*. Consequently, I express no opinion as to whether the Department responded to your written request. If the Department failed to respond to the request that was submitted on January 24, 2013, it acted contrary to the APRA. However, if the Department did respond to the request the day after its receipt, it complied with the requirements of section 9 of the APRA. As you are now aware that the Department received your request and the applicable fees associated with the request, I trust that this is in satisfaction of your formal complaint.

#### CONCLUSION

For the foregoing reasons, it is my opinion that the Department did not violate the APRA if it responded to your request the day after its receipt.

Best regards,

A handwritten signature in black ink, appearing to read "J. Hoage".

Joseph B. Hoage  
Public Access Counselor

cc: Cam Clark