



# STATE OF INDIANA

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March 13, 2025

Re: Complaint 25-FC-129  
David Abrell (Complainant) v.  
Indiana Department of Natural Resources (Respondent)

This advisory opinion is issued in response to the above-referenced complaint filed June 24, 2025.

A Notice of Complaint, along with a copy of the complaint, was sent to the Respondent on October 14, 2025, requesting a formal response by November 12, 2025. A formal response, submitted by Joseph Basile, Assistant General Counsel, on behalf of the Respondent, was received in this office on November 10, 2025.

The complaint alleges that Respondent violated the Access to Public Records Act (APRA) by failing to provide copies of the requested records in a timely manner.

## **ANALYSIS**

The public policy of 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 is to provide the information.” Indiana Code (IC) 5-14-3-1. Respondent is a public agency for purposes of APRA; and therefore, subject to the requirements. IC 5-14-3-2(q). As a result, unless an exception applies, any person has the right to inspect and copy Respondent’s public records during regular business hours. IC 5-14-3-3(a).

Complainant filed two (2) requests for copies of records under APRA. Complainant’s requests were filed on Respondent’s online APRA portal. Requests were filed on April 17, 2025, and April 23, 2025.

Complainant sought to obtain a copy of numerous historical documents regarding the construction, improvement, maintenance, units of work, inspection, ownership and specific reports dealing with repairs and other

matters for the Turkey Creek Dam and Dike Conservancy District (TCDDCD) and Syracuse Dam.

Complainant alleges that Respondent did not respond to the record requests until some forty-three (43) days after filing the requests. APRA requires that if a person requests by mail or by facsimile a copy of public records a constructive denial of disclosure does not occur until seven (7) days have elapsed from the date the public agency receives the request. IC 5-1-14-9(c). Under the Respondent's online APRA portal system, the person requesting the records receives an automatic acknowledgement that the request has been received. Therefore, Complainant's requests were properly acknowledged and not constructively denied.

Complainant takes exception to the amount of time it took to complete the requests. APRA provides that if the public agency does not deny the request within a reasonable time after the request is received by the agency, the agency shall provide the requested copies to the person making the request. IC 5-14-3-3(b).

APRA does not define the term "reasonable time". This office has in the past provided guidance on what would be considered a reasonable time for purposes of compliance with the APRA provisions. An informal benchmark this office observes for a typical response time would be thirty (30) days from the receipt of the request. *Opinions of the Public Access Counselor* 20-FC-87 and 25-FC-071.

However, this office has further observed that many requests cannot be fulfilled within thirty (30) days for a variety of reasons. In reviewing those circumstances, this office considers the following factors:

- (1) the size of the public agency;
- (2) the size of the request;
- (3) the number of pending requests;
- (4) the complexity of the request; and
- (5) any other operational considerations or factors that may reasonably affect the public records process.

*Opinions of the Public Access Counselor* 20-FC-19 and 25-FC-071.

The records request was not particularly voluminous but could be considered somewhat complex given the request for years of historic data. The operational limitations were highlighted by Respondent in its response as limited staff, large volume of APRA requests, difficulty in organizing and fulfilling requests, particularly when many of the requests received by Respondent deal with law enforcement recordings and redactions.

Respondent replied to Complainant on June 9, 2025, with a sizeable production of responsive documents, and again on June 10, 2025, with two (2) documents that had been redacted. This office does not consider the timeframe between the earliest records request of April 17, 2025, and delivery of the second set of documents on June 10, 2025, or less than two (2) months, to be an unreasonable timeframe given Complainant's request and Respondent's operational limitations.

Complainant questions the basis for the withholding of documents that were referenced under IC 5-14-3-4(b)(6), which provides:

*Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.*

Given the nature of the records requested, it is reasonable to assume there were deliberative materials dealing with inspections and consideration of construction projects. Respondent has invoked its discretion to exclude some documents under this provision.

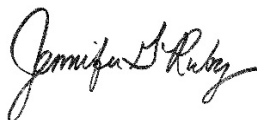
Finally, documents were provided that had been redacted. APRA provides that:

*[I]f a public record contains disclosable and non-disclosable information, the public agency shall, upon receipt of a request under this chapter, separate the material that may be disclosed and make it available for inspection and copying.*

IC 5-14-3-6(a). Redacting information is not at the discretion of the public agency but is mandatory under the statute.

## **CONCLUSION**

This office finds that the Respondent has not violated APRA as alleged in the complaint.



Jennifer G. Ruby  
Public Access Counselor