



Information and Privacy  
Commissioner of Ontario  
Commissaire à l'information et à la  
protection de la vie privée de l'Ontario

## NOTICE OF INQUIRY

Our Appeal Number:	PA18-229
Appellant's Name:	Mr. George J. Collins
Name of Institution:	Ministry of the Environment and Climate Change

DATE: May 29, 2018

TO: Mr. George J. Collins  
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Nipigon, ON P0T 2J0



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## NOTICE OF INQUIRY

This is to confirm that pursuant to section 50 of the *Freedom of Information and Protection of Privacy Act*, an appeal has been filed by **Mr. George J. Collins** who claims that the **Ministry of the Environment and Climate Change** is in a “deemed refusal” by not issuing a decision letter within the time period set out in section 26.

**Leesa Kwong**, Analyst is assigned to this file, and can be reached at **(416) 326-3879**.

It is essential that you provide us with your current address and telephone number if this information is not already indicated in your letter of appeal.

**Previous orders have found that a decision to extend the time for responding to a request should be issued within the initial 30 day time limit for responding to a request (Orders P-234, M-439 M-581, MO-1748, PO-2634) and that issuing a time extension once the time limit has expired does not cure a deemed refusal (Orders PO-1777, PO-2634).**

**Once a time extension has been issued it is expected that, prior to the expiry of the extension, subject to section 28 and 57 of the *Act*, written notice will be given to the requester as to whether or not access to the record or a part thereof will be given and for access to the record to then be given to the requester. This is referred to as a final decision. If a final access decision is not issued prior to the expiry of the extension the institution would be in a “deemed refusal” pursuant to section 29(4) of the *Act*. The issuance of a further time extension does not cure a deemed refusal (Order PO-2595).**

**Other orders have found that an interim decision/fee estimate should be issued within the initial 30 day time limit for responding to a request (Orders MO1520-I, PO-2634). Otherwise the institution would be in a “deemed refusal” pursuant to section 29(4) of the *Act*. Issuing an interim decision/fee estimate once the time limit has expired does not cure a deemed refusal (Orders PO-2595, PO-2634).**

**The institution will be asked to immediately issue a final decision letter to the appellant if it has not already done so.**

This appeal is now at inquiry.

Deemed refusals are set out in section 29(4) of the *Act* which states:

A head who fails to give notice required under section 26 or subsection 28(7) concerning a record shall be deemed to have given notice of refusal to give access to the record on the last day of the period during which notice should have been given.

The IPC has established a set of procedures for processing deemed refusal appeals. These procedures may be summarized as follows:

- 1) The Commissioner has delegated authority to the Analyst to issue orders in “deemed refusal” appeals.
- 2) The Analyst will attempt to settle the appeal with the parties.
- 3) If settlement is not reached by **June 12, 2018**, the Analyst may issue an order requiring the institution to issue a decision letter to the appellant.

***Note: Any information you have provided to the Analyst may be used by the Analyst in reaching a final decision.***

- 4) Once the institution issues a decision letter or an order disposing of the issue raised by the appeal is issued, this appeal will be closed.
- 5) If the appellant is not satisfied with the institution's decision and decides to appeal, a new appeal file will be opened to address any issues raised by this new appeal. The institution does not have an additional 35 day period within which to make a new discretionary exemption claim after it makes an access decision arising from a deemed refusal appeal.

You might be contacted by our office, as part of our efforts to evaluate the services we provide to the public.