

**OPEN RECORDS AND MEETINGS OPINION
2002-O-03**

DATE ISSUED: February 11, 2002

ISSUED TO: Fabian Noack, Attorney, Foster County Water Resource District

CITIZEN'S REQUEST FOR OPINION

On January 24, 2002, this office received a request for an opinion under N.D.C.C. § 44-04-21.1 from Richard Erickson asking whether the Foster County Water Resource District violated N.D.C.C. § 44-04-18 by failing to respond to Mr. Erickson's request within a reasonable time.

FACTS PRESENTED

In a November 23, 2001, letter to the chairman of the Foster County Water Resource District Board (Board), Mr. Erickson requested copies of the minutes of two Board meetings and a map of soil borings at a specified location. The Board did not mail the requested copies to Mr. Erickson until February 4, 2002.

ISSUE

Whether the Board violated N.D.C.C. § 44-04-18 by failing to respond to a request for copies of records within a reasonable time.

ANALYSIS

A public entity violates N.D.C.C. § 44-04-18 if it fails to respond to a person's request for copies of records within a reasonable time. N.D.C.C. § 44-04-18(7). Once a request for records is received, a public entity must either provide the requested records or explain why the records are not being provided. N.D.A.G. 98-O-04. If a person requests copies of records, a public entity may charge a "reasonable fee" for making the copies and require payment of the fee before providing the copies to the requester. N.D.C.C. § 44-04-18(2).

In this case, the Board did not provide the requested copies, deny the request, or require payment of the fee for copying the requested records until more than two months after receiving Mr. Erickson's request. Whether records have been provided within a reasonable time will depend on the facts of a given situation, but a delay of even seven working days will be closely reviewed by this office. N.D.A.G. 98-O-03.

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Two months is an unreasonable length of time to respond to Mr. Erickson's request. See, e.g., N.D.A.g. 98-O-19 (failing to provide copies of minutes within a month is an unreasonable delay). Accordingly, it is my opinion the Board violated N.D.C.C. § 44-04-18.

CONCLUSION

It is my opinion the Board violated N.D.C.C. § 44-04-18 by failing to respond to a request for copies of records within a reasonable time.

STEPS NEEDED TO REMEDY VIOLATION

The Board mailed the requested copies to Mr. Erickson at no charge on February 4, 2002. No further remedial action is necessary.

Wayne Stenehjem
Attorney General

Assisted by: James C. Fleming
Assistant Attorney General

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