July 17, 2019

Dear [Redacted]:

Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act [Our File #: SNL-049-2019]

On May 7, 2019, Service NL received your request for access to the following records/information:

“All emails, reports, studies, pilot project documents, notes to file, and correspondence related to a pilot project for a sewage system on Salmonier Line at the Tree of Life property.”

On May 14, 2019, the scope of the request was narrowed to the following:

“1. The request or application from the proponent
2. The approval of the pilot project and actual conditions associated with approval such as the project objectives, risk mitigation, evaluation criteria, and public engagement requirements.”

I am pleased to inform you that a decision has been made by Service NL to provide access to some of the requested information.

Access to the remaining information contained within the records has been refused in accordance with the following exceptions to disclosure, as specified in the Access to Information and Protection of Privacy Act (the Act):

Section 40(1) - The head of a public body shall refuse to disclose personal information to an applicant where the disclosure would be an unreasonable invasion of a third party’s personal privacy.

As required by 8(2) of the Act, we have severed information that is unable to be disclosed and have provided you with as much information as possible. In accordance with your request for a copy of the records, the appropriate copies have been enclosed.

Please be advised that you may appeal this decision and ask the Information and Privacy Commissioner to review the decision to provide partial access to the requested information, as set out in section 42 of the Act (a copy of this section of the Act has been enclosed for
your reference). A request to the Commissioner must be made in writing within 15 business
days of the date of this letter or within a longer period that may be allowed by the
Commissioner. Your appeal should identify your concerns with the request and why you are
submitting the appeal.

The appeal may be addressed to the Information and Privacy Commissioner is as follows:

Office of the Information and Privacy Commissioner
2 Canada Drive
P. O. Box 13004, Stn. A
St. John’s, NL. A1B 3V8
Telephone: (709) 729-6309
Toll-Free: 1-877-729-6309
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days
after you receive the decision of the public body, pursuant to section 52 of the Act (a copy of
this section of the Act has been enclosed for your reference).

Please be advised that responsive records will be published following a 72 hour period after
the response is sent electronically to you or five business days in the case where records are
mailed to you. It is the goal to have the responsive records posted to the Completed Access
to Information Requests website within one business day following the applicable period of
time. Please note that requests for personal information will not be posted online.

If you have any further questions, please feel free to contact me by telephone at 709-729-
0071 or by e-mail at FrankWalsh@gov.nl.ca.

Sincerely,

Frank Walsh
FRANK WALSH
ATIPP Coordinator
Service NL

Enclosures
Disclosure harmful to personal privacy

40. (1) The head of a public body shall refuse to disclose personal information to an applicant where the disclosure would be an unreasonable invasion of a third party's personal privacy.

(2) A disclosure of personal information is not an unreasonable invasion of a third party's personal privacy where

(a) the applicant is the individual to whom the information relates;

(b) the third party to whom the information relates has, in writing, consented to or requested the disclosure;

(c) there are compelling circumstances affecting a person's health or safety and notice of disclosure is given in the form appropriate in the circumstances to the third party to whom the information relates;

(d) an Act or regulation of the province or of Canada authorizes the disclosure;

(e) the disclosure is for a research or statistical purpose and is in accordance with section 70;

(f) the information is about a third party's position, functions or remuneration as an officer, employee or member of a public body or as a member of a minister's staff;

(g) the disclosure reveals financial and other details of a contract to supply goods or services to a public body;

(h) the disclosure reveals the opinions or views of a third party given in the course of performing services for a public body, except where they are given in respect of another individual;

(i) public access to the information is provided under the Financial Administration Act;

(j) the information is about expenses incurred by a third party while travelling at the expense of a public body;

(k) the disclosure reveals details of a licence, permit or a similar discretionary benefit granted to a third party by a public body, not including personal information supplied in support of the application for the benefit;

(l) the disclosure reveals details of a discretionary benefit of a financial nature granted to a third party by a public body, not including

(i) personal information that is supplied in support of the application for the benefit, or

(ii) personal information that relates to eligibility for income and employment support under the Income and Employment Support Act or to the determination of income or employment support levels; or
(m) the disclosure is not contrary to the public interest as described in subsection (3) and reveals only the following personal information about a third party:

(i) attendance at or participation in a public event or activity related to a public body, including a graduation ceremony, sporting event, cultural program or club, or field trip, or

(ii) receipt of an honour or award granted by or through a public body.

(3) The disclosure of personal information under paragraph (2)(m) is an unreasonable invasion of personal privacy where the third party whom the information is about has requested that the information not be disclosed.

(4) A disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy where

(a) the personal information relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation;

(b) the personal information is an identifiable part of a law enforcement record, except to the extent that the disclosure is necessary to dispose of the law enforcement matter or to continue an investigation;

(c) the personal information relates to employment or educational history;

(d) the personal information was collected on a tax return or gathered for the purpose of collecting a tax;

(e) the personal information consists of an individual's bank account information or credit card information;

(f) the personal information consists of personal recommendations or evaluations, character references or personnel evaluations;

(g) the personal information consists of the third party's name where

(i) it appears with other personal information about the third party, or

(ii) the disclosure of the name itself would reveal personal information about the third party; or

(h) the personal information indicates the third party's racial or ethnic origin or religious or political beliefs or associations.

(5) In determining under subsections (1) and (4) whether a disclosure of personal information constitutes an unreasonable invasion of a third party's personal privacy, the head of a public body shall consider all the relevant circumstances, including whether

(a) the disclosure is desirable for the purpose of subjecting the activities of the province or a public body to public scrutiny;

(b) the disclosure is likely to promote public health and safety or the protection of the environment;
(c) the personal information is relevant to a fair determination of the applicant's rights;

(d) the disclosure will assist in researching or validating the claims, disputes or grievances of aboriginal people;

(e) the third party will be exposed unfairly to financial or other harm;

(f) the personal information has been supplied in confidence;

(g) the personal information is likely to be inaccurate or unreliable;

(h) the disclosure may unfairly damage the reputation of a person referred to in the record requested by the applicant;

(i) the personal information was originally provided to the applicant; and

(j) the information is about a deceased person and, if so, whether the length of time the person has been deceased indicates the disclosure is not an unreasonable invasion of the deceased person’s personal privacy.
Access or correction complaint

42. (1) A person who makes a request under this Act for access to a record or for correction of personal information may file a complaint with the commissioner respecting a decision, act or failure to act of the head of the public body that relates to the request.

(2) A complaint under subsection (1) shall be filed in writing not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16(2).

(3) A third party informed under section 19 of a decision of the head of a public body to grant access to a record or part of a record in response to a request may file a complaint with the commissioner respecting that decision.

(4) A complaint under subsection (3) shall be filed in writing not later than 15 business days after the third party is informed of the decision of the head of the public body.

(5) The commissioner may allow a longer time period for the filing of a complaint under this section.

(6) A person or third party who has appealed directly to the Trial Division under subsection 52(1) or 53(1) shall not file a complaint with the commissioner.

(7) The commissioner shall refuse to investigate a complaint where an appeal has been commenced in the Trial Division.

(8) A complaint shall not be filed under this section with respect to

(a) a request that is disregarded under section 21;

(b) a decision respecting an extension of time under section 23;

(c) a variation of a procedure under section 24; or

(d) an estimate of costs or a decision not to waive a cost under section 26.

(9) The commissioner shall provide a copy of the complaint to the head of the public body concerned.
Direct appeal to Trial Division by an applicant

52. (1) Where an applicant has made a request to a public body for access to a record or correction of personal information and has not filed a complaint with the commissioner under section 42, the applicant may appeal the decision, act or failure to act of the head of the public body that relates to the request directly to the Trial Division.

(2) An appeal shall be commenced under subsection (1) not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16(2).

(3) Where an applicant has filed a complaint with the commissioner under section 42 and the commissioner has refused to investigate the complaint, the applicant may commence an appeal in the Trial Division of the decision, act or failure to act of the head of the public body that relates to the request for access to a record or for correction of personal information.

(4) An appeal shall be commenced under subsection (3) not later than 15 business days after the applicant is notified of the commissioner’s refusal under subsection 45(2).
Potential copyright material

If you wish to obtain a copy please contact the ATIPP Office at (709) 729-7072 or atippoffice@gov.nl.ca.
Government of Newfoundland and Labrador  
Service NL  
Government Service Centre  

Certificate of Approval  
Pilot Project of an ‘Alternate Sewage System’  
Under the Sanitation Regulations  

Date of Issue: March 1, 2018

1. The works proposed in this undertaking must meet the requirements of the latest applicable codes and standards and if approved as an ‘alternate sewage system’ under the Sanitation Regulations, can only be applied in a commercial setting where a very small private sewage disposal system can be effectively installed. In particular, the Government of Newfoundland and Labrador, Guidelines for the Design, Construction and Operation of Water and Sewerage Systems and the Private Sewage Disposal and Water Supply Standards, January 2006, must be adhered to. Because the projected daily flow for the pilot project is deemed to be not greater than 150 litres/day, a condition of this approval is that the daily water usage is not to exceed this amount.

2. All necessary measures shall be taken to prevent damage to land, vegetation and water courses and to prevent pollution of bodies of water by labour force, equipment and construction operations. Water pumped from excavations and work areas and discharged directly or indirectly to receiving waters shall comply with The Environmental Control Water and Sewerage Regulations 2003.

3. The existing ‘bunkhouse system’ must be kept dormant throughout the Certificate of Approval’s validity (two years from issue date).

4. The installation of an alternate sewage disposal system for the ‘main building’ similar to the ‘cedar building’ (as outlined in the proposal) will require the submission of monthly samples as similarly required in the sampling regime for the ‘cedar building’.

5. Satisfactory soil percolation test results are required in the vicinity or approximate location of the pilot project test area(s).

6. The seepage pit for the grey water flow is to be lined, covered with suitable soils to promote the growth of plants, and sized to a standard to accommodate 125 litres/day or greater.

7. If the pilot project successfully demonstrates that this reedbed system configuration meets with the requirements of the Sanitation Regulations and is categorized as an approved ‘alternate sewage system’, it will be defined as a very small private sewage disposal system with a daily average sewage flow of not greater than 150 litres/day to service an off-the-grid (no electric power connection from a public utility) ecologically sustainable retreat space on a plot of land no smaller than one (1) hectare.

8. Monthly records of occupancy will need to be kept throughout the pilot project period. The installation of a water meter will not be required.

9. Access (by persons and vehicles) to the top of the septic tank and disposal field shall be prohibited by a barrier.

10. The septic tank(s) shall be inspected annually and shall be pumped out as necessary (normally every 2 to 3 years). Failure to pump out septic tank can result in carry over of sludge or scum to the disposal field, possibly causing failure of the system.
11. An independent lab must perform **monthly** testing (for a minimum period of one year) on influent and effluent for:

   1. Nitrogen Compounds including total nitrogen (TN), nitrate (NO3-N) and NH3 (ammonia)
   2. BOD
   3. TSS
   4. Temperature
   5. pH
   6. Total Coliforms and Faecal Coliforms
   7. Phosphates

And the original laboratory reports must be forwarded to the Government Service Centre within two (2) days after the readings and/or laboratory reports are completed for review.

12. Minimum separation between the sewage disposal system and any drilled well is 16m (52.5').

13. Any fill brought to the site must be compacted in 10 cm (4”) layers and a test hole will be required at time of backfill to ensure minimum separation of 1m (39") between the bottom of the disposal trench and any bedrock or water table.

14. The approval of the sewage disposal system is based on the septic system information presented on the drawings through the proposal(s) submitted by ‘Tree of Life’ and a peak sewage flow of no greater than 150 litres per day. Any compromise of the design criteria will jeopardize the successful operation of the system.

15. Any changes in the proposed work shall be approved by this Department before being implemented.

16. Should this system fail to meet the requirements for discharge after it has been in operation for the time period required to reach and operate at its peak performance, an equivalent conventional system must be installed for the development.

17. Supervision by the Oversight Engineer or representative will be required to ensure that the system is installed with considerable care and that specific attention to detail be maintained throughout and that the work on site is properly supervised and adheres to the design and conditions outlined in the Approval.

18. Environmental Health Officers or other Service NL officials must be given access to inspect the workings or grounds associated with this ‘alternate sewage disposal’ pilot project at any time during regular business hours throughout the Certificate of Approval’s validity (two years from the date of issue).

19. This Approval is valid for two (2) years from the date issue. Installation must be completed by the date or the application and approval procedure must be repeated.

20. Any deviation from these Terms and Conditions will result in this Certificate of Approval becoming null and void.

Cc
Department of Service NL
Government Service Centre
Location: 149 Smallwood Drive
Mount Pearl, NL
P. O. Box 8700
St. John’s, NL A1B 4J6
Attn: Mr. Tom Jardine,
Design Approval Engineer

Terry Batcock, Manager of Environmental Health Program and Support Services
Department of Service NL
P. O. Box 8700
St. John’s, NL A1B 4J6