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STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

7601 W. Clearwater, Suite 102 • Kennewick, Washington 99336 • (509) 546-2990

July 24, 1992

RECEIVED
B. G. ERLANDSON

AUG 05 1992

ACTION _____
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Mr. Wm. Lynn Engles
Director, Office of Communications
Department of Energy
Richland Field Office
P.O. Box 550
Richland, Washington 99352



Dear Mr. Engles:

Re: July 16, 1992 Letter to Steve Moore of Ecology

Mr. Moore has informed me that the Department of Energy (DOE-RL) is considering our written requests for Westinghouse Hanford Company (WHC) personnel training records as a Freedom of Information Act (FOIA) request. He has also briefed me regarding phone conversations he had between yourself and Yvonne Sherman of your staff in response to the referenced letter. In response to your letter and these conversations, I want to ensure that your office understands the position of the Washington State Department of Ecology (Ecology) concerning access to employee training records. I also want to make clear the Washington State Attorney General's (AG) office role in the matter.

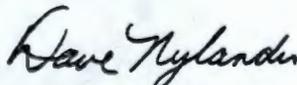
- 1) The AG's office has not made an agreement for Ecology concerning access to training records. A letter from Tanya Barnett of the AG's office was distributed which included a synopsis of a meeting she had with your legal staff, and a proposed form to be used if we intended to request documents under the FOIA. This form was a draft proposal that Ecology does not intend to use and the meeting synopsis in no way constitutes an agreement by Ecology to use FOIA. The Washington Administrative Code (WAC) 173-303 clearly grants authority for inspectors to review these records while performing inspections. Additionally, it is the opinion of Ecology that the routine use clause in the Privacy Act would allow these records to be accessed.
- 2) The interpretation of DOE-RL that our written request for records is a FOIA request is one made solely by DOE-RL. The Document request form in use by my inspectors is a standard Ecology form. This form is used to obtain records that are not available at the time of an inspection or as a receipt of documents received if the regulated facility requests such a receipt.

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- 3) Continued refusal to permit Ecology inspectors access to training records as specified in WAC 173-303 will continue to be viewed as denial of access to these records. Providing these records after the fact, and in a computer generated form, does not meet our need to see actual training status of personnel during our inspections.
- 4) Each facility is required to maintain training records at the facility and in an auditable fashion. Failure to do so is a violation of WAC requirements. I request that you reply to me regarding what form of record is used by WHC to show compliance with the WAC 173-303 requirements i.e., either the hard copy or computer file of an employee's training. I also need to know what is to be expected with respect to timely updating of the designated record.
- 5) I have instructed inspectors who work with DOE-RL\WHC to submit any requests for training records to your office along with our normal submittal to WHC Facility Compliance. Until records are made available to my inspectors according to WAC requirements, or Ecology decides on a policy change, denial of access will remain a finding in our inspection reports.

I hope to receive your reply to my request in item 4 and that this letter is helpful in clarifying WAC 173-303 requirements. If you have any questions regarding this letter, or the position of Ecology on this matter please feel free to contact Steve Moore or myself at (509) 546-2990.

Sincerely,



Dave Nylander
Office Manager
Department of Ecology
Nuclear and Mixed Waste Management Program - Hanford Project

DN:sm

cc: Roger Stanley, Ecology
Toby Michelena, Ecology
Tom Tebb, Ecology
Laurie Davies, Ecology
Casey Ruud, Ecology
~~Brad Erlandson, WHC Facility Compliance~~
Ron Izatt, USDOE
Paul Day, EPA
Administrative Record

