

# WESTERN BERKS WATER AUTHORITY BERKS COUNTY, PENNSYLVANIA

## POLICIES AND PROCEDURES WITH RESPECT TO PUBLIC RECORDS

The following Policies and Procedures have been adopted by the Board of the Western Berks Water Authority (referred to as "WBWA" or the "Authority") in accordance with the provisions of Pennsylvania's Right to Know Law, Act 3 of 2008, effective January 1, 2009 (the "Act").

Terms defined in the Right to Know Law or in regulations adopted by Pennsylvania's Office of Open Records, shall have the same meanings when used in these Policies and Procedures.

1. Open Records Officer. WBWA has appointed its Executive Director as its Open Records Officer. Each requester of a record from WBWA shall deliver requests to the Open Records Officer at the following address: Western Berks Water Authority, , ATTN: Open Records Officer, 91 Water Road, Sinking Spring, PA 19608.

2. Requests. All requests for public records of WBWA under this policy shall be specific in identifying and describing each public record requested. In no case shall WBWA be required to create a public record which does not exist or to compile, maintain, format or organize a public record in a manner in which WBWA does not currently compile, maintain, format or organize the public record. All requests for public records shall be submitted in writing and include the date of the request; requestor's name, address, and telephone number; certification of United States residency; signature of requestor; and if duplication is requested, appropriate payment.

The Authority will not respond to oral requests (except in the sole discretion of the Open Records Officer).

Requests shall be directed to the Open Records Officer at the address stated at paragraph 1 above. Requests shall be made on the form attached as Exhibit "A" to these Policies and Procedures, and shall include the date of the request, the name and address of the requester and a clear description of the records sought.

3. Response. WBWA will make a good-faith effort to provide the requested public records as promptly as feasible, and the Open Records Officer is directed to make a response within five (5) business days in accordance with the Act.

The response provided by WBWA shall consist of (a) approval for access to public records; (b) a statement that additional review time is required; or (c) denial of access to the records requested. If access to the public record requested is approved, the public record shall be available to access during the regular business hours of WBWA. The Open Records Officer shall cooperate fully with the requestor, while also taking

reasonable measures to protect WBWA public records from the possibility of theft and/or modification. The presence of the Open Records Officer or a designated employee is required when public records are examined and inspected at WBWA offices.

4. Additional Review Time. WBWA reserves the right to extend the time for production of records beyond 5 business days as set forth in paragraph 3(b) above and to cause a review by its Public Record Officer to be made to determine if any of the reasons for such an extension as set forth at Section 902(a) of the Act applies to the request.

If the request is being reviewed, the Notice provided by WBWA shall be in writing and shall include the reason for the review and the expected response date, which shall be within thirty (30) days of the Notice. If WBWA does not respond within thirty (30) days having delivered a Notice that additional review time is required, the response is deemed denied. Extension of time for review of a record request will take place in the following situations:

(a) The record requested contains information which is subject to access, as well as information which is not subject to access that must be redacted prior to a grant of access. The redacted information is considered a denial as to that information;

(b) The record requires retrieval from a remote location;

(c) A timely response cannot be accomplished due to staffing limitations;

(d) A legal review is necessary to determine whether the record requested is a public record;

(e) The requester has failed to comply with WBWA's policy and procedure requirements; or

(f) The requester fails to pay the applicable fees.

(g) The extent or nature of the request precludes a response within the required time period.

Upon a determination that one of the factors listed above applies, WBWA shall send written Notice to the requester within five (5) business days of receipt of the request for public records.

Notice by the Public Record Officer of WBWA that additional review time is required shall be provided in the form attached hereto as Exhibit "B". That Notice shall include a statement notifying the requestor of the reason for the review and a reasonable date that a response is expected to be provided, as well as an estimate of applicable fees owed when the record becomes available. If the date of a response is expected to be

provided more than thirty (30) days from the date of Notice, the request for access will be deemed denied unless the requestor has agreed in writing to a further extension of time. If the requestor agrees to an extension, the request shall be deemed denied on the day following the date specified if WBWA has failed to provide a response by that date.

5. Redaction. WBWA reserves the right to redact (black-out) portions of certain documents if the Open Records Officer determines that redaction is necessary to prevent disclosure of information which is not subject to access.

6. Denials. WBWA reserves the right to decline production of records in the following cases:

(a) if the request is not made in accordance with these Policies and Procedures, or in accordance with the Act;

(b) if the Authority determines that the records requested are not subject to disclosure as provided by the Act.

If access to the record request is denied, the Authority shall provide a notice to the requestor, in writing, using the form attached as Exhibit "C" hereto entitled "Denial of Request Review and/or Duplicate Western Berks Water Authority Records".

If the request is denied or deemed denied, the requester may file an appeal with Pennsylvania's Office of Open Records within fifteen (15) days of a deemed denial. The appeal shall state the grounds upon which the requester asserts that the record is a public record and shall address any grounds stated by WBWA for delaying or denying the request.

Within thirty (30) days of the mailing date of the final determination of the appeals officer, the requester or WBWA may file a petition for review or other document as required by rule of court with the Court of Common Pleas for Berks County. The decision of the court shall contain findings of fact and conclusions of law based upon the evidence as a whole. The decision shall clearly and concisely explain the rationale for the decision. A petition for review by the Court shall stay the release of documents until a decision is issued.

7. Fees and Costs. WBWA will provide copies of documents by paper copy only (unless separate arrangements are made between the requester and the Open Records Officer or unless WBWA holds the record only in a different format). All copies shall be made by WBWA personnel. Copies will be provided at a cost of \$0.25 per page (one side). If mailing is requested, the cost of postage will be charged. If "True and Correct Certification" is requested, an additional charge of \$1.00 will be added per document certified. The cost of certification does not include a notary fee. Notary services are not regularly available at the WBWA office.

8. Prepayment. If the cost and fees estimated to reproduce records is expected to exceed \$100.00, WBWA requires that a Requester shall be required to prepay the estimated costs and fees, in immediately available funds, payable to "Western Berks Water Authority". Checks shall be delivered directly to the Open Records Officer at the address of WBWA stated above.

9. Additional Charges. Each requester shall be liable to WBWA for all costs necessarily incurred by WBWA in complying with the document requests, in accordance with Section 1307(g) of the Act.

THIS POLICY SHALL BE AVAILABLE FOR REVIEW AT WBWA'S OFFICE DURING NORMAL BUSINESS HOURS.

ADOPTED BY THE BOARD OF THE WESTERN BERKS WATER AUTHORITY ON JANUARY 12, 2009.

EXHIBIT "A"

WESTERN BERKS WATER AUTHORITY  
BERKS COUNTY, PENNSYLVANIA

RIGHT-TO-KNOW REQUEST FORM

DATE REQUESTED: \_\_\_\_\_

REQUEST SUBMITTED BY:      U.S. MAIL      FAX      IN-PERSON      E-MAIL

NAME OF REQUESTOR: \_\_\_\_\_

STREET ADDRESS: \_\_\_\_\_

CITY/STATE/COUNTY (Required): \_\_\_\_\_

TELEPHONE (Optional): \_\_\_\_\_

RECORDS REQUESTED:

*\*Provide as much specific detail as possible so the agency can identify the information.*

DO YOU WANT COPIES?      YES    or    NO

DO YOU WANT TO INSPECT THE RECORDS?      YES    or    NO

DO YOU WANT CERTIFIED COPIES OF RECORDS?    YES    or    NO

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RIGHT TO KNOW OFFICER: \_\_\_\_\_

DATE RECEIVED BY THE AGENCY: \_\_\_\_\_

AGENCY FIVE (5)-DAY RESPONSE DUE: \_\_\_\_\_

*\*\*Public bodies may fill anonymous verbal or written requests. If the requestor wishes to pursue the relief and remedies provided for in this Act, the request must be in writing (Section 702). Written requests need not include an explanation why information is sought or the intended use of the information unless otherwise required by law. (Section 703)*

EXHIBIT "B"

WESTERN BERKS WATER AUTHORITY  
(LETTERHEAD)

Notice Extending Response Time by Thirty (30) Days

Date: \_\_\_\_\_

TO: Requester

NAME:

ADDRESS:

RE: Record Request Dated \_\_\_\_\_, 20\_\_  
(Authority No.) \_\_\_\_\_  
\_\_\_\_\_

**NOTICE**

The undersigned is the Public Record Officer appointed by the Board of the Western Berks Water Authority ("Authority").

The Authority acknowledges receipt of a written request for access and/or copies of records. The record request was received by the undersigned, the Public Record Officer of the Authority on \_\_\_\_\_, 20\_\_.

The request for access to public records and/or copies of public records is being reviewed and in response to you the record request will not be possible within business days of receipt of the record request. The Authority will respond within 30 days of the date of this Notice. This Notice is provided under Section 901(b) of the Right to Know Law, Senate Bill 1, Act 3 of 2008 (the "Act").

The reason for the extension of time in order to comply with the record request is as follows:

1.  The request for access requires redaction of a record in accordance with Section 706 of the Act.
2.  The request for access requires retrieval of a record stored in a remote location.
3.  A timely response to the request for access cannot be

accomplished due to bon a fide and specified staffing limitations, specifically the following:

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4.  A legal review by the Authority's solicitor is necessary to determine whether the record is subject to access under the Act.

5.  You have not complied with the policies of the Authority regarding the access to records. In order for the request to be processed you must do the following:

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6.  You have not paid all applicable fees required by the Authority pursuant to policies established in accordance with the Act. The following fees are due:

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7.  The extent or nature of the request is such that a response within 5 days is impractical or impossible.

If you have any questions concerning this Notice, please contact the undersigned between the hours of 8:30 a.m. and 4:30 p.m. at 610-678-4400 or in person at the address stated above.

Very truly yours,

Open Records Officer  
Western Berks Water Authority

EXHIBIT "C"

WESTERN BERKS WATER AUTHORITY  
(LETTERHEAD)

Denial of Request to Review and/or Duplicate Western Berks Water Authority Records

Date: \_\_\_\_\_

TO: Requester

NAME:

ADDRESS:

RE: Record Request Dated \_\_\_\_\_, 20\_\_  
(Authority No.) \_\_\_\_\_  
\_\_\_\_\_

**NOTICE**

The undersigned is the Public Record Officer appointed by the Board of the Western Berks Water Authority ("Authority").

The Authority acknowledges receipt of a written request for access and/or copies of records. The record request was received by the undersigned, the Public Record Officer of the Authority on \_\_\_\_\_, 20\_\_.

The Authority has determined that your request to access the following records is denied: [list specific records/documents which will not be produced:]

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The basis for the denial of access is set forth on Exhibit "A" attached to this Notice and incorporated by reference.

You have the right to appeal the decision of the Authority denying access to the records stated above to the Pennsylvania Office of Open Records.

In order to appeal you must do the following within fifteen (15) days of the date of this Notice:

1. Send notice of your appeal to the following address:

The Pennsylvania Office of Open Records

\_\_\_\_\_  
Harrisburg, PA \_\_\_\_\_

The appeal shall state the reasons for your appeal, including why you believe the record or records to which the Authority has denied access constitute "public records". Your appeal should address the reasons stated by the Authority for denying your request for the specified records;

2. Send a copy of your notice of appeal, together with all supporting materials, to the following address:

Western Berks Water Authority  
ATTN: Open Records Officer  
91 Water Road  
Sinking Spring, PA 19608

Very truly yours,

WESTERN BERKS WATER AUTHORITY

Open Records Officer