



Confederated Tribes and Bands  
of the Yakama Nation

0094779

Established by the  
Treaty of June 9, 1855

March 3, 2011

Jill Conrad  
Department of Energy  
Richland Operations Office  
P. O. Box 550  
Richland, WA 99352

RE: Request for "No Potential to Cause Effect" reports.

Dear Ms Conrad,

The purpose of this letter is to formally request copies of the "No Potential to Cause Effect" (NPCE) reports from the years 2003 through the present. Yakama Nation Environmental Restoration Waste Management (YN ERWM) has verbally requested this information on several occasions. You have informed us that these documents were not owned by Department of Energy(DOE), rather belong to the contractors that produced them. If you refer to the 10CFR 1004.3 (e)(1) it is clear that the DOE does own these documents as long as the contractor was paid by DOE.

"When a contract with DOE provides that any records acquired or generated by the contractor in its performance of the contract shall be the property of the Government, DOE will make available to the public such records that are in the possession of the Government or the contractor, unless the records are exempt from public disclosure under 5 U.S.C. 552(b)."

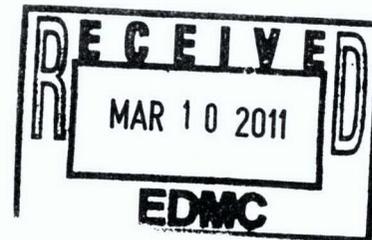
According to 5 U.S.C 552(b) these NPCE reports should be public information as they:  
Do not relate to National Defense.  
Are not related solely to internal personnel rules and practices.  
Are not documenting trade secrets.

However, they may be specifically exempted by a statute other than this...if in fact there was a statute developed for these particular records with criteria established for excluding them from public record. In which case, YN ERWM requests to see the document excluding these specific records.

Thank you for your time in processing this request.

Sincerely

Russell Jim  
ERWM Program Manager



cc:

Sam Jim Sr., RHWC  
Andrea Spencer, YN DNR  
Donald Isadore, RHWC  
Rob Whitlam, DAHP

Lavina Washines, RHWC  
Marlene Shavehead, YN ER/WM  
Warren Spencer, RHWC  
Administrative Record