November 28, 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/129/2017)

On October 30, 2017, the Department of Transportation and Works received your request for access to the following records:

I would like to have to see all records, emails and any or all information of the "new" report pothole system that was supposedly put in place that pertains to the section of trans Canada highway that was involved in my original complaint for case # [Redacted]

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. 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

P.O. Box 8700, St. John’s, NL, Canada, A1B 4J6
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 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 contact me by telephone at (709) 729-5351 or by email at FrankWalsh@gov.nl.ca.

Sincerely,

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).
COR/2016/05264

Memo To: All Transportation Regional Directors and Depot Staff

Subject: Documentation of Reported Potholes and Other Road Deficiencies

I am writing to inform you that the Office of the Citizens’ Representative has sent correspondence to the Department of Transportation and Works (TW) recommending the adoption of new documentation processes regarding the reporting of potholes.

As part of its report recommendation, the Citizen’s Representative indicated that the Department does not currently maintain any record of complaints it receives from residents when they report a pothole or other road deficiency that requires redress.

In response to this recommendation and in an effort to improve our business processes and strengthen the tracking of pothole complaints from residents, I am requesting that effective immediately, all depots begin implementing a new reporting procedure when they receive a complaint or report from a resident regarding a pothole.

Upon receipt of a complaint, depot personnel are now requested to record basic information about a pothole complaint using the attached template and to ensure that this information is archived at each depot appropriately throughout the year. As identified in the attached template, staff are to record the following information about a reported pothole:

- the date and time a complaint is received;
- the complainants full name;
- the location of the pothole and any associated details about the deficiency;
- the name of the Supervisor who was notified including the date of notification;
- the date the pothole was remediated.

It is expected that the proper recording of complaints utilizing this procedure will not only assist depots in tracking/remediating all reported potholes but will better position TW in defending against any insurance claims that may occur.

Thank you for your cooperation regarding this matter and should you have any questions or concerns regarding these new business processes, please feel free to contact Mr. Seamus Breen, Director of Performance and Business Process Improvement via telephone (709) 729-5399.

Sincerely,

JOE DUNFORD, M.Eng. P.Eng.
Assistant Deputy Minister - Transportation
Department of Transportation and Works

cc: Lori Anne Companion – Deputy Minister
Seward, Corey J.
Critch, Larry; Supervisor, Goobies
Power, Sonya; Morris, Christian; Tee, Dion; Marshall, Shawn A

RE: TCH POTHOLE INCIDENT
Thursday, August 17, 2017 12:06:34 PM

Larry

This pothole brought to my attention on Aug 14th, when I returned from [redacted] via email. I investigated and found the area pictured in this email. I had the area marked that day, and repairs should be completed soon.

Regards
Corey

Corey Seward
Maintenance & Engineering Projects Supervisor
Eastern Region
Goobies Maintenance Unit
Phone: 542-3217
e-mail: sewardcj@gov.nl.ca

Seward, Corey J.
Critch, Larry
Sent: August 17, 2017 8:32 AM
To: Seward, Corey J.; Supervisor, Goobies
Cc: Power, Sonya; Morris, Christian; Tee, Dion; Marshall, Shawn A
Subject: FW: TCH POTHOLE INCIDENT

Hi Corey,

Note emails below concerning a pothole near Chance Cove and vehicle damage for your review.

Thanks

Larry

Morris, Christian
Sent: Thursday, August 17, 2017 8:03 AM
To: Power, Sonya <SonyaPower@gov.nl.ca>
Cc: Critch, Larry <critchl@gov.nl.ca>
Subject: FW: TCH POTHOLE INCIDENT

Hi Sonya,

See below pothole damage claim.

This happened in Region 2, as such I do not have the back ground on this area.

Larry, would you be able to get this to the correct MEPS for review so he can provide Sonya with some background on this area.

Thanks
Christian Morris  
Superintendent of Operations  
Department of Transportation and Works  
White Hills, Harding Road  
St. John’s, NL A1B 4J6  
P.O.Box 21301  
t (709)-729-6264  
e christianmorris@gov.nl.ca

From: [Redacted]  
Sent: Wednesday, August 16, 2017 4:07 PM  
To: Morris, Christian <ChristianMorris@gov.nl.ca>  
Subject: TCH POTHOLE INCIDENT

Mr. Morris,

I spoke with you back on August 7th regarding an incident I encountered while traveling on the Trans Canada Highway in your province. You informed me to send along an email describing the who, what, when and wheres which i am now doing, as i have finally returned back to my home in Alberta and have access to a computer.

On the evening of August 4th, 2017 at approximately 4:20 pm while traveling east from Gander to St. John’s via the Trans Canada Highway I hit a pot hole approximately 2.1 kilometers north west of the highway 201 turn off to Chance Cove I blew the sidewall out of the front drivers side tire. I immediately pulled over to the side of road in a safe location and called road side assistance. I then got out to look at the extent off the damages to the car. After looking at the tire and rim I decide that I would walk back and view what exactly it was I had hit. While walking back along the highway I had noticed and picked up hubcaps and center belonging to different vehicles. When I finally got to the pothole area I noticed some orange spray painting on the shoulder of the road which read "fix". I took several pictures as I have attached them to this email depicting the how the whole incident played out. The tow truck showed up (he said knew exactly where I was because he had visited this location previously for the same kind of incident) at approximately 8 pm and changed the tire to a spare after we assessed that there was no damages to the rim, and I than proceeded to continue on my way to Conception Bay South. The next day I called Cabot Ford to make an appointment for the car as I wanted to make sure that there were no other damages to the vehicle and to also replace the drivers side tire. I brought the vehicle in on August 7th 2017 and left it for the day for them to look at it. They called me a short time later to inform that there were no other damages BUT due to the car being an AWD and the thread wear on the three remaining tires they would have to change out all four tires. This incident cost me $1312.55 (receipt also in pictures attached) out of my own pocket which i was not expecting all because your department did not fix nor label, pylon or erect signage to
eliminate such a thing from happening. I am not only putting in a claim for the total of the amount of $1313.55 but I ask that you fix this pothole and the many others before some gets seriously injured or worse yet killed due to poor road conditions.

I thank you for your time and I hope to hear back from you on this matter and we can resolve it in good faith

sincerely,

s. 40(1)
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<tr>
<th>Date</th>
<th>Time</th>
<th>Caller Name</th>
<th>Road Deficiency Location</th>
<th>Road Deficiency Details</th>
<th>Name of Supervisor Notified</th>
<th>Date of Notification</th>
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<td>7:00 PM</td>
<td>Dispatch/Deer Lake</td>
<td>TCH near Arnold’s Cove on ramp</td>
<td>two potholes</td>
<td>Patricia Lambert</td>
<td>Dec. 30/16</td>
<td>7:00 PM</td>
<td>Dec. 30/16</td>
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<td>30-Jan-2017</td>
<td>8:00 AM</td>
<td>Unknown</td>
<td>Arnold’s Cove Interchange - TCH</td>
<td>pothole</td>
<td>Corey Seward</td>
<td>Jan. 30/17</td>
<td>4:00 PM</td>
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<td>Refinery Road</td>
<td>potholes - rough road</td>
<td>Corey Seward</td>
<td>Jan. 31/17</td>
<td>2:00 PM</td>
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<td>Luke Edwards</td>
<td>R210 - Piper's Hole Bridge</td>
<td>potholes</td>
<td>Glenn Giles</td>
<td>March 1/17</td>
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<td>R2-1-07 - Sunnyside</td>
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<td>March 17/17</td>
<td>11:00 AM</td>
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<td>RCMP</td>
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<td>Corey Seward</td>
<td>April 10/17</td>
<td>10:00 AM</td>
<td>10-Apr-2017</td>
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