

KING'S BENCH FOR SASKATCHEWAN

Citation: 2025 SKKB 139

Date: 2025 08 15
File No.: KBG-YT-00149-2024
Judicial Centre: Yorkton

BETWEEN:

TIMOTHY KASPRICK

APPLICANT

- and -

SASKATCHEWAN POWER CORPORATION

RESPONDENT

Appearing:

Timothy Kasprick
Jason W. Mohrbutter, K.C.
Kevin Kim

self-represented applicant
for the defendant
for the third-party, Calian

JUDGMENT
August 15, 2025

DAVIS J.

[1] The Government of Saskatchewan has widely reported that it is considering using small nuclear reactors to provide clean sustainable power to Saskatchewan's people. It has also publicised that the first such reactor might be located in the Estevan, Saskatchewan area.

[2] Timothy Kasprick is interested in this project, and in what it means for the local coal industry. In September 2023, he submitted an access to information request to Saskatchewan Power Corporation [SaskPower] seeking records related to the following:

- 1) Plans to build nuclear reactors in Estevan SK [*sic*] including cost, name of company supplying/building the reactors and timeline
- 2) Compensation to be paid to Estevan coal miners and coal plant workers when coal mining/electricity [*sic*] stops

[3] Mr. Kasprick does not hold himself out to be an opponent of nuclear power, and his concern is not with the safety or feasibility of the technology were it employed anywhere in Saskatchewan. He is specifically interested in plans to locate a small nuclear reactor [SMR] in the Estevan area.

[4] SaskPower initially withheld all records it identified as responsive. It directed Mr. Kasprick to responsive information available online. Mr. Kasprick applied to the Office of the Saskatchewan Information and Privacy Commissioner [OIPC]. The OIPC recommended that SaskPower release most of the withheld documents.

[5] SaskPower did release many of its own documents to Mr. Kasprick. It obtained KPMG's consent to release the report it prepared. It sought the position of other third parties with an interest in the records, including Calian – a nuclear and environmental services firm based in Ontario. Calian continues to oppose the release of any documents it prepared.

[6] In all, SaskPower released well over 200 pages of previously-withheld material. Some of the released documents were redacted. Mr. Kasprick appeals to this Court, seeking the release of the withheld documents.

[7] I order that some further documents be released to Mr. Kasprick. However, for the most part, I have concluded that SaskPower had discretion to withhold the remaining documents, or that it was mandatory to withhold them in the cases of Cabinet documents. Some documents were never responsive in the first place. Others contain proprietary information, the release of which could be prejudicial to the information's owners or to the Saskatchewan Government. Still others may properly be

withheld as they contain advice from officials, information prerequisite to making budgetary decisions, or other information that could damage the province's economic interests or that could impact negatively on the government's ability to frankly discuss its policy priorities.

[8] The province's interest in nuclear power remains at an early stage; it has not even decided that it will build a nuclear reactor. Disclosure of some documents could potentially impede the work of the executive and its agencies; at the same time, the project is at such an early phase that there is not that much information to give beyond what has already been released to the public or to Mr. Kasprick personally.

The Freedom of Information and Protection of Privacy Act, SS 1990-91, c F-22.01 [FOIP Act] and the OIPC Appeal

[9] This appeal is brought pursuant to s. 57 of the *FOIP Act*. The appeal is from SaskPower's decision to withhold or redact some records; it is not an appeal of the OIPC decision. I must make a *de novo* determination; I do so without deference to the OIPC.

[10] The OIPC was critical of what it described as SaskPower's "shotgun" approach – citing multiple blanket exemptions without a targeted consideration of whether a particular document or portion of a document qualified for such exemptions. Given the voluminous nature of the records and what appears to be a lack of detail in SaskPower's response, the OIPC's concerns were reasonable.

[11] The OIPC found that SaskPower's general submissions did not assist in understanding how the discretionary exemptions in ss. 17 and 18 of the *FOIP Act* applied to individual documents. It found SaskPower failed to meet its onus to justify withholding records on those bases. It found that some records were properly withheld under s. 16 of the *FOIP Act*. It found SaskPower had not properly applied ss. 22 and 29 of the *FOIP Act*.

[12] The OIPC recommended that the records, including non-responsive (subject to exemptions) and duplicate records be released to Mr. Kasprick. The exception to this was the records relating to Cabinet or its committees. As indicated above, SaskPower did provide Mr. Kasprick with roughly 230 additional documents but declined to release the rest of them. Mr. Kasprick appealed to this Court.

[13] SaskPower provided the records to this Court. They are under seal, subject to the Court's ability to view them. I viewed the records, and I permitted SaskPower to make *in camera* submissions. I also permitted a representative from Calian to make *in camera* submissions regarding its proprietary material contained in three documents. Representatives from Calian were only present for the portion of the *in camera* hearing during which they addressed me. No one else was present during the *in camera* hearing apart from counsel for SaskPower and the Court's own staff.

[14] I also considered affidavit evidence from Doug Ospeth. Mr. Ospeth is the Director of Nuclear Development at SaskPower. Mr. Ospeth explained some of the chronology of the proceedings to this point, which addressed at least in part why SaskPower did not initially respond to Mr. Kasprick or indeed to this Court in a timely manner.

[15] Mr. Ospeth also described the information that is publicly available including the inter-provincial Strategic Plan to develop SMR technology. Mr. Ospeth attested that Saskatchewan has not yet decided to develop nuclear energy production. A decision to develop nuclear technology is not expected until 2029 at the earliest, with actual deployment being years further into the future.

[16] SaskPower's current work – and the work to which most of the records relate – is undertaken in anticipation of the Government making that decision around or after 2029. Many of the records before the Court were created to place before Cabinet or one of its committees in future. Mr. Ospeth also explained that to the extent anyone

in Government has mentioned the cost of the project, this has been based on what SMRs have cost in other jurisdictions. From my review of the records in question, I find that the budgetary information relates to the many preparatory tasks and is not generally responsive to Mr. Kasprick's actual query about the cost of bringing a SMR online in the Estevan area.

[17] SaskPower is no longer pursuing exemptions under ss. 22 and 29 of the *FOIP Act*. It continues to argue that the remaining records are properly withheld pursuant to ss. 16, 17 and 18.

[18] In assessing those claimed exemptions, I must not lose sight of the purposes for which they exist. Freedom of information legislation is not just about enhancing the public's access to government records. It is the government's chosen means of balancing competing interests: the (statutory) right to access information and society's interest in maintaining the confidentiality of certain information: *Saskatchewan Government Insurance v Giesbrecht*, 2025 SKCA 10 at para 43, [2025] 6 WWR 525 [*Giesbrecht*]; *John Doe v Ontario (Finance)*, 2014 SCC 36 at para 2, [2014] 2 SCR 3 [*John Doe*].

[19] The legislature created the ability to request a wide range of government records. It also created important exemptions to that general move toward openness. I must not read those exemptions so narrowly or formalistically that my interpretation defeats the purpose of the exemptions. If I conclude that a document falls within one of the discretionary exemptions, I may not replace SaskPower's exercise of discretion with my own.

[20] The *FOIP Act* is properly read as a whole, and as a means of providing transparency while also ensuring the government benefits from the confidentiality it needs to carry out its duties. There are times when a premature release of information,

in the absence of critical context, will impede the government in its sober consideration of a particular project or policy. To a significant extent, I conclude this is one such time.

[21] This is an appeal from SaskPower's decision, and not from that of the OIPC. I had the benefit of more evidence and focussed submissions than did the OIPC. With a few exceptions, I uphold SaskPower's decision not to release the remaining documents. I do order the release of some additional documents, and I order that some redacted documents be released in an unredacted or in a less redacted form.

[22] I will address the claimed exemptions under ss. 16, 17 and 18 of the *FOIP Act*, before discussing the non-responsive and duplicate records. I begin, however, with a brief discussion of Mr. Kasprick's submissions.

[23] Mr. Kasprick takes issue with SaskPower's tardiness in carrying out essential tasks or providing mandatory responses throughout this process. SaskPower did not provide Mr. Kasprick with its response to the OIPC decision within the time provided for in s. 56 of the *FOIP Act*. Mr. Kasprick interpreted the legislation in such a way that he felt pressure to launch an appeal even though SaskPower had not communicated its decision to him. While I do not interpret s. 57 to require an applicant to appeal to this Court before the decision appealed-from has been made, I accept that SaskPower was lax in compliance with its statutory obligations and that this caused Mr. Kasprick to take the actions he has described.

[24] Mr. Kasprick also points to SaskPower's failure to appear in Court on October 29, 2024 for the stage one inquiry. The Court at that time was forced to proceed without submissions or assistance from SaskPower. When this matter was initially set for early March 2025, the records were not in order, were not in a binder, and were not identified or separated by tabs. This resulted in the matter being rescheduled and the hearing postponed by a few weeks.

[25] Mr. Kasprick pointed to the OIPC's criticism that SaskPower was taking a shotgun approach to the records and exemptions.

[26] It is certainly true that SaskPower's initial conduct of this litigation fell far short of what the Court and public have a right to expect from a sophisticated government institution. However, SaskPower has since remedied all these laches. The procedural deficiencies from earlier in these proceedings do not have any bearing on the ultimate issues I must decide.

[27] Moreover, while I noted the OIPC's concerns about SaskPower's shotgun approach, that description did not characterise the proceedings that took place in front of me where SaskPower's counsel described which sections of the *FOIP Act* covered specific documents, and was responsive to targeted questions from the Court. With that, I go on to address the exemptions claimed.

Cabinet Confidences

[28] Subsection 16(1)(a) of the *FOIP Act* prohibits giving access to a record that discloses a confidence of the Executive Council. This includes "records created to present advice, proposals, recommendations, analyses or policy options" to Council or its committees. The executive must be able to receive advice, consider proposals and deliberate its options with the candour that comes from knowing what is reviewed in confidence will remain confidential.

[29] Several documents are labeled "For Ministers Use Only". The OIPC recommended the withholding of some such documents pursuant to s. 16 (a mandatory provision). Others, it recommended be released. It recommended that the document at Tab 9 be released. An identical document formed part of Tab 36 which the OIPC recommended be withheld in its entirety. I conclude that all the documents which

SaskPower has identified as falling within the s. 16 mandatory exclusion must be withheld on that basis.

Records that “Could Reasonably be Expected” to Fall into an Exempt Category

[30] For exemptions under s. 17, a record-holder has the discretion to withhold a record that could reasonably be expected to disclose information subject to a statutory exemption. The “could reasonably” language is incorporated directly into the applicable provisions in the *FOIP Act*. A “could” standard generally invokes reasonable possibilities – not probabilities: *Giesbrecht* at para 44, *FOIP Act* at s 17. When combined with the word “expectation” the Legislature appears to be instituting a standard lower than probability, but at least somewhat higher than mere possibility: *Merck Frosst Canada Ltd. v Canada (Health)*, 2012 SCC 3 at para 196, [2012] 1 SCR 23 [*Merck Frosst*]. It should be noted that the Supreme Court in *Merck Frosst* was dealing with a standard involving a “reasonable expectation of probable harm” – something which I consider to be higher than the “could reasonably be expected” standard in the *FOIP Act*.

[31] The incorporation of possibility-based language in the applicable standard suggests a dogmatic or overly formalistic approach to reviewing a decision to withhold is not appropriate. The record-holder may be able to assist the Court in assessing what is reasonably possible and what might reasonably be expected given that the record holder knows the purpose for which a document was created and understands the subject matter in a way that the reviewing Court may not.

[32] While the OIPC addressed SaskPower’s burden under s. 61 of the *FOIP Act*, what that burden actually entailed in the context of ss. 17 and 18 was not proof of any fact, but proof that a reasonable possibility existed. This possibility must be more than theoretical; it must give rise to an expectation. This remains a low standard which the Legislature chose to create and with which I cannot interfere.

[33] It is only if I conclude that SaskPower has failed to prove that a record possibly contains information disclosure of which may be expected to bring it within the ambit of the *FOIP Act* that I can order the release of that record.

[34] It is my respectful view that the OIPC at times failed to apply the appropriate standard in its assessment of the claimed exemptions under ss. 17 and 18 of the *FOIP Act*. The OIPC cited the correct standard throughout. However, it is my view that it adhered at times to a probability-based standard in considering the claimed exemptions. I find that this interpretation was occasionally at odds with the purposes for which the exemptions were created.

[35] It is also my view that the OIPC at times failed to consider whether particular documents were drafts which could reasonably contain recommendations or advice from officials, budgetary information, or some other protected class of information once consolidated into their final form. The legislative protections would be illusory if only final documents, rather than drafts or constituent pieces of information were actually protected: *John Doe* at para 51.

[36] It appears from the OIPC decision that it received little help from SaskPower in understanding the basis for the claimed exemptions – something which was not true of the hearing that took place before me.

Advice, Proposals, Recommendations, Analyses, or Policy Options

[37] The Executive Council or its members or committees must be permitted to consult public servants and others with a reasonable degree of confidentiality. A record-holder has the discretion to withhold records that contain advice from officials. Advice is not limited to directive statements or the clear expression of an opinion. It can consist largely of information setting out considerations related to different policy options: *Leo v Global Transportation Hub Authority*, 2019 SKQB 150 at paras 29–30;

John Doe at paras 26-27; *Weidlich v Saskatchewan Power Corp.* (1998), 164 Sask R 204 (QB) at paras 9-10 [*Weidlich*].

[38] The s. 17 exemptions cannot be used to prevent disclosure of purely factual information: *Britto v University of Saskatchewan*, 2018 SKQB 92 at para 76. However, where advice from officials is bound up in the facts, information, or consultations on which it is predicated, it may not be possible to extricate “advice” from the underlying information. Such documents may have to be treated as a whole, and either withheld or released in their entirety: *Weidlich* at para 15. In any event, s. 17’s protections are not limited to communications one would recognise as being advice or recommendations in a traditional sense but also include analyses and policy options. I accept that analyses and policy options may in some circumstances be broad enough to extend to the raw data underpinning them. This may especially be the case where that raw data provides the basis for an official’s analysis, advice, recommendation, or proposal.

[39] I also accept SaskPower’s contention that the timeframe of the SMR project will be measured in decades. Consultations and analyses have been going on for years already, and a decision on whether the Province will even invest in SMR technology is not expected for another four or five years. Documents prepared to this point could reasonably be placed before Executive Council to inform its decision-making at a much later date.

Consultations, Deliberations, Positions, Plans, Procedures, Criteria, or Instructions

[40] Subsection 17(1)(b) of the *FOIP Act* gives the record-holder discretion to withhold records containing “consultations or deliberations” that involve public servants or institutions. As the Office of the Saskatchewan Information and Privacy Commissioner, *Guide to FOIP*, online: <<https://oipc.ck.ca/guides/ipc-guide-to-foip/>> (26 August 2025) says, ss. 17(1)(b) is intended to “allow such persons to address an

issue without fear of being wrong, looking bad or appearing foolish if their frank deliberations were to be made public,”: Chapter 4, page 137.

[41] Subsection 17(1)(c) relates to “positions, plans, procedures, criteria or instructions” developed for the purpose of contractual or other negotiations by or for a government institution.

[42] Some consultations involve SaskPower’s communications with Indigenous groups or with particular First Nations. Indigenous rights- or land-holders have a different status from other interested parties in their dealings with government institutions. I accept SaskPower’s contention that in some cases it will be important to permit an institution to conclude significant consultation with First Nations entities before it is opened up to greater transparency and/or public scrutiny.

[43] In other instances, documents contain information that show SaskPower is weighing various options, and establishing criteria, plans or procedures for different phases of the SMR project. The work produced to this point may be subject to the s. 17 exemptions in its own right; some of it will also form part of the advice ultimately given to the Executive Council.

[44] I conclude that many of the documents which SaskPower produced fall within the discretionary categories described to this point.

Confidential Information Regarding Pending Policy or Budgetary Decisions

[45] Subsection 17(1)(g) of the *FOIP Act* protects from mandatory disclosure “information, including the proposed plans, policies or projects of a government institution, the disclosure of which could reasonably be expected to result in disclosure of a pending policy or budgetary decision.” Governments must have the freedom to consider and announce policy and budgetary decisions at appropriate times. The premature and/or partial release of such information can raise up public sentiment

against a particular government action when such sentiment is neither informed nor warranted. This can make it impossible for a government to pursue legitimate policy objectives. At the very least, it can force a government to expend resources to counter misperceptions or opposition that were precipitated by premature or partial disclosures of pending policy or other decisions.

[46] Some of the documents placed before me contain details of pending policies or projects (policies or projects which may never become operational); many documents contain preliminary budgetary information to assist the Government of Saskatchewan in assessing the likely cost of the early phase of SMR development. This generally has little to do with the Estevan locations, although there are obvious costs associated with siting studies that included Estevan.

[47] Governments must widely consult with the public, with Indigenous groups, and with other public and private institutions in deciding such things as where to locate a particular project, selecting vendors for various services, consultancy work, licensing, developing a business plan, certain capital cost estimates, training personnel, legal fees and the like. The Government must be free to estimate what these various items or services will cost before coming up with a budget. The budget-related documents I reviewed consist largely of such initial estimates and do not necessarily reflect the budgetary decisions of the Saskatchewan Government.

[48] Having said that, ss. 17(1)(g) is not intended to shield the Government from scrutiny for how it spends taxpayers' money. For Mr. Kasprick's benefit, I observe that the records before me do not provide a clear indication of what this project had cost to the date of his request, nor do they indicate what it is likely to cost to bring it to completion. It may be open to Mr. Kasprick to seek information regarding what this project has cost to date with a more targeted request, should that be of particular interest to him.

Sensitive Commercial Information

[49] A record-holder may deny access to records that may reasonably be expected to disclose “financial, commercial, scientific, technical or other” information which the Government owns or has a right to use and which has monetary value. It may also deny access to information that could be expected to interfere with negotiations in which the Government has an interest, or that could be expected to prejudice the economic interests of the Government or one of its institutions: ss. 18(1)(b), (d) and (f).

[50] A reasonable expectation describes a higher standard than reasonable possibility.

[51] In this case, SaskPower has an ongoing relationship with Calian which involves the sharing of proprietary information and the provision of consultancy services. SaskPower and the Government of Saskatchewan have a right to use the information provided by Calian, and that information clearly has some monetary value. Moreover, SaskPower may in future be negotiating with a variety of different vendors regarding the provision of sensitive research or technology.

[52] I accept that the disclosure of proprietary information SaskPower has received from Calian could be expected to have a negative impact on Saskatchewan’s economic interests, could be expected to negatively affect the Province’s interests in ongoing negotiations, or could be expected to disclose valuable information which Saskatchewan has paid for and has a right to use on its own terms and without interference. I briefly address Calian’s submission.

The Third-party’s Records

[53] I heard submissions from Calian’s representative, Mr. Kim. Neither he nor SaskPower claimed any exemption pursuant to s. 19 of the *FOIP Act*, nor did SaskPower raise s. 19 before the OIPC. I mention this because some of Calian’s

submissions strayed into the ambit of s. 19 considerations. In the end, I am able to uphold SaskPower's decision to withhold the relevant documents solely on consideration of ss. 18(1)(b), (d), and (f).

[54] The documents contained at Tabs 1, 2, and 14 were created by Calian. These documents contain technical data related to siting. These are not necessarily related to the Estevan area. The document in Tab 1, for instance, is a PowerPoint presentation that sets out the methodology for siting and in fact contains no information related to Mr. Kasprick's request.

[55] The document at Tab 2 is titled a "workbook" and also appears to be a PowerPoint presentation. It contains information relating to relevant considerations for siting SMRs at various locations. Most of the document is not specific to Estevan, although it does contain some more targeted assessment of the Estevan area.

[56] The document at Tab 14 is more substantial in terms of the detail of its contents. It fleshes out considerations and ideas that are reduced to headings in the two PowerPoints. The only mention of the Estevan area in this document is in a list of locations around the province which are situate near suitable bodies of water.

[57] Calian objects to the disclosure of any parts of these documents. It argues that their disclosure will reveal propriety information specifically as regards to Calian's methodology in selecting a suitable site for a SMR. I accept Calian's submissions that release of these documents may reveal sensitive commercial information.

[58] I also accept that the Government of Saskatchewan has a right to use this information, and that the data and/or methodology has monetary value. It would harm the Government of Saskatchewan's and/or SaskPower's interests in future dealings with Calian or with other vendors if the Court were to order the disclosure of the sensitive, proprietary information belonging to Calian and/or to its Government clients.

[59] I am satisfied the three Calian documents fall within the scope of ss. 18(1) of the *FOIP Act*. SaskPower had discretion to withhold these records in their entirety.

[60] But more to the point, and for Mr. Kasprick's benefit, I conclude that the documents at Tabs 1 and 14 were not actually responsive to his request. The document at Tab 2 did contain information relating to siting in Estevan, but was silent as to plans, costs, contractors, or timeline. More to the point, to the extent Calian's document actually touched on Estevan-specific concerns, that information was reproduced in other documents which have been or will be disclosed to Mr. Kasprick and which do not have the same concerns regarding the release of sensitive proprietary information that could be harmful to Saskatchewan's interests.

Some Records were Never Responsive

[61] Mr. Kasprick sought records relating to plans to build a nuclear reactor in Estevan, and on what this meant for the Estevan coal industry. There were no documents relating to the latter, and Mr. Kasprick is satisfied with that answer.

[62] In response to the former, SaskPower identified a large trove of documents. On review, however, many of these have little or nothing to do with "[p]lans to build nuclear reactors in Estevan SK including cost, name of company supplying/building the reactors and timeline". As the OIPC pointed out, records-holders should give a liberal interpretation to requests. But liberality should not be confused with treating the irrelevant as relevant. Some of the records SaskPower identified are so tangential to the request that it is clear they were never responsive and will not assist Mr. Kasprick in addressing his actual concerns.

[63] If the record-holder can just as easily release a non-responsive record as not, it may wish to err on the side of release. Nonetheless, I will not order SaskPower to release records that do not respond to the request.

[64] To be clear, Mr. Kasprick is concerned about a nuclear reactor in the Estevan area. He is concerned about what it is going to cost, what companies are going to be involved, and when/if it is all going to happen. In part, his concern is animated by his attention to local industry. When a record has nothing to do with those things, little is gained by court-ordered disclosure.

Some Records are Duplicates

[65] Where a record is a duplicate, or contains duplicative pages, I see little value in ordering that it be reproduced and disclosed. This creates mindless busy work for a taxpayer-funded employee without moving the needle toward promoting transparency. I do not think it matters that the applicant is not paying. If he is not paying, that just means everyone else is.

[66] Nonetheless, when a record-holder declines to release a duplicate record, it must provide an explanation indicating of what document the record is a duplicate. Moreover, the record-holder must only decline to disclose duplicates when the documents are actually identical in all material respects. In the appendix to this decision, I will indicate which documents are duplicates of records that should be released.

Some Redacted Records Should be Disclosed Without Redactions

[67] Redactions are a valuable tool where a document contains privileged information but also information which could properly be released to a member of the public. Redactions should not be overused, however, and the record-holder should only redact that information which is actually covered by one of the head of privilege or confidentiality in the *FOIP Act*.

[68] In a few cases, I found that SaskPower redacted evidence which should properly have been released to Mr. Kasprick. In most instances, however, SaskPower

redacted information that was non-responsive or was otherwise privileged. In the appendix to this decision, I set out which redacted documents should be released in whole or in part, and which SaskPower may continue to withhold.

[69] One specific document bears particular mention. In the binder that was filed with the Court, this document was located at Tab 2, behind the Regional Siting Workbook prepared by Calian and another entity. I have concluded that the Calian document may be withheld. This second document, however, is not Calian's. I conclude that it was misplaced in Tab 2. While it has no Bates numbers at all on my version, the Bates number continues from number 67 on the last page of the Calian document to number 68 on the first page of the document at Tab 3.

[70] The document I am referring to is entitled Site Selection Update. It is a PowerPoint presentation from September 28, 2023 and contains the SaskPower Logo on the cover page. This document appears to be one which was released to Mr. Kasprick with redactions. I arrive at that conclusion because counsel for SaskPower filed certain pages demonstrating the extent of the various redactions. Five of these pages correspond to pages in the PowerPoint in question, but do not appear to have any correspondence in the other 621 pages before me. I conclude that SaskPower may continue to withhold the redacted information on pages 4 and 8-10 of that PowerPoint as being non-responsive to Mr. Kasprick's request. It should release pages 7 and 11. In my view the information in question is purely factual and does not fall into one of the s. 17 exemptions. The information I have does not indicate whether page 6 of the PowerPoint was redacted. If it was, I order that it too be released in unredacted form. If SaskPower is unable to identify the document to which I am referring, it may request a follow-up call with me, at which Mr. Kasprick may also be present.

Some Records Should be Disclosed

[71] I have concluded that several records should be disclosed to Mr. Kasprick. In each of these cases, it was either difficult to understand the basis for the exemption claimed, or the evidence did not satisfy me the exemption was appropriate given the whole of the evidence.

[72] There were individual pages, in PowerPoint presentations for example, which contained images, graphics, or inconsequential headings. I have not ordered that those be released to Mr. Kasprick. While they may not fit into any of the exemptions claimed, they are not responsive to Mr. Kasprick's requests and their disclosure would not promote transparency. The line by line assessment which the OIPC referred to is not intended to go through a document and identify all the meaningless headings, pictures and the like for disclosure. At the hearing of this matter, Mr. Kasprick himself highlighted the absurdity of receiving disclosure of a photograph of an onion.

Conclusion

[73] For the most part, I have concluded that SaskPower had discretion to withhold the documents which it did. In the case of Cabinet documents, it was required to withhold those records. It was entitled to exercise its discretion to withhold most of the other records. The fact SaskPower has the discretion to continue withholding documents does not mean that it must or even necessarily should do so. I encourage SaskPower to be forthcoming with those who are interested in or concerned about the development of nuclear power generation capacity in Saskatchewan. Transparency about the projects aims, costs, and implications will often be a better guarantor of public confidence in the integrity of SaskPower's programs.

[74] Mr. Kasprick may have been left with the impression that there is a vast quantity of relevant information which SaskPower is withholding. The records placed

before me do consist of many documents spanning hundreds of pages. However, I repeat that SaskPower cast a very wide net which turned up many irrelevant documents. Of those that are relevant, many are duplicative in whole or in part while others cover identical information to that which is found elsewhere, even if the documents themselves are not duplicates. The actual amount of useful, pertinent, and unduplicated information is comparatively modest.

[75] The Appendix at the end of this decision contains my ruling relating to each document or tranche of documents. SaskPower is to release those records which I order be released to Mr. Kasprick within 30 days of this decision.

[76] While SaskPower has largely been successful, I am mindful of the fact that Mr. Kasprick is an unrepresented individual who is animated by concerns for the wider community. He conducted himself throughout in a respectful and appropriate manner and was put to some inconvenience by SaskPower's initial non-responsiveness and its other actions or inactions. In all the circumstances, I make no order as to costs.

J.
A.S. DAVIS

APPENDIX

I. Part 1				
Tab	Title	OIPC No.	Disclosed	Order
1	Phase 2 Regional Siting Criteria and Scoring	Pages 1-14	No	Withhold pursuant to ss. 18(1); non-responsive.
2	SaskPower SMR Project Indicator Workbook	Pages 15-78	No	Withhold pursuant to ss. 18(1).
3	SMR LCOE Update	Pages 79 - 86	No	Withhold pursuant to ss. 17(1)(g).
4	[more costing information – part of Update]	Page 87	No	Withhold pursuant to ss. 17(1)(g).
5	2022 02 24 SaskPower SMR Cashflow Chart 1	Pages 88-102	No	Withhold pursuant to ss. 17(1)(g).
6	Presentation regarding modular reactor project	Pages 103-129	Released with redactions on Sept 9, 2024	SaskPower may continue to withhold redacted portions as non-responsive to the request. It may reasonably choose to release unredacted documents as well.
7	AGM October 2023 SKB	Pages 130-147	Released with redactions on Sept 9, 2024	Continue to withhold redactions on pages 132, 133 and 135 (Bates numbers). Redacted portions are not responsive to request. Release unredacted map of Estevan area on half of page with Bates number 134. SaskPower may continue to withhold pages with Bates numbers 138, 144 and 145 pursuant to ss. 17(1)(a) and, in the case of page 144, ss. 18(1)(b) and (d). However, it should consider whether continuing to withhold these documents is necessary or whether they can be safely released.

8	KMPG Report on Construction Cost Drivers	Pages 148-212	Released on Feb 3, 2025	Already released.
9	Next Steps – Regional Evaluation Process – Briefing Note	Pages 213 - 221	No	Withhold pursuant to s. 16 (identical to part of document at Tab 36).
10	Regional and Site Scoresheet – Full Criteria List	Pages 222 - 228	No	Release document. SaskPower is entitled to redact conclusions exclusively related to prospective sites outside the Estevan area, should it wish to do so. While the document is arguably tangential to Mr. Kasprick’s request, the selection of the Estevan area is captured on a generous read of his request. While the criteria used to select the site may fall within ss. 17(1)(c), they also appear to be captured by ss. 17(2)(e) in a manner that suggests to me release in the manner described is appropriate.
11	SaskPower Workbook Estevan 2022-12-09 v3-2 JR	Pages 229-290	Released with redactions on Sept 9, 2024	Page with Bates Number 287 of 384 may be withheld as it largely contains non-responsive contact information of stakeholders.
12	[workplan describing what needs to be done]	Pages 291-294	No	Withhold pursuant to ss. 17(1)(b) and 18(1)(b).
13	SMR Project Planning Phase Budget Estimate - Final	Page 295	No	Withhold pursuant to ss. 17(1)(g).
14	SaskPower SMR Program Siting Study Review	Pages 296 - 321	No	Withhold pursuant to ss. 18(1); non-responsive.
15	2023-04-2024 Estevan Study Area Intro Meeting v2	Pages 322-367	Released with redactions on Sept 9, 2024	Release unredacted version of this PowerPoint.
16	2023-06-14 SMR Capital Cost	368-374	No	Withhold pursuant to ss. 17(1)(g).

17	[update presentation] including: SMR site selection updated 2020 and SMR siting update Nov 11 21	375-387	Released with redactions on Sept 9, 2024	<p>Release column on page 8 that pertains to the Boundary/Rafferty Dam area. The rest of the table may be redacted, though release would in my view also constitute an appropriate exercise of discretion.</p> <p>Release the table on Page 12.</p> <p>While SaskPower is concerned about the possible disclosure of proprietary methodology, and about the potential for interference with the siting process, I consider those concerns will be no more than minimally affected by the release of this information.</p> <p>Additionally, for the reasons I set out in relation to the document at Tab 10, I conclude this information should be released to Mr. Kasprick, notwithstanding the fact it contains “criteria”.</p>
II. Part 2				
18	Appendices A-K	Pages 1-30	No	<p>Release page 1 (SaskPower SMR Project Schedule, Milestones and Key Decisions)</p> <p>Withhold the rest of the document pursuant to ss. 17(1)(a)(b)(c) and (g).</p>
19	Project Estimate	Page 31	No	Withhold pursuant to ss. 17(1)(g).
20	Approved Deliverables	Page 32	No	Release document.
21	2021-06-Quarterly Project Update (Board Information Item)	Pages 33-37	No	Withhold pursuant to ss. 17(1)(a)(b) and (c).

22	Appendix 1 and 2, 2021-09-Regional Siting Update (Board Information Item)	Pages 38-43	No	Withhold pursuant to ss. 17(1)(a)(b) and (c).
23	Appendix 3	Pages 44-53	No	This document contains the two pages at Tab 10 which I have already ordered be released, in part, to Mr. Kasprick. I decline to order the release of the rest of the document, though SaskPower may wish to exercise its discretion to release it.
24	2022-03-Project Authorisation [decision item]	Pages 54-61	No	Withhold pursuant to ss. 17(1)(a)(b) and (c).
25	Appendix A	Page 62	No	This single-page document is identical to the document in Tab 18 that I ordered be released. I am not ordering the release of duplicate documents, given that Mr. Kasprick will receive this identical information.
26	Appendix B	Page 63	No	Withhold pursuant to ss. 17(1)(g).
27	Appendix C summary	Pages 64-87	No	Withhold pursuant to ss. 17(1)(a)(b)(c)(d) and (g).
28	Appendix and Org Chart	Pages 88-90	No	The first six pages may be withheld as they are unrelated to Mr. Kasprick's request. Page 7 is the document from Tab 18 (also Tab 25) which I ordered be released to him. The rest of the document may be withheld pursuant to ss. 17(1)(a)(b) and (c).
29	Appendix E	Pages 99-110	No	Withhold pursuant to ss. 17(1)(g); this document largely consists of duplicates of documents previously discussed, and

				which I concluded should be withheld.
30	2022-03-Technology Selection (Decision Item)	Pages 111-160	No	Withhold pursuant to ss. 17(1)(a)(b)(c) and (d) and 18(1)(b).
31	2022-03-Quarterly Project Update (Board Information Item)	Pages 161-175	No	Withhold pursuant to ss. 17(1)(a)(b)(c) and (g).
32	Appendix 3 – Briefing Note	176-186	No	Withhold entire document pursuant to s. 16 (in part as per OIPC’s recommendation).
33	Appendix 4	Pages 176-186	No	This document is identical to that at Tab 3 and should be withheld for the reasons indicated.
34	Appendix 5	Pages 196-218	No	This document includes the documents from Tabs 10 and 18 which I ordered be released. The rest of the document may be withheld pursuant to ss. 17(1)(a)(b) and (c).
35	2022-11-Quarterly Project Update Appendix 1, Appendix 2	Pages 219-226	No	Withhold pursuant to ss. 17(1)(a)(b) and (c).
36	Briefing Notes with Appendix	Pages 227-249	No	Withhold pursuant to s. 16 (as per OIPC’s recommendation).
37	SaskPower SMR/ Subsidiary Business Plan	Pages 250-308	No	This draft document was clearly intended to assist the Executive Council or its committees, and may be withheld pursuant to ss. 17(1)(a)(b)(c)(d) and (g).
38	2022-03-SMR Development Project Authorisations [Appendices A-E and Schedules E and F]	Pages 309-370	No	Withhold pursuant to ss. 17(1)(a)(b)(c) and (g) and 18(1)(b). Appendix A to this document is the chart from Tab 18 which I ordered be disclosed. That chart is also duplicated in Appendix E. The document also contains reproductions

				of some of Calian's proprietary information.
39	2023-03-Quarterly Project Update [with Appendices 1-8]	Pages 371-479	No	The documents in this Tab contain many documents are duplicates of those which were previously disclosed to Mr. Kasprick as part of previously released documents. Specifically, pages 386-445 were disclosed to Mr. Kasprick on September 9, 2024.
40	04-2023-SMR Reactor Update with Appendices 1-5	Pages 480-496	No	Withhold pursuant to ss. 17(b)(c) and (g).
41	AMPS SMR Update	Pages 497-617	OIPC found to be duplicate documents.	While the OIPC recommended release of duplicate documents, I decline to order that SaskPower produce duplicates to Mr. Kasprick. SaskPower is, however, to advise Mr. Kasprick of what these documents are and whether they have been or will be released to him, or whether they will continue to be withheld, including after compliance with this decision.
42	CII-SMR Siting Selection, Appendices 1-4	Pages 618 - 621	OIPC found to be duplicate documents.	These documents are duplicates, largely of documents which I am ordering be released to Mr. Kasprick. As above, I decline to order SaskPower to produce duplicate documents, but it is to advise Mr. Kasprick of what the documents are, whether their duplicate is being released, or whether their duplicate is being withheld.

				<p>My decision in relation to both Tabs 41 and 42 is as much for Mr. Kasprick's benefit as for SaskPower's. It is not useful to Mr. Kasprick to be inundated with duplicate records, including duplicates of records which may never have been consequential.</p>
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