



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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March 1, 2021

21-NWP-029

Brian T. Vance, Manager  
Richland Operations Office  
United States Department of Energy  
PO Box 550, MSIN: H5-30  
Richland, Washington 99352

Re: Modified Inspection Process Discussion

Dear Brian T. Vance:

Thank you for the continued discussion related to the U.S. Department of Energy's (USDOE) concerns over protection of sensitive information that might be inadvertently captured in photographs taken by Department of Ecology (Ecology) inspectors.

Ecology understands your concern about protecting national security and other sensitive information, and we believe you understand our concern that Ecology inspectors are able to deploy best practices during inspections of USDOE facilities that Ecology is tasked with regulating.

As you are aware, two recent inspections at the Hanford site brought this issue to an inflection point, and the reports from those inspections were issued February 11, 2021 (Letter 21-NWP-023 and Letter 21-NWP-026). Those reports reflect that USDOE and Ecology disagree about the legal framework surrounding USDOE's authority to govern when inspection photos can be released to inspectors.

Despite that disagreement, we understand that Ecology and USDOE have worked together to find a path forward that balances the parties' competing concerns, and we fully intend to support that path. We believe that the process outlined will satisfy the concerns noted in the inspection reports and will not result in formal dispute, penalty, or administrative order. When it comes to that process, we understand that part of USDOE's concern centers on the potential disclosure of inspection photographs under Washington's Public Records Act (PRA).

The process offered to expedite review notes that there may be limited situations in which the SD (SanDisk) or other digital storage device may not be immediately releasable to Ecology. In those cases, the SD would remain under secure control of either party, with the party not having physical possession maintaining the means of accessing the original SD card. In that case, and after consulting with the Washington Attorney General's Office, Ecology believes that it would not be in "possession" of the photos until USDOE completes its review for purposes of the PRA. Ecology will notify USDOE of any requests for inspection photos as a courtesy.

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Again, we appreciate the dialog that has occurred surrounding this issue, and look forward to an amicable resolution. If you have questions or need further information, please contact John Price, Tri-Party Agreement Section Manager, at [john.price@ecy.wa.gov](mailto:john.price@ecy.wa.gov) or (509) 372-7921.

Sincerely,

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David B. Bowen  
Program Manager  
Nuclear Waste Program

cc electronic:

Dave Einan, EPA  
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