

Freedom of Information Act (FOIA) Request
Heart of America Northwest
444 NE Ravenna Blvd., St. #406
Seattle, WA 98115
(206) 382-1014; office@hoanw.org

June 18, 2015

Dorothy Riehle
RL/ORP Freedom of Information and Privacy Act Officer
U.S. Department of Energy
P.O. Box 550
Richland, Washington 99352
Email: dorothy.riehle@rl.gov; dorothy_c_riehle@rl.gov

FOIA Request regarding Leaking Single Shell Tanks

Dear Ms. Riehle,

On behalf of Heart of America Northwest and Heart of America NW Research Center, pursuant to the Freedom of Information Act (52 U.S.C 552), we are requesting copies of all public records (including emails, electronic and paper records) relating to:

1. The official report required by Washington Administration Code 173-303-640 (7)(d)(ii) and RCRA 40 CFR 264/265.196(d)(ii), on detectable or potential leaks from High-Level Nuclear Waste Single Shell tanks B-203, B-204, T-111, T-203, T-204, and TY- 105, including reports filed with: (a) The Department of Ecology; and (b) The National Response Center from 2010 on. The report(s) pertain to:
 - a. Likely route of migration.
 - b. Characteristics of surrounding soil of the detectable or potential leaks.
 - c. Results of monitoring and sampling in connection with the detectable or potential leaks.
 - d. Proximity of the detectable or potential leaks to down gradient drinking water, service water, and populated area.
 - e. Description of response action taken to mitigate the detectable or potential leaks.
2. All records relating to whether there was a potential or detectable release from the aforementioned tanks and when the release was detected from these tanks, including but not limited to:
 - a. Correspondences or discussions, including but not limited to, letters, notes, email messages (and attachments corresponding to those emails), and phone logs, about the detectable or potential leak from the last ten years.
 - i. This includes correspondence or discussions with regulators or contractors.
 - b. All monitoring or other reports and evaluations of detectable or potential leaks in the last ten years.

3. Any correspondence between USDOE and the Washington Department of Ecology relating to analysis of whether USDOE was required to report pursuant to the statutes and rules cited in item 1 (above), and the adequacy of required reports.
 - a. This includes, but is not limited to, internal and contractor records regarding the duty to file the reports cited in item 1 (above), and factual and legal bases for determining if reporting potential or documented releases from the tanks was required.
4. Plans to respond to detectable or potential leaks from the aforementioned tanks pursuant to 40 CFR 264/265.196 (7) and W.A.C. 173-303-640 (7), including but not limited to any plan to, at the “earliest practicable time, remov[e] as much waste as is necessary to prevent further release of dangerous waste to the environment and to allow inspect and repair of the tank system to be performed.”

This request includes, but is not limited to, preliminary and final reports, memoranda, schedules, and correspondence whether in hard copy or electronic form. Correspondence includes, but is not limited to, letters, notes, email messages (and attachments corresponding to those emails), and phone logs.

In the event that access to any of the requested records is denied, please note that FOIA provides that “[a]ny reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under [FOIA].” 5 U.S.C. § 552(b). Please provide all non-exempt portions of the requested records that are reasonably segregable; and describe the deleted material in detail and specify the statutory basis for the denial, as well as your reasons for believing that the alleged statutory justification applies in each instance. Please separately state your reasons for not invoking your discretionary powers to release the requested documents in the public interest.

We request a waiver of fees because disclosure of this information is in the public interest. Disclosure will contribute significantly to the public understanding of the operations of government activities (USDOE & Washington State Department of Ecology), and our organization has no commercial interest.

Specifically this request and our organization as the requesters meet the fee waiver criteria set out in 10 C.F.R. § 1004.9:

1. The subject matter of the requested records must specifically concern identifiable “operations or activities of the government.” A request for access to records for their informational content alone does not satisfy this factor.

Response:

The subjects of the requested records are the USDOE’s activities concerning leaking tanks, the records required under the WAC and RCRA and operations of the USDOE at Hanford and the cleanup plans by the government.

2. For the disclosure to be “likely to contribute” to an understanding of specific government operations or activities, the releasable material must be meaningfully informative in

relation to the subject matter of the request.

Response:

The requested and release material will enable us to inform the public about the operations of USDOE in regards to the leaking tanks and assess the adequacy of the required response regarding the detectable or potentially leaking tanks. We mail Citizen's Guides to 10,000 people, as well as distributing online, and work with news media to disseminate to the public summaries which we will prepare from the obtained information in the requested records. Previous work with the news media, which exemplifies our contributing to public understanding of government operations regarding leaking tanks at Hanford, includes the investigatory series from King TV regarding the leaking double shell tank AY-102. We will provide news media appropriate summaries and citations from requested records to continue this work.

3. The disclosure must contribute to the understanding of the public at large, as opposed to the understanding of the requester or a narrow segment of interested persons. One's status as a representative of the news media alone is not enough.

Response:

Our organization expects to inform the public about the pending RCRA permit for Hanford's Single Shell Tanks, tank closure plans pursuant to the permit, and its adequacy in meeting hazardous waste laws. Requested records bear directly on elements of closure and other required plans, such as responses to leaks. We plan to present material summarizing information from requested records at public workshops on the proposed permit revision and closure plans, as well as public meetings on the status of Hanford Cleanup.

We have already published newsletters and presented workshops utilizing information from similar FOIA requests to USDOE and other agencies, and expect to use this information for upcoming newsletters, workshops, website materials, etc... As we have done in the past, we will summarize information from records in Citizen's Guides sent to 10,000 people, as well as distributing online, and work with news media such as King TV to disseminate to the public the obtained information. Previous work with the news media includes the investigatory series from King TV regarding the leaking double shell tank AY-102, for which KING TV won a Peabody award for its investigative reporting.

4. The disclosure must contribute "significantly" to public understanding of government operations or activities.

Response:

We have experts, recognized by the national media, including board members who worked for the regulation agencies, who are well qualified to review and summarize the records in a presentable and understandable format. Furthermore, we mail Citizen's Guides to 10,000 people, as well as distributing online, and work with news media such as King TV to disseminate to the public the obtained information. Previous work with the news media includes the investigatory series from King TV regarding the leaking double shell tank AY-102. Other news media who have relied on records and summaries of records we obtained via FOIA include ABC World News, CBS, CNN, NPR, the NY Times, Washington Post, The Oregonian and The Seattle Times.

Our publications and work with the news media will be designed to use information from this request to inform the public of USDOE operations. Prior to our research relying on similar FOIA materials, the public had very little information about leaking single shell tanks. The public has a right to know if federal agencies have complied with federal environmental laws. The question of whether federal officials comply with relevant laws significantly contributes to the public's understanding of government operations.

Our research and summaries of findings from FOIA requests have been the basis of significant public discussion and understanding reflected in adoption of formal advice to the USDOE, Washington Ecology and US EPA by the Hanford Advisory Board and presented at numerous public forums. We expect to present summaries of our research from requested records to the Board in public forums for summarizing in widely disseminated and widely covered, advice.

5. The extent to which disclosure will serve the requester's commercial interest if any.

Response:

The requester has no commercial interest. We are a non-profit citizens group with an educational mission.

6. The extent to which the identified public interest in the disclosure outweighs the requester's commercial interest.

Response:

The requester has no commercial interest and seeks the disclosure solely in the public interest.

We therefore request a fee waiver pursuant to 5 USC 552.

We urge you to act promptly on this request, because of the need for public information on whether response actions should occur, including funding, for tanks that have been, or may have been, leaking for an undisclosed amount of time. Leaks have been in the news and, although it was announced that the tanks were leaking, the public and our organization are concerned whether action has been taken. Furthermore, the District Court is currently reviewing an appeal of the Consent Decree for updating required milestones for emptying Single Shell Tanks, which pertains to the urgency of disseminating the information for public understanding of this proceeding and the adequacy of the US Department of Energy's and Washington Ecology's proposals to amend the decree, and responses. Additionally, the leaking tanks have a negative impact on the environment that needs to be mitigated as soon as possible. Thus, access to the requested records should be granted within twenty (20) working days from the date of your receipt of this email. Failure to respond in a timely manner shall be viewed as denial of this request and we may immediately file an administrative appeal. Thank you in advance for your prompt reply.

For any requested records, which are in commonly used, and easily copied, electronic formats (e.g. Word, emails, pdf) please provide the records to us in that electronic format to save time and reduce costs. If some records are available sooner than others, please forward those rather

than waiting for a search for other reasons. Please email those copies which are available electronically to the addresses below.

Thank you in advance for your prompt response. Please forward all responses to Gerry Pollet and Heart of America Northwest.

Dylane Jacobs,

Legal Intern, on behalf of
Gerry Pollet, Exec. Director and Legal Counsel
Heart of America Northwest
444 NE Ravenna Blvd., St. #406
Seattle, WA 98115
Gerry@hoanw.org; (cc) office@hoanw.org
(206) 382-1014