



Heart of America Northwest

The Public's Voice for Hanford Cleanup

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October 8, 2010

FOI 2011-00105
Rec'd 10-21-2010

Dorothy Riehle
RL/ORP Freedom of Information and Privacy Act Officer
US Department of Energy
P.O. Box 550
Richland, Washington 99352

FOIA Request regarding USDOE's 2004 Final Hanford Site Solid Waste Program
Environmental Impact Statement (Final HSW EIS)

Dear Ms. Riehle,

Pursuant to the Freedom of Information Act (5 U.S.C. 552), we are requesting copies of all public records (including email, electronic, and paper records) generally relating to:

- 1) The adequacy of USDOE's 2004 Final HSW EIS, including:
 - a. All correspondences between USDOE and Battelle (the primary contractor for the Final HSW EIS) in 2004 and 2005 relating to the adequacy of analysis, and/or quality assurance, and/or monitoring, and/or compliance with NEPA in preparing the Final HSW EIS;
 - b. All correspondences between USDOE and the State of Washington between 2004 and 2005 relating to the above-referenced conclusion, including any records relating to the adequacy of analysis, and/or quality assurance, and/or monitoring, and/or compliance with NEPA in preparing the Final HSW EIS;

In addition to information pertaining to the adequacy of the Final HSW EIS discussed above, we are specifically looking for information pertaining to USDOE's July 2005 conclusion¹ that the information in the groundwater cumulative impact analysis published in Appendix L of DOE's 2004 Final Hanford Site Solid Waste Program Environmental Impact Statement (Final HSW EIS) was different than certain input parameters employed in the System Assessment Capability (SAC) computer model files that were used to prepare that analysis.

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, e-mail messages (and attachments), and phone logs.

¹ Specifically, this conclusion was contained in USDOE's "Notice Regarding NEPA Analysis and Discovery Deadline" in *State of Washington v. Bodeman and USDOE* (No. CT-03-5018-AAM), at page 2, lines 4-16.

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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 and federal and state regulators), and our organization has no commercial interest.

Specifically, this request and our organizations as 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 subject of the requested records are USDOE’s waste management and disposal operations at USDOE’s Hanford Nuclear Reservation, including USDOE’s interactions with the State of Washington and contractors responsible for NEPA document preparation pertaining to the Hanford Nuclear Reservation.

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 released material will enable us to assess the adequacy of USDOE’s NEPA review process and the degree to which NEPA, CERCLA, and APA have been followed and correctly applied at the Hanford Nuclear Reservation.

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 USDOE's proposal to ship radioactive waste from USDOE facilities across the nation to Hanford. Additionally, our organization expects to inform the public about USDOE's ongoing waste management operations at Hanford, as well as the adequacy of USDOE's NEPA review process in this regard. 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. Depending on what information is disclosed, we may utilize the requested materials in presentations to university courses.

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

Response:

Our publications and workshops will be designed to use information from this request to enable the public to understand and comment on recent and/or anticipated developments at Hanford, including relevant NEPA documents.

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 public understanding of government operations.

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 timely review of records to effectively participate in comment periods on impact statements and proposed permitting actions. 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 we may immediately file an administrative appeal. Thanking you in advance for your prompt reply.

For any of the requested records which are commonly used, and easily copied, electronic formats (e.g. Word, emails, pdf), please provide the records to us in that electronic format to save

times and reduce costs. If some records are available sooner than others, please forward those rather than waiting for a search for other records.

Please direct all questions and correspondences to me and the Gonzaga University Legal Assistance Environmental Law Clinic address listed below

Thank you in advance for your prompt response.

On behalf of Legal Heart of America Northwest,
Sean Hackett

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Environmental Law Clinic Research Assistant
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P.S. If you have any questions about the scope of this request or our qualification for a fee waiver, please email or call me.

<p align="center">OFFICIAL USE ONLY</p> <p>May be exempt from public release under the Freedom of Information Act (5 U.S.C.552) exemption number and category: Exemption 6 - Personal Privacy Department of Energy review required before public release Name/Org: Dorothy Riehle/DOE-FOWPA Officer Date: _____ Guidance (if applicable): 5USC 552 _____</p>
