



Department of Energy

Bonneville Power Administration
P.O. Box 3621
Portland, Oregon 97208-3621

PUBLIC AFFAIRS

September 11, 2008

In reply refer to: DK-7

Mr. Larry P. Boyd
Fisher, Boyd, Brown, Boudreaux & Huguenard, LLP
2777 Allen Parkway, 14th Floor
Houston, TX 77019

RE: FOIA # 08-058

Dear Mr. Boyd:

This letter is your final response to your Freedom of Information Act (FOIA) request 08-058 that you made to the Bonneville Power Administration (BPA).

You have requested the following:

Any and all material in our files pertaining to the pipeline construction incident that occurred on July 27, 2006, near Arlington, Washington, including, but not limited to, land use agreements, incident witness statements, incident reports, drawings and or scene sketches, power line height measurements, equipment height measurements, land surveys, distance measurement, photographs, video tapes, OSHA correspondence, correspondence to and from Northwest Pipeline Company; Williams Company; Welded Construction Company; Quality Inspection Services; and any other entity involved in or with the incident.

Response:

BPA has provided three responsive CDs in PDF format. The CD labeled "Snohomish Reports" contains a complete unredacted copy of two reports prepared by BPA staff ("Side Boom Incident – 7-27-06" and "Snoh-Mury Contact – 7-26-06"). The CD labeled "Land Files" contains a complete unredacted copy of all documents contained in BPA's official land case files pertaining to Northwest Pipeline permit requests on BPA's easements. The CD labeled "Supplemental Land Files" contains all remaining documents in BPA's files responsive to your request, with the exception of a copy of the reports BPA obtained from the Washington State Department of Labor and Industries (Welded Construction, 310133863; Quality Inspection Services, 310133897; and Northwest Pipeline, 310133889), and copies of administrative federal tort claims submitted to BPA by specific individuals. If you wish to obtain the Washington State Labor & Industries reports, the following website contains instructions on how to make a public records request directly from them: <http://www.lni.wa.gov/MainAboutLNI/PublicDisclosure/default.asp>. If you wish to obtain copies of the tort claims, you must first provide BPA with specific written authorization from the individual(s) who submitted the claims.

Although BPA has released the majority of the responsive documents in their entirety, portions of some of the documents contained on the enclosed "Supplemental Land Files" CD have been redacted. Portions of pages 8, 117 thru 118, 122, 126, 130, 133 thru 136, 149 thru 150, 384, 413, 466 thru 469, 497 thru 501, 516, 593, 773, 778, 807 thru 810, 826 thru 829, 837, 841 and 844 of this CD have been redacted and withheld pursuant to 5 USC § 552(b)(5) (Exemption 5) as well as portions of pages 52 thru 53, 130, 146 thru 147, 342, 424 thru 425, 594, 597, and 621 which have been withheld pursuant to 5 USC § 552(b)(6) (Exemption 6) of the FOIA, as explained below.

Exemption 5

BPA asserts the deliberative process privilege for information that is pre-decisional and deliberative. This information was prepared by BPA staff, has not been released outside of BPA, and contains recommendations or opinions concerning BPA real estate policies or procedures that do not reflect a final agency decision.

BPA asserts the attorney-client privilege under Exemption 5 for information that contains confidential legal communications between BPA attorneys and BPA staff. This information contains confidential legal advice concerning BPA real estate policies and procedures and has not been released outside of BPA.

A discretionary release of this information is not in the public interest because a disclosure will hamper the ability and willingness of BPA employees and its attorneys to make honest and open recommendations concerning legal and policy matters that are essential to BPA programs.

Exemption 6

BPA asserts the personal privacy privilege for information which could reasonably be expected to constitute an unwarranted invasion of personal privacy if disclosed. The withheld information is the names of individual(s) allegedly injured in an accident that occurred on July 26, 2006, on the subject property.

BPA has determined there is a privacy interest in the names of individual(s) who were allegedly injured as a result of the accident. There is a strong privacy interest in keeping information concerning an individual's medical condition confidential. This kind of information is not available without the specific consent of the individual to whom it pertains. In addition, it is likely that disclosure of these names could subject these individuals to unwanted contacts and inquiries. There is no public interest in the disclosure of these names as their disclosure would not shed any light on how BPA performed its statutory duties.

If you are dissatisfied with this determination, you may make an appeal within thirty (30) days of receipt of this letter to the Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585. Both the envelope and the letter must be clearly marked "Freedom of Information Act Appeal."

If you have any questions about this letter, please contact Laura M. Atterbury, FOIA/Privacy Act Specialist, at 503-230-7305.

Sincerely,

/s/ Christina J. Brannon

Christina J. Brannon
Freedom of Information Act/Privacy Act Officer

Enclosures: Responsive CD's

Note: CD's are too large to post, please contact our office for copies.