



Department of Energy
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

September 19, 2013

CERTIFIED MAIL

Mr. Tom Carpenter
Hanford Challenge
219 1st Avenue South
Suite 310
Seattle, Washington 98104

Dear Mr. Carpenter:

FREEDOM OF INFORMATION ACT REQUEST (FOI 2013-00962)

This letter is an interim response to your Freedom of Information Act (FOIA) request that you sent to this office requesting agency records relating to or generated in connection with classifying Hanford tank waste as transuranic, or TRU, waste that could be sent to the Waste Isolation Pilot Plant (WIPP) in New Mexico including:

1. "Any and all records on the above subject reflecting correspondence (including letters and emails) between the Department of Energy Hanford offices, and
 - its contractors,
 - the State of Washington, including any agency thereof and/or the Office of the Governor,
 - the State of New Mexico, including any agency thereof, and/or the Office of the Governor,
 - any committee, subcommittee, or member of Congress,
 - any other DOE office external to Hanford, including but not limited to Headquarters' offices, including the Office of the Secretary of Energy, EM, HSS, General Counsel, or other DOE office, and/or
 - any other external entity if the correspondence and/or email relates to or is generated in connection with the TRU waste issue."

2. any and all records on the above subject reflecting correspondence (including letters and emails) between the Department of Energy contractors, and
 - the Department of Energy,
 - the State of Washington, including any agency thereof and/or the Office of the Governor,
 - the State of New Mexico, including any agency thereof, and/or the Office of the Governor,
 - any committee, subcommittee, or member of Congress,
 - any other DOE office external to Hanford, including but not limited to Headquarters' offices, including the Office of the Secretary of Energy, EM, HSS, General Counsel, or other DOE office, and/or

- any other external entity if the correspondence and/or email relates to or is generated in connection with the TRU waste issue.”
3. any and all records reflecting an analysis of Hanford HLW tanks identified as potential TRU waste tanks.”

In an e-mail messaged dated May 6, 2013, you limited the date range from January 1, 2003, to the date of your request. Enclosed are three drafts entitled, “Class 3 Permit Modification Request Acceptance of Hanford Site Contact-Handled Transuranic Mixed Tank Waste,” dated December 14, 2011; “ Class 3 Permit Modification Request Acceptance of Hanford Site Contact-Handled Transuranic Mixed Tank Waste From Single-Shell Tanks: 241-B-200 (B-201, B-202, B-203, and B-204) and 241-T-200 Series (T-201, T-202, T-203, and T-204) dated February 2005; and “Class 3 Permit Modification Request Acceptance of Hanford Site Contact-Handled Transuranic Mixed Tank Waste” dated January 2005. These documents are responsive to Item 2 of your request.

After review, DOE has determined that certain information should be withheld pursuant to Exemption 5 of the FOIA, 5 U.S.C. § 552(b)(5). Exemption 5 protects “inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency. 5 U.S.C. § 552(b)(5). This Exemption protects those documents normally privileged in the civil discovery process, such as pre-decisional, deliberative process material. The deliberative process protects advice, recommendations, and opinions that are pre-decisional and part of the decision-making process of the Government. This privilege protects not merely the documents, but also the integrity of the deliberative process itself where the exposure of that process, or an element thereof, would result in harm.

The documents are considered draft and were never issued or finalized. The documents do not reflect final or official DOE policy or guidance. The material being withheld as deliberative includes recommendations of the author rather than the final position of the agency. It is reasonably foreseeable that release of such information could chill open and frank discussions, limit government personnel’s range of options to consider, and thus detract from the quality of Agency decisions. In addition, full disclosure of the information may inaccurately or prematurely disclose the views of the agency. For these reasons, the information is being withheld. All factual information in the draft documents is being released.

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We continue to review documents responsive to all items of your request and will notify you when our review is complete.

All releasable information in the documents has been segregated and is being provided to you. The undersigned individual is responsible for this determination. You have the right to appeal to the Office of Hearings and Appeals, as provided in 10 CFR 1004.8, for any information denied to you in this letter. Any such appeal shall be made in writing to the following address: Director, Office of Hearings and Appeals (HG-1), U.S. Department of Energy, L'Enfant Plaza Building, 1000 Independence Avenue SW, Washington, D.C. 20585-1615, and shall be filed within 30 days after receipt of this letter. Should you choose to appeal, please provide this office with a copy of your letter.

If you have any questions regarding your request, please contact me at our address above or on (509) 376-6288.

Sincerely,

-Original Signed By-

Dorothy Riehle
Freedom of Information Act Officer
Office of Communications
and External Affairs

OCE:DCR

Enclosures