



U.S. Department of Energy Hanford Site

February 26, 2021

21-AMSE-000716

Mr. David Bowen, Program Manager
Nuclear Waste Program
Washington State Department of Ecology
3100 Port of Benton Boulevard
Richland, Washington 99354

Dear Mr. Bowen:

AGREEMENT ON THE CLEARANCE OF INSPECTION PHOTOGRAPHS

- References:
1. Ecology letter from A. Shaffer to B. T. Vance, DOE, and R. E. Wilkinson, HMIS, "Dangerous Waste Compliance Inspection on February 4, 2021, at the Centralized Consolidation and Recycling Center (CCRC), RCRA Site ID: WA7890008967, Nuclear Waste Program (NWP) Compliance Index No.: 21.733," 21-NWP-026, dated February 11, 2021.
 2. Ecology letter from P. Buser to B. T. Vance, DOE, and J. R. Eschenberg, WRPS, "Dangerous Waste Compliance Inspection on January 28, 2021, at Double Shell Tank Systems, 204-AR Waste Unloading Station, and Central Accumulation Areas, RCRA Site ID: WA7890008967, Nuclear Waste Program (NWP) Compliance Index No.: 21.732," 21-NWP-023, dated February 11, 2021.

Thank you for the constructive dialog we have had on how to expedite release of the Washington State Department of Ecology (Ecology) inspector's photographs while meeting the national security and other information clearance requirements of the Hanford Site. We have drafted a process, which you have agreed to, by which Hanford Site personnel will review photographs at the inspection site (if feasible) for any obvious release concerns and then expedite and prioritize review of the photographs by information clearance professionals. In most cases, this prioritization will allow inspectors to take possession of their photographs on the same day they are taken.

The outlined process (Attachment) will be incorporated into Hanford procedures, specifically HMIS-PRO-RM-184, "Information Clearance." This process may take several months to implement. In the meantime, we will develop a pilot program to facilitate this expedited review and further hone the process.

We recognize we have had a difference of opinion as to whether the U.S. Department of Energy's insistence on following information clearance requirements was a "denial of access" as some Ecology inspectors have concluded, reflected in Reference 1., Reference 2., and accompanying inspection reports. Paragraph 115 of the Hanford Federal Facility Agreement and Consent Order (HFFACO) provides that, "DOE shall honor all requests for access by EPA and Ecology, conditioned only upon presentation of proper credentials, conformance with Hanford Site safety and security requirement[s], and shall be conducted in a manner minimizing interference with any operations at Hanford." However, with this agreement to implement an expedited process for clearance of inspection photographs, we have agreed our differing interpretations of the HFFACO and other requirements will not result in formal dispute, penalty, or administrative order, and that the expedited process resolves the alleged non-compliances cited in the referenced letters and reports.

If you have any questions, please can contact me, or your staff may contact Glyn D. Trenchard, Acting Assistant Manager for Safety and Environment, RL, on (509) 373-4016.

Sincerely,

Brian T.
Vance

 Digitally signed by Brian T. Vance
Date: 2021.02.26 14:45:56 -08'00'

Brian T. Vance
Manager

AMSE:GDT

Attachment

cc w/attach:

H. M. Bowers, WRPS
J. E. Bramson, CPCCO
S. L. Brasher, HMIS
P. E. Buser, Ecology
K. A. Conaway, Ecology
J. R. Eschenberg, WRPS
D. R. Einan, EPA
R. Haggard, BNI
J. T. Hamilton, WRPS
J. W. Mathey, Ecology
V. McCain, BNI
J. K. Perry, HMIS (HF Operating Record, A3-01)

B. Ponte, BNI
J. B. Price, Ecology
S. M. Sax, CPCCo
A. M. Schaffer, Ecology
S. A. Szendre, HMIS
R. E. Wilkinson, HMIS
C. Williams, EPA
M. B. Wilson, HMIS
K. Wood, AGO
Administrative Record
Environmental Portal, G3-35

Attachment
21-AMSE-000716

Process for DOE to Review Regulator Photos

February 18, 2021

(3 pages including cover sheet)

Process for DOE to Review Regulator Photos

February 18, 2021

This process was coordinated by Marla Marvin, Attorney, Department of Energy (DOE) Hanford, and Kelly Wood, Assistant Attorney General, Office of the Attorney General, to resolve issues related to expedited clearing for public release of photographs taken by Washington State Department of Ecology (Ecology) inspectors. The process will be referenced in an exchange of letters between DOE Hanford and Ecology, which will also respond to letters 21-NWP-023 and 21-NWP-026 and accompanying inspection reports. The agencies recognize this process may undergo slight revision to ensure it facilitates the two agencies' needs and thereafter will become part of the MSC-PRO-RM-184, "Information Clearance" procedure.

1. To facilitate same-day clearance, regulators will strive to schedule inspections with at least 48 hours (two business days) notice and strive to begin inspections at or before 8AM at the on-site facility to support personnel availability to expedite review of photographs. Regulators will strive to conclude inspections by early afternoon.
2. Prior to the inspection, the Hanford facility manager (or point of contact) or contractor inspection coordinator (or delegate) completes a clearance form and notifies the contractor clearance official of the date/time of an inspection. The clearance official then determines the necessary reviewers based in the individual contractor's procedure (encompassing DOE Order 471.3 requirements) and notifies the reviewers of the time/date of the upcoming inspection.
3. To prevent transmission of electronic/computer viruses, DOE requires non-DOE/contractor owned cameras and memory devices (e.g., SD cards) from being connected to the Hanford Local Area Network (HLAN). When a regulator camera is used, a virus scan must be completed on the memory device before downloading photos to HLAN. The inspection coordinator will ensure a virus-scanning laptop is available at the inspection site or other convenient location. NOTE: When a DOE/contractor camera and memory device is used, neither step 4 nor a virus scan is required.
4. Before any photographs are taken on an inspector's camera, the Hanford inspection coordinator verifies the camera's internal memory and any memory devices are empty and that cellular/WiFi/Bluetooth is disabled. Regulator inspectors should also attest that the memory is empty and cellular turned off. (NOTE: only non-DOE/contractor cameras that do not have internal memory storage capacity, but ONLY storage on a removable memory device, such as an SD card, may be used for Hanford inspections.)
5. When an inspector takes photos on a non-DOE/contractor camera, the memory device will be scanned for viruses. Photos will be downloaded onto an HLAN computer to be reviewed by the inspection coordinator and/or others, as appropriate, as well as the regulator inspector. Photographs with obvious security or other concerns (i.e., a badge showing or proprietary or personal information visible) may be deleted and the inspector may take replacement photos without the item(s) of concern included. (NOTE: In situations where the regulator inspector

requires the photo, the photo will continue through the information clearance review and the inspector will be given options outlined in step 8.) The photos are transmitted to the information clearance official to begin the review process by the individuals identified in step 2. The camera and/or memory card will be placed in a tamper-proof device, which the regulator inspector will retain.

6. On the day of the inspection when the information clearance process is completed, the clearance official will notify the inspection coordinator. If there are no deletions or redactions required, the inspection coordinator will notify the regulator inspector and open the lock-box or approve the regulator inspector's removal of tamper-proof tape. The inspector will then take full possession of the photographs.
7. If the clearance process has not concluded by the afternoon of the inspection day, the inspection coordinator will notify the regulator inspector of the estimated time necessary for review and clearance of the photos. The regulator inspector may depart with the memory card in the tamper-proof device.
8. If, after review, a photograph(s) is found to have controlled information, the information clearance officer will notify the inspection coordinator. The inspection coordinator will notify the regulator inspector of the concern, describe the photograph(s), and offer for the inspector several options: a) delete the photo and offer an opportunity to return to the site to retake the photograph; b) delete the photo without a substitute photo; or c) redact or crop the photo, if feasible. The regulator inspector will take the memory device to 1981 Snyder or an HLAN-equipped office, as arranged, and the inspection coordinator or information clearance official (or delegate) will remove the memory device from the tamper-proof device, delete or replace the photograph(s) containing controlled information with a redacted version, and give the now-released photographs to the inspector.

*NOTE: For unscheduled inspections, those for which the regulator did not provide two business days' notice, and those that conclude late in the day, DOE/contractor personnel will strive to expedite photo clearance as outlined above.