NNSA
A46

FOIA 08-192-P
Rec'd 6/3/08 EDB

May 22, 2008

Freedom of Information Act Officer
Office of Public Affairs/FOIA, NNSA/SC
P.O. Box 5400
Albuquerque, NM 87185-5400
Fax: (505) 845-5438

"OTHER" - 2 HOURS SEARCH FREE, 100 FREE PAGES

Re: Freedom of Information Act request regarding the 2008 security assessment Livermore Lab

FEB 11 2009 03

To Whom It May Concern:

This is a request under the Freedom of Information Act (FOIA).

Tri-Valley CAREs would like to formally request copies of all documents concerning the 2008 assessment of the security programs at Lawrence Livermore National Laboratory (LLNL or Livermore Lab) conducted by the Department of Energy's (DOE) Office of Health, Safety and Security (HSS). This request includes, but is not limited to, HHS's preliminary and final inspection reports; security, technical, operational, and hazard assessments; debriefing materials; memoranda; schedules; and correspondence, whether in hard copy or electronic form. Correspondence includes, but is not limited to, letters, notes, e-mail messages, and phone logs or notes.

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). Tri-Valley CAREs therefore requests that it be provided with all non-exempt portions of the requested records that are reasonably segregable. Tri-Valley CAREs further requests that you 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. Such statements will be helpful in deciding whether to appeal an adverse determination and in formulating arguments in case an appeal is taken. DOE's written justification might also help to avoid unnecessary litigation. Of course, Tri-Valley CAREs reserves its right to appeal the withholding or deletion of any information and expects that you will list the office and address where such an appeal can be sent.

Tri-Valley CAREs requests a waiver of all fees for this FOIA request. Disclosure of the requested information to Tri-Valley CAREs is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in our commercial interest. Tri-Valley CAREs meets the fee waiver criteria set out in 10 C.F.R. § 1004.9:

N/A FOIA-2009-000082 Joan

1. Whether the subject of the requested records concerns the "operations or activities of the government."

The Department of Energy (DOE) and its operations and activities—including the 2008 Livermore Lab security assessment—are operations or activities of the government.

2. Whether the disclosure is "likely to contribute" to an understanding of government operations or activities.

Further information regarding the 2008 assessment of the security programs at Livermore Lab will contribute to an understanding of government operations and activities. This information concerns the adequacy of the security programs at Livermore Lab, particularly with regard to the threat of terrorist attack. As such, this information is vitally important in understanding the government's efforts to ensure the safety of LLNL employees, the surrounding communities, and the San Francisco Bay Area.

3. What contribution to an understanding by the general public will result from disclosure?

Tri-Valley CAREs uses information obtained through FOIA to help the general public and others understand the operations and activities of the government, specifically DOE and its Livermore Lab. Tri-Valley CAREs publishes a monthly newsletter, circulated free of charge to interested parties. Information obtained from FOIA requests is used in the newsletter to increase public understanding of DOE activities, and it is expected that information obtained through this request will be used in our newsletter.

In addition, Tri-Valley CAREs uses information derived from FOIA requests in its fact sheets, reports, and other materials that are distributed, like our newsletter, to the media, elected officials, regulatory agencies, other organizations, and the general public. Information is also available on our web site at http://www.trivalleycares.org. Moreover, information provided by Tri-Valley CAREs is used regularly by local, regional, and national media.

Tri-Valley CAREs seeks these records in order to inform the public about important government operations and activities. Again, this information concerns the adequacy of the security programs at Livermore Lab. Since LLNL houses plutonium and other hazardous materials, which may be desirable to terrorists, a robust security regime is essential. Media reports have indicated that Livermore Lab failed portions of the security assessment, which indicates a threat to both surrounding communities and the nation at large. Disclosure of this information will contribute to an understanding by the public of the adequacy of the security programs at LLNL and any steps that should be taken to reduce and counter the terrorist threat. For instance, this information may indicate that plutonium should be removed from Livermore Lab at an accelerated rate.

By obtaining these records, Tri-Valley CAREs will benefit the public and contribute to its general understanding. This is the group's mission, as laid out in its articles of incorporation and its 501(c)(3) status.

4. Whether the disclosure is likely to contribute "significantly" to public understanding of government operations or activities.

The 2008 security assessment for Livermore Lab concerns an issue of paramount importance, namely the ability of LLNL to prevent or repel a direct terrorist attack on the facility. Such an attack could have devastating consequences, both locally and nationally, with impacts to public health and safety, as well as the environment. Disclosure of this information will contribute significantly to public understanding of the government's ability to secure nuclear and other hazardous materials at Livermore Lab.

Additionally, Tri-Valley CAREs has the means (see #3 above) and the track record to be "likely to contribute 'significantly' to public understanding."

5. Whether the requester has a commercial interest that would be furthered by the requested disclosure.

This is not applicable in the case of Tri-Valley CAREs. As mentioned, Tri-Valley CAREs is a 501(c)(3) public benefit organization. We provide the information to the public free of charge.

6. Whether a commercial interest is "primary."

This is not applicable to Tri-Valley CAREs. We have no profit motive.

In light of the above, Tri-Valley CAREs requests a fee waiver for the disclosure of this information.

Tri-Valley CAREs asks that our request receive expedited processing because there is a compelling need for these documents. As specified above, media reports have indicated that the 2008 security assessment identified a number of deficiencies in the security programs at Livermore Lab. These deficiencies threaten the health and welfare of the 7 million individuals living within a 50-mile radius of LLNL. Disclosure of this information could facilitate important changes to the security program and other mitigating steps that could reduce this risk. As such, this request should receive expedited processing.

Access to the requested records should be granted within twenty (20) working days from the date of your receipt. Failure to respond in a timely manner shall be viewed as a denial of this request and Tri-Valley CAREs may immediately file an administrative appeal. Thanking you in advance for your prompt reply.

Tri-Valley CAREs requests that the information it seeks be provided in hard copy and electronic formats. Tri-Valley CAREs would like to receive the requested documents on a CD-ROM, provided this will not occasion a significant delay in the processing of this request.

Sincerely,

Robert Schwartz
Staff Attorney
Tri-Valley CAREs
2582 Old First Street
Livermore, CA 94551
Phone: (925) 443-7148
Fax: (925) 443-0177
rob@trivalleycares.org

Morris, Alexander

From: Peterson, Shirley [speterson@doeal.gov]
Sent: Wednesday, February 11, 2009 3:01 PM
To: Morris, Alexander
Subject: FOIA 08-192-P
Attachments: DOE-HQ-HSS-FOIA.pdf

We are also furnishing 2 other responsive documents:
1. Email from Bud Marsh to Duane Gordon, dated 4/22/08, Subject: MC&A Comments
2. Memorandum w/attachment, from Duane Gordon to John Boulden, dated 5/14/08, Subject: Cyber Security Inspection Report - Factual Accuracy Comments, 5637.2 COR-SS-5.12.2008-75409

From: Peterson, Shirley
Sent: Wednesday, February 11, 2009 12:52 PM
To: Morris, Alexander (HQ)
Cc: Becknell, Carolyn
Subject: RE: FOIA 08-192-P

* Chris:

I am sending this request to you for your action. I spoke with the HSS folks who were here meeting with Karen Boardman, showed the request to them, and gave them a "heads up" that I would be sending it to you. NNSA will answer the NNSA portion of the request directly with the requester, and your office could do likewise.

Classified documents being reviewed by OD, which our office will be furnishing to the requester are:
1. S/NSI Memo Gordon/Yonkoff, 5/14/2008, Subject: "LSO comments dtd 8/14/2008, to the Independent Oversight Safeguards and Security Inspection of the Livermore Site Office and Lawrence Livermore National Laboratory Report, Summary and Volume I"(U)
2. S/NSI Document "Response to HSS Draft Reports dated April 24, 2008"(U)

From: Morris, Alexander [mailto:Alexander.Morris@hq.doe.gov]
Sent: Wednesday, February 11, 2009 10:03 AM
To: Peterson, Shirley
Subject: FOIA 08-192-P

Hey Shirley,

If you have some time today, would you call me about this request?

Thanks

Chris 202 586-3159