

# Tri-Valley CAREs

Communities Against a Radioactive Environment

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2582 Old First Street, Livermore, CA 94551 • (925) 443-7148 • [www.trivalleycares.org](http://www.trivalleycares.org)



*Peace Justice Environment  
since 1983*

March 1, 2010

Freedom of Information Act Officer  
Office of Public Affairs/FOIA  
NNSA/SC  
P.O. Box 5400  
Albuquerque, NM 87185-5400  
Email: [foiofficer@doeal.gov](mailto:foiofficer@doeal.gov)

**Re: Freedom of Information Act request regarding Industrial Hygiene Exposure at Lawrence Livermore National Laboratory**

To Whom It May Concern:

This is a request under the Freedom of Information Act (FOIA).

Tri-Valley CAREs would like to formally request a copy of all documents related to a recent beryllium “industrial hygiene exposure” at Lawrence Livermore National Laboratory (LLNL). According to the Department of Energy’s (DOE) Office of Health, Safety and Security’s 'Weekly Summary of Significant Occurrences' from February 15-19, 2010, a journeyman machinist in Building 321A at LLNL was accidentally exposed while working on a Beryllium 'part' that was incorrectly identified as non-hazardous (*See Attachment A for reference to the document, or types of documents requested*).

In the event that access to any of the requested records is denied, please note that FOIA provides that “[a]ny reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under [FOIA].” 5 U.S.C. § 552(b). Tri-Valley CAREs therefore requests that it be provided with all non-exempt portions of the requested records that are reasonably segregable. Tri-Valley CAREs further requests that you describe the deleted material in detail and specify the statutory basis for the denial, as well as your reasons for believing that the alleged statutory justification applies in each instance. Please separately state your reasons for not invoking your discretionary powers to release the requested documents in the public interest. Such statements will be helpful in deciding whether to appeal an adverse determination and in formulating arguments in case an appeal is taken. DOE’s

written justification might also help to avoid unnecessary litigation. Of course, Tri-Valley CAREs reserves its right to appeal the withholding or deletion of any information.

Tri-Valley CAREs requests a waiver of all fees for this FOIA request. Disclosure of the requested information to Tri-Valley CAREs is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in our commercial interest. Tri-Valley CAREs meets the fee waiver criteria set out in 10 C.F.R. § 1004.9:

1. Whether the subject of the requested records concerns the “operations or activities of the government.”

The Department of Energy (DOE) and its operations and activities—including the Lawrence Livermore National Laboratory (LLNL)-- are operations and activities of the government.

2. Whether the disclosure is “likely to contribute” to an understanding of government operations or activities.

Disclosure of the requested record will contribute to an understanding of government operations and activities.

3. What contribution to an understanding by the general public will result from disclosure?

Tri-Valley CAREs uses information obtained through FOIA to help the general public and others understand the operations and activities of the government, specifically DOE and its Lawrence Livermore National Laboratory (LLNL). Tri-Valley CAREs publishes a monthly newsletter, circulated free of charge to interested parties. Information obtained from FOIA requests is used in the newsletter to increase public understanding of DOE activities, and it is expected that information obtained through this request will be used in our newsletter.

In addition, Tri-Valley CAREs uses information derived from FOIA requests in its fact sheets, reports, and other materials that are distributed, like our newsletter, to the media, elected officials, regulatory agencies, other organizations, and the general public. Information is also available on our website at <http://www.trivalleycares.org>. Moreover, information provided by Tri-Valley CAREs is used regularly by local, regional, and national media.

By obtaining these records, Tri-Valley CAREs will benefit the public and contribute to its general understanding by writing an article about the incident in our newsletter for distribution to the general public, distributing information about the incident to the media, addressing the incident in meetings with elected officials and regulatory agencies, utilizing information obtained for our occupational health project that seeks to address ongoing beryllium exposure to employees at LLNL. This is the group’s mission, as laid

out in its articles of incorporation and reflected by its status as a 501(c)(3) nonprofit organization.

4. Whether the disclosure is likely to contribute “significantly” to public understanding of government operations or activities.

The disclosure of these records will contribute significantly to public understanding of government operations and activities.

Additionally, Tri-Valley CAREs has the means (see #3 above) and the track record to be “likely to contribute ‘significantly’ to public understanding.”

5. Whether the requester has a commercial interest that would be furthered by the requested disclosure.

This is not applicable to Tri-Valley CAREs. As mentioned, Tri-Valley CAREs is a 501(c)(3) public benefit organization. We provide the information to the public free of charge

6. Whether a commercial interest is “primary.”

This is not applicable to Tri-Valley CAREs. We have no profit motive.

In light of the above, Tri-Valley CAREs requests a fee waiver for the disclosure of this information.

Access to the requested records should be granted within twenty (20) working days from the date of your receipt. Failure to respond in a timely manner shall be viewed as a denial of this request and Tri-Valley CAREs may immediately file an administrative appeal or seek judicial relief. Thanking you in advance for your prompt reply.

Tri-Valley CAREs requests that the information it seeks be provided in hard copy and electronic formats. Tri-Valley CAREs would like to receive the requested documents on a CD-ROM, provided this will not occasion a significant delay in the processing of this request.

Sincerely,

Iti Talwar  
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