Department of Energy
Idaho Operations Office
1955 Fremont Avenue
Idaho Falls, ID 83415

March 5, 2010

Mr. Rick R. Gokey
3000 Wright Road
Idaho Falls, ID 83401-1664

SUBJECT: Freedom of Information Act Request (10-015) (OM-PA-10-010)

Dear Mr. Gokey:

This is in response to your revised Freedom of Information Act request of February 22, 2010 in which you asked for:

- The FOIA documents response letter of 2/16/10 from BEA to DOE-ID
- Any and all documents relating to the DOE response and audit of BEA's charges against the MFC-RCL Project
- Any and all documents relating to DOE response to BEA Project Execution Plan 2575, Radiochemistry Laboratory
- MFC-RCL GPP monthly reports section of INL IFM Programs Projects Monthly Reports, from project conception to January 2010
- BEA Construction Management Daily Logs for MFC Radiochemistry Laboratory
- BEA Project Management daily logs for MFC Radiochemistry Laboratory
- Analytical Laboratory Sign-in sheets
- All baseline Change Proposals (BCP) documents, both approved or not approved for MFC-RCL Laboratory GPP
- All SPES reports for months January 2008 through December 2009

Please find enclosed a copy of a letter from Trudy K. Overlin, BEA to Clayton Ogilvie, DOE, re: Contract No. DE-AC07-05ID14517 – Freedom of Information Act (FOIA) Request of Eagle Rock Timber, Inc. that I believe will be responsive to the first bulleted item above.

A copy of letter between Paul B. Keele, DOE-ID to Ronald S. Paige, BEA, re: Contract No. DE-AC07ID14517 – Independent Assessment of the Radiochemistry Laboratory should be responsive to the second bulleted item.

Program Execution Plan 2575 did not require DOE-ID approval; therefore, there is no responsive document relative to the third bulleted item.

"Monthly reports such as MFC-RCL GPP monthly reports section of INL IFM Programs Projects Monthly Reports, from project conception to January 2010," "BEA Construction

Management Daily Logs for MFC Radiochemistry Laboratory" and "Non-coformance reports" are considered internal BEA-owned documents under DOE Contract DE-AC07-05ID14517, Clause I.15, DEAR 970.5204-3 – Access to and Ownership of Records, Clause (b)(3). Since these reports (bullet #4), daily logs (bullet #5) and Non-conformance Reports (bullet 8) are BEA documents, they fall outside the scope of the Freedom of Information Act.

BEA Construction Management Daily Logs for MFC Radiochemistry Laboratory (bullet #6) do not exist, thus there are no responsive documents.

Analytical Laboratory Sign-in sheets (bullet #7) are supplied to you in the form of the NMCD Analytical Laboratory Sign In Log sheets.

A copy of a letter from Suzette M. Olson, DOE-ID to Lisa A. Sehlke, BEA, re: Contract No. DE-AC07-05ID14517 – Approval of Baseline Change Proposal CR-07-083 should be responsive to the eighth bulleted item.

All SPES reports for months January 2008 through December 2009 requested are released in full in response to the ninth bulleted item.

I am the authorizing and denying official for this request and it is my duty to inform you that, pursuant to 10 CFR § 1004.8, you may challenge this determination by submitting a written appeal to the Director, Office of Hearings and Appeals, at HG-1/L'Enfant Plaza Building, U.S. DOE, 1000 Independence Avenue, SW, Washington, DC 20585-1615. You should submit the appeal within 30 calendar days of receipt of this determination. Please provide me a copy of your appeal.

The written appeal, including the envelope, must clearly indicate that a FOIA appeal is being made. The appeal must contain the elements required by 10 CFR 1004.8, including a copy of this letter. Judicial review will thereafter be available (1) in the district where you reside; (2) in the district where you have your principal place of residence; (3) in the district where the DOE records are located; or (4) in the District of Columbia.

If you have any questions regarding this letter or the enclosure, please feel free to contact me at (208) 526-5190

Sincerely,

Clayton Ogilvie