



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

CERTIFIED MAIL

December 19, 2014

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

Dear Mr. Carpenter:

FREEDOM OF INFORMATION ACT REQUEST (FOI 2014-01094)

This letter is an interim response to your Freedom of Information Act (FOIA) request that you sent to this office requesting the following records:

1. "Any and all records related to or generated in connection with a contract involving Savannah River National Lab and any Hanford contractor, including but not limited to Washington River Protection Solutions, Inc. (WRPS) and/or the Department of Energy (DOE), concerning or related to the issue of chemical vapors at the Hanford site in 2014. I have attached a Press Release from the Savannah River National Lab to assist you in identifying records responsive to this request."
2. "Any and all correspondence, directives, e-mails, texts and/or memoranda generated by personnel within the DOE's Office of River Protection that are related in any way to chemical vapor exposures, dated from March 1, 2014 to the present date."
3. "Any and all Problem Evaluation Requests (PERs) related to or generated in connection with chemical vapor incidents occurring at the Hanford site from January, 2010 to the present time."
4. "Any and all memoranda and/or reports relating to or generated in connection with incidents where employees were sent or reported for medical evaluation due to alleged vapor exposures, (to include reports of smells or odors), at the Hanford site dated from January 1, 2010 to the present."

Enclosed are documents responsive to Item 1 of your request located in the files of the DOE Office of River Protection (ORP). Within the documents, this office has made certain deletions pursuant to Exemptions 5 and 6 of the FOIA.

Exemption 5 shields from mandatory disclosure documents, which are “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); 10 C.F.R. § 1004.10(b)(5). Several traditional privileges fall under this definition of exclusion. We are invoking the attorney-client privilege and the deliberative process privilege (also known as the “pre-decisional” privilege).

The deliberative process privilege permits the government to withhold documents that reflect advisory opinions, recommendations, and deliberations comprising part of the process by which government formulates decisions and policies. The purpose of the deliberative process privilege is to promote high-quality agency decisions by fostering frank and independent discussion among individuals involved in the decision-making process. To qualify under the deliberative process privilege, the information must be both predecisional and deliberative. Information is predecisional if it is prepared or gathered in order to assist an agency decision maker in arriving at a decision. Predecisional information is also deliberative if it reflects the give-and-take of the consultative process so that disclosure would reveal the thought process of the writer. The redacted information consists primarily of contractor briefings to the DOE Office of River Protection (ORP), or briefings and discussions between DOE employees with the purpose of facilitating ORP’s decisions regarding budget and programmatic policies. As such, the redactions are warranted by Exemption 5.

We are also invoking the qualified privilege under Exemption 5 for certain information located on pages 11, 19, 28, and 40. The “common interest” doctrine permits parties whose legal interests coincide to share privileged attorney-client materials with one another in order to effectively prosecute and defend those interests. ORP and its contractors share a singular and unitary interest in conducting operations at the Hanford Site in a legal, cost-effective, and fiscally responsible manner. The convergence of the Government’s and the contractors’ interests entitles the Government to communicate confidentially with its contractors within the terms of Exemption 5.

Lastly, we have deleted personal cell phone numbers, personal electronic mail addresses and certain names pursuant to Exemption 6 of the FOIA. Exemption 6 provides that an agency may protect from disclosure all personal information if its disclosure would constitute a clearly unwarranted invasion of privacy by subjecting the individuals to unwanted communications, harassment, intimidation, retaliation, or other substantial privacy invasions by interested parties.

In invoking Exemption 6 we considered 1) whether a significant privacy interest would be invaded by disclosure of information, 2) whether release of the information would further the public interest by shedding light on the operations or activities of the government, and 3) whether in balancing the private interest against the public interest, disclosure would constitute a clearly unwarranted invasion of privacy. We have determined that the public interest in the identity of the individuals whose names and personal information appear in the documents does not outweigh the individuals' privacy interests.

Lastly, during our search for records we located certain documents generated by the DOE Headquarters (HQ) Office and the Savannah River National Laboratory. Therefore, those documents have been forwarded to each of the respective FOIA Officers for a release determination. This office has asked that each office provide a response directly to you. For your reference, the FOIA Officer for HQ's is Mr. Alexander Morris. His address is: 1000 Independence Avenue, SW, Washington, D.C. 20585, (202) 586-5955. The FOIA Officer for the Savannah River Operations Office is: Ms. Pauline Conner. Her address is: P.O. Box A, Aiken, SC., 29801. She can also be contacted on (803) 952-8134.

We also located a series of e-mails generated by the Defense Nuclear Facilities Safety Board (DNFSB). Therefore, those documents have been forwarded to the FOIA Officer at the DNFSB for a release determination. This office has asked that the DNFSB provide a response directly to you. For your reference, the FOIA Officer for the DNFSB is: Mr. Andrew Thibadeau. His address is: Information/FOIA Officer, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW, Suite 700, Washington, DC 20004. He can also be contacted on (202) 694-7000.

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.

We continue to review documents responsive to Item 2 of your request and will notify you when our search and review is complete.

Mr. Tom Carpenter

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December 19, 2014

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

Enclosure