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News Release

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Ministry of Environment ordered to release soil test results from the Hullcar aquifer

VICTORIA—In an investigation report released today, B.C. Information and Privacy Commissioner Elizabeth Denham ordered the Ministry of Environment to disclose soil test results and other associated documents related to the contaminated Hullcar aquifer in Spallumcheen.

The Commissioner initiated an investigation in February 2016 after receiving a complaint from the Environmental Law Centre (ELC) alleging that the Ministry of Environment was required to proactively disclose information related to the water quality in the aquifer under s. 25(1)(b) of the *Freedom of Information and Protection of Privacy Act*. The complaint also alleged that the ministry did not make every reasonable effort in responding to their initial access request.

“Section 25(1)(b) requires public bodies to proactively disclose information that is clearly in the public interest. In this case, it is clear that the ongoing risk to clean drinking water in the Hullcar Valley constitutes a matter of public interest. Residents have been under a water advisory for two years; in order to restore public confidence in the measures undertaken by the Ministry, residents should have access to the soil test results and analysis that support those measures,” said Commissioner Denham.

The Commissioner ordered the Ministry of Environment to disclose, without delay, the soil test results and nutrient management plans that:

- form the basis for the authorization of the application of liquid manure to the Jansen Farm subsequent to the March 6, 2014 compliance order; and
- are required by any compliance, inspection, information, or pollution abatement or prevention orders with respect to nitrate levels in the soil that may leach into the Hullcar aquifer. This Order will remain in effect until the water quality advisory issued for the Hullcar aquifer by the Interior Health Authority is rescinded.

The Commissioner also found that the ministry failed to make every reasonable effort to assist the ELC with their access requests.

“The duty to assist is an essential component of our access and privacy laws. Public bodies must make every reasonable effort to assist and respond without delay to applicants in a way that is open, accurate and complete.

“Public bodies need to aid applicants throughout the freedom of information process. Applicants should never have to defend their motives for requesting information” said Denham.

As a result, Commissioner Denham has recommended that the ministry ensure all staff are trained to properly respond to access requests.

“This report is a reminder to all public bodies about their many obligations to the public under B.C.’s access and privacy laws. I encourage all public bodies to take the important step of proactively disclosing this type of information in the future, whether or not disclosure is required by access to information and privacy laws.

“In this case, the ministry has done a commendable job providing the public with most of the information related to the water quality of the Hullcar aquifer via their website. I don’t see any reason why the information at issue could not have been published as well,” said Denham.

This is the first s. 25 investigation since the Commissioner re-interpreted s. 25(1)(b) last year to mean that urgent circumstances are no longer required to trigger public interest disclosures.

Clearly in the public interest: The disclosure of information related to water quality in Spallumcheen is available for download at <https://www.oipc.bc.ca/report/investigation-reports/>

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