

Case No.: 2014-0224 / PAGE 01

Date Rec'd: 4/24/14

Specialist: Danoff

Related Case: 61th

Frank Vera III

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MAR 10 2014 02

7 March 2014

BY FAX TO: 202-586-0575

DOE Headquarters (HQ)
FOIA Requester Service Center
1000 Independence Avenue, SW
Mail Stop MA-90
Washington, DC 20585

Telephone (202) 586-5955

FOIA Request

Dear FOIA Officer:

Please process this request pursuant to the Freedom of Information Act, 5 U.S.C. § 552.

I am requesting, a complete unredacted copy and/or printout of records pertaining to the:

1. Atomic Energy Commission (AEC) licensed material at Merced Army Flying School, Merced Army Airfield, Castle Field, Castle Air Force Base, CA
2. Atomic Energy Commission (AEC) permits for the burial of radioactive waste at Merced Army Flying School, Merced Army Airfield, Castle Field, Castle Air Force Base, CA
3. Department of Energy (DOE) licensed material at Merced Army Flying School, Merced Army Airfield, Castle Field, Castle Air Force Base, CA
4. Department of Energy (DOE) permits for the burial of radioactive waste at Merced Army Flying School, Merced Army Airfield, Castle Field, Castle Air Force Base, CA
5. This request is not meant to be exclusive of any other records that, although not specifically requested, have a reasonable relationship to the subject matter of this request. If you, or your office, have destroyed or decide to withhold any documents that could be reasonably construed to be responsive to this request, I ask that you indicate this fact and the reasons in your response.

Vera

HQ-2014-00689-R

Record Search

When processing this request, please note that the D.C. Circuit has previously held that agencies have a duty to construe the subject material of FOIA requests *liberally* to ensure responsive records are not overlooked. See *Nation Magazine, Washington Bureau v. U.S. Customs Service*, 71 F.3d 885, 890 (D.C. Cir. 1995).

In line with the guidance issued by the Department of Justice ("DOJ") on 9 September 2008 to all federal agencies with records subject to FOIA, agency records that are currently in the possession of a U.S. Government contractor for purposes of records management remain subject to FOIA. Please ensure that your search complies with this clarification on the effect of Section 9 of the OPEN Government Act of 2007 of the definition of a "record" for purposes of FOIA. In addition, the Air Force should not interpret this request to exclude correspondence sent to outside third parties. Please also consider this letter an affirmative rejection of any limitation of your search to Air Force originated records.

Exempt Records

If you assert that any of the requested records are exempt from mandatory disclosure under FOIA, I request that you disclose them nevertheless, as such disclosure would serve the public interest of educating citizens regarding the operations and activities of the Air Force regarding this matter.

If you deny all or part of this request, please cite the specific exemptions you believe justify your refusal to release the information or permit the review and notify me of your appeal procedures available under the law.

In addition, I would like to draw your attention to president Obama's 21 January 2009 Memorandum for the Heads of Executive Departments and Agencies, directing federal agencies to adopt a presumption in favor of disclosure and stating that government information should not be kept confidential "merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears."

Redaction

In excising material, please "black out" rather than "white out" or "cut out." Additionally, any reasonably segregable portion of a responsive record must be provided to me after redaction of any allegedly exempt material, as the law requires. 5 U.S.C. § 552(b). I reserve the right to appeal any decision to withhold information.

Preservation of Records

Please ensure that, in accordance with the DC Circuit's ruling in *Chambers v. Department of the Interior*, 568 F.3d 998 (D.C. Cir. 2009), all records potentially responsive to this FOIA request are immediately preserved from destruction until the final resolution of this FOIA action. Destruction of potentially responsive records after the receipt of a FOIA request is considered "contumacious conduct" by the DC Circuit. See *id.* at 1004.

Public Interest Fee Waiver

I also request that, if appropriate, fees be waived as I believe this request is in the public interest. The requested documents will be made available to the general public free of charge as part of the public information service at GeorgeAFB.Info, processed by a representative of the news media/press and is made in the process of news gathering and not for commercial usage.

In the event that fees cannot be waived, I would be grateful if you would inform me of the total charges in advance of fulfilling my request.

Record Format

I request that any documents or records produced in response to this request be provided in electronic (soft-copy) form wherever possible. Acceptable formats are .pdf, .doc, docx, .jpg, .gif, .tif. Please provide soft-copy records by email or on a CD if email is not feasible.

However, I do not agree to pay an additional fee to receive records on a CD, and in the instance that such a fee is required, I will accept a paper copy of responsive records.

I look forward to receiving the requested documents within twenty (20) business days.

If you wish to discuss this request, please do not hesitate to contact me at 209-984-5517.

Thank you for processing this FOIA.

Sincerely,



7 MARCH 2014

Frank Vera III

Date:

Physical address: (b)(6) 