



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

August 23, 2011

CERTIFIED MAIL

Ms. Ross Pearson
Heart of America Northwest
1314 NE 56th Street Suite 100
Seattle, Washington 98105

Dear Ms. Pearson:

FREEDOM OF INFORMATION ACT REQUEST (FOI 2011-01476)

Your Freedom of Information Act (FOIA) request dated July 12, 2011, was received in this office on that same day. In that letter you requested the following records:

1. "All documents and records relating to discussions, meetings, negotiations, correspondence and agreements between Washington Department of Ecology ("Ecology") (or anyone representing the Department of Ecology, including from the Office of the Attorney General) and the United States Department of Energy ("USDOE") (and any of its contractors) regarding Ecology's policy related to withholding or disclosure of USDOE documents marked Official Use Only ("OUO") or "sensitive" in response to Public Records Act requests."
2. "All documents and records relating to proposed and scheduled meetings between Ecology (or anyone representing the Department of Ecology, including from the Office of the Attorney General) and USDOE to discuss Ecology's policy to withhold USDOE documents marked OUO from Public Records Requests."
3. "All documents and records relating to discussions between Ecology (or anyone representing the Department of Ecology, including from the Office of the Attorney General) and USDOE regarding Ecology's ability to change the OUO policy it issued per the Stipulation and Agreed Order of Dismissal, No. 10-2-01411-7, filed on October 18, 2010 in settlement of Heart of America Northwest v. State of Washington Department Of Ecology. This includes, but is not limited to, emails and notes of meetings or calls (handwritten or other), and metadata associated with emails."
4. "All drafts of, and reviews or comments on, proposed changes to Ecology's OUO policy it issued per the Stipulation and Agreed Order of Dismissal, No. 10-2-01411-7, including the date each draft was written. This includes, but is not limited to, emails and notes of meetings or calls (handwritten or other), and metadata associated with emails."

August 23, 2011

Enclosed is an e-mail dated February 14, 2011, that has been deemed responsive to items 1, 2 and 4. This office has deleted certain information in this document pursuant to Exemption 5 of the FOIA. The deleted material summarized communications between RL attorneys and their clients and was based upon expressed opinions on legal and policy matters. We have determined the information is protected from disclosure pursuant to the attorney-client and deliberative process privileges. Material determined to be exempt from mandatory disclosure may be released however, if disclosure is determined to be in the public interest. We have determined the public interest is best served by non-disclosure because disclosure of this information would harm the government by tending to inhibit free pre-decisional discussion of policy issues as well as candid attorney-client discussion of legal matters. In addition, information considered not responsive to your request has also been deleted from the document.

We have conducted a thorough search and no documents were located for item 3 of your request. This search was conducted by those within the agency who are most familiar with the subject matter of your request, in locations where documents would most likely be found. For documents responsive to your request, we specifically searched the files of the Office of Chief Counsel, Environmental Management Division, and the Integrated Data Management System that stores correspondence.

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 or for the adequacy of our search. 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,



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

OCE:DCR

Enclosure