



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

October 24, 2011

CERTIFIED MAIL

Mr. Thomas Carpenter
Hanford Challenge
219 1st Avenue South, Suite 120
Seattle, Washington 98104

Dear Mr. Carpenter:

FREEDOM OF INFORMATION ACT REQUEST (FOI 2011-01870)

Your Freedom of Information Act (FOIA) request dated September 7, 2011, was received in this office on September 13, 2011. In that letter you requested any and all records related to or generated in connection with a letter dated July 7, 2011, transmitting a U.S. Department of Energy (DOE) surveillance report sent to Mr. J.G. Lehew subject "Contract No. DE-AC06-08RL14788 – Transmittal of Surveillance Report Planning and Execution of Radiological Work (S-11-SED-CHPRC-PFP-002)." Specifically you requested:

1. "Any and all correspondence related to or generated in connection with this letter and/or Surveillance Report, regardless of author."
2. "Any and all memoranda related to or generated in connection with this letter and/or Surveillance Report."
3. "Any and all emails related to or generated in connection with this letter and/or Surveillance Report."
4. "Any and all drafts of the Surveillance Report referenced above."
5. "Any and all notes related to or generated in connection with this letter and/or Surveillance Report."

This is a partial response and enclosed are the draft versions of the surveillance report responsive to item 4 of your request. Within the documents, we have made certain deletions pursuant to Exemption 5 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). There are three traditional privileges that fall under this definition of exclusion: the attorney-client privilege, the attorney work-product privilege, and the executive "deliberative process" or "pre-decisional" privilege. In this case, we are invoking the deliberative process 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

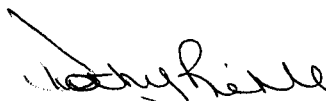
predecisional if it is prepared or gathered in order to assist an agency decision maker in arriving at a decision. Predecisional information is also deliberative if it reflects the give-and take of the consultative process so that disclosure would reveal the thought process of the writer.

Material determined to be exempt from mandatory disclosure may be released 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 the predecisional, deliberative material could adversely affect DOE's ability to obtain straightforward and frank recommendations and opinions in the future. This would stifle the free exchange of ideas and opinions which is essential to the sound functioning of DOE programs. The information withheld from the draft documents were not incorporated into the final version of the document. In addition, we do not believe that a discretionary release of the withheld material would be in the public interest.

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 search and review documents for the remaining items of your request. We will notify you when this process is complete. 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

Enclosures