COR/2017/05418

November 8, 2017

Dear [Redacted]

RE: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act (Our File: TW/122/2017)

On October 10, 2017, the Department of Transportation and Works received your request for access to the following records/information:

Any correspondence or reports (in any and all formats, including paper and electronic) generated in the wake of a fatal accident on the Trans-Canada Highway near the Foxtrap Access Road in April 2015. Date range of request is April 1, 2015 through December 31, 2015, inclusive. Background of accident is here: cbc.ca/1.3045236

I am pleased to inform you that a decision has been made by the Deputy Minister of Transportation and Works to provide access to some of the requested information.

Access to the remaining records, and/or 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):

Subsection 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.

P.O. Box 8700, St. John’s, NL, Canada, A1B 4J6
Please be advised that you may ask the Information and Privacy Commissioner to review the processing of your access request, as set out in section 42 of the Access to Information and Protection of Privacy Act (the Act). 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.

The address and contact information of 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.

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 the undersigned by telephone at (709) 729-5351 or by e-mail at FrankWalsh@gov.nl.ca.

Sincerely,

[Signature]

Frank Walsh
ATIPP Coordinator
Department of Transportation and Works

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).
The top article of the day in the media across the board is a fatal accident being investigated on the TCH West of Foxtrap. The CBC article says that “Witnesses at the scene told [the reporter] that a man died in the crash, after a pickup truck went off the road and down over a very steep embankment.” There are not many details known, so the stories are reported straightforwardly. The article in The Telegram includes a list of links to other recent MVAs.

There are two articles in The Pilot that are very relevant to TW, both of which were picked up and featured in the “regional” section on most TC Media outlets. The first pertains to Town of Lewisporte’s concerns about whether the contracts will be renewed for Nunatsiavut Marine to ship out of the town. They note they have been waiting for two years to hear from government on this issue and have requested meetings with the Premier, Dwight Ball, and Earle McCurdy. The article is fairly indepth in explaining the situation, focusing on the concerns of the town, and notes it was waiting for a response from TW upon printing of the article.

The other article from The Pilot reports SOPAC’s Eugene Nippard’s concerns on the moose management plan. The article includes a list of the various aspects of the plan, explaining the strategies and giving Mr. Nippard’s opinions on each one and how he would’ve liked to see the plan rolled out, then for each point, a response from Minister Brazil is included to state why the plan is designed as it is. Though the article is mostly about the concerns of Mr. Nippard, it is somewhat balanced by the inclusion of responses from government.

For your interest, I’ve included: a VOCM article from yesterday afternoon about the lack of details around the funding for Marine Atlantic in the Federal Government’s budget announcements; a VOCM article about a woman who was ticketed for imprudent driving for speeding on Pitt’s Memorial; an editorial in the Telegram in favour of banning the use of hands-free cell phones; an article similar to yesterday on Corner Brook’s issues with their 2015 snow-clearing budget; and a CBC report that includes a scenic video taken from a drone of Petty Harbour.

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**Headline List:**
VOCM (#1) - Fatal Accident Discovered on TCH West of Foxtrap, Happened Days Ago
Potential copyright material

If you wish to obtain a copy please contact the ATIPP Office at (709) 729-7072 or atipoffice@gov.nl.ca.
From: Christian Morris  
Superintendent of Operations  
Department of Transportation and Works  
Harding Road - White Hills  
St. John's, NL A1B 4J6  
P.O.Box 21301  
t (709)-729-6264  
e christianmorris@gov.nl.ca

From: Supervisor, Foxtrap  
Sent: Thursday, April 23, 2015 8:33 AM  
To: Morris, Christian  
Subject: accident TCH FOXTRAP
Potential copyright material

If you wish to obtain a copy please contact the ATIPP Office at (709) 729-7072 or atippoffice@gov.nl.ca.
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Date:  April 23, 2015  
To: Christian Morris  
From: Mike Dryer  
Fax#: (709) 834-1039  
Telephone #: (709) 834-3961  

Originals to Follow: Yes  No  

MEMORANDUM:
Weather & Road Conditions for Monday:
4:30am
Department of Transportation and Works
Avalon Region
Weather and Road Conditions

From Unit # ___________ 111 __________________
Date: _______________ April 20, 2015 __________________
Time: _______________ 04.30 __________________
Unit Name: __________________________ Foxtap
Temperature: ___________-20° __________________ Sky: ____________________________ Cloudy
Overnight Snow Accumulation: ___________ cm (Required only on 6am Report)
Windy: ___________________________ NNE 25 GUST 46 KPH

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Comments (Please Print Clearly)

Supervisor's Signature

Please Fax to: 1-709-635-4352 1-709-729-0185
at the scheduled times of 6:00 am and 1:30 pm and at any other times when weather or road conditions change