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UNCLASSIFIED
NSC/RMO PROFILE

RECORD ID: 9606505
RECEIVED: 25 SEP 96 14

TO: BROWNER, C
WIDNALL, S
FROM: PRESIDENT

DOC DATE: 29 SEP 96
SOURCE REF:

KEYWORDS: LEGAL ISSUES
PD

ENVIRONMENT

PERSONS:

SUBJECT: PD ON CLASSIFIED INFO CONCERNING AIR FORCE OPERATING LOCATION NEAR
GROOM LAKE

ACTION: PRES SGD PD 96-54 DUE DATE: 28 SEP 96 STATUS: C

STAFF OFFICER: BAKER LOGREF:

FILES: WH NSCP: CODES:

DOCUMENT DISTRIBUTION

FOR ACTION

FOR CONCURRENCE

FOR INFO

BAKER
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NSC CHRON

COMMENTS: _____

DISPATCHED BY SP DATE 9/30 BY HAND W/ATTCH

OPENED BY: NSTSM CLOSED BY: NSGP DOC 5 OF 5

UNCLASSIFIED

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ACTION DATA SUMMARY REPORT

RECORD ID: 9606505

DOC ACTION OFFICER

001 BAKER
002 BAKER
003 LAKE
004 PRESIDENT
005

CAO ASSIGNED ACTION REQUIRED

Z 96092519 APPROPRIATE ACTION
Z 96092610 ADD-ON / APPROPRIATE ACTION
Z 96092617 FWD TO PRESIDENT FOR SIG
Z 96092712 FOR SIGNATURE
X 96093010 PRES SGD PD 96-54

DISPATCH DATA SUMMARY REPORT

DOC DATE

DISPATCH FOR ACTION

DISPATCH FOR INFO

004	960927	VICE PRESIDENT
004	960927	WH CHIEF OF STAFF
005	960929	BROWNER, C
005	960929	WIDNALL, S
005	960929	CONROY, R
005	960929	DUSAULT, P
		SAUNDERS, T

UNCLASSIFIED

National Security Council
The White House

REC'D 9/26
3pm

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LOG # 6505

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DOCLOG TMA A/O _____

	SEQUENCE TO	INITIAL/DATE	DISPOSITION
Harmon	<u>1</u>	<u>8</u>	_____
Dohse	<u>1</u>	<u>8</u>	_____
Sens	_____	_____	_____
Soderberg	<u>copy</u> ✓	_____	_____
Berger	<u>2</u>	<u>ON</u> <u>Nati Sec Advisor</u> <u>has seen</u>	<u>VERASK</u> <u>9/27</u>
Lake	<u>3</u>	_____	_____
Situation Room	<u>3</u>	<u>Re 9/27</u>	_____
West Wing Desk	<u>3</u>	<u>0889/30</u>	<u>DO</u> <u>SPM</u> <u>N/R</u>
Records Mgt.	<u>4</u>	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

A = Action I = Information D = Dispatch R = Retain N = No Further Action

cc: E-mail notification - Bateu, Kreczko, Bell
Sundalow Q up
Q cross

COMMENTS: Must have POTUS
signature by 9/29

Exec Sec Office has diskette Yes

National Security Council
The White House

REC'D 9/26
3pm

PROOFED BY: _____

LOG # 6505

URGENT NOT PROOFED: _____

SYSTEM PRS NSC INT ARS

BYPASSED WW DESK: _____

DOCLOG TMA A/O _____

	SEQUENCE TO	INITIAL/DATE	DISPOSITION
Harmon	<u>1</u>	<u>8</u>	_____
Dohse	<u>1</u>	<u>8</u>	_____
Sens	_____	_____	_____
Soderberg	<u>copy ✓</u>	_____	_____
Berger	<u>2</u>	<u>AN</u>	_____
Lake	<u>3</u>	Nat'l Sec Advisor has seen	<u>10/26 9/27</u>
Situation Room	_____	_____	_____
West Wing Desk	<u>3</u>	<u>he 9/27</u>	<u>SDM</u>
Records Mgt.	<u>4</u>	<u>QBS 9/30</u>	<u>NR</u>
_____	_____	_____	_____
_____	_____	_____	_____

A = Action I = Information D = Dispatch R = Retain N = No Further Action

cc: E-mail notification - ~~Bartov, Izquierdo, Bell
Sanderson~~ ~~up
across~~

COMMENTS: MUST have POTUS
signature by 9/29

Exec Sec Office has diskette Yes

THE WHITE HOUSE

WASHINGTON

September 28, 1996

Presidential Determination
No. 96-54

MEMORANDUM FOR THE ADMINISTRATOR OF THE ENVIRONMENTAL
PROTECTION AGENCY
THE SECRETARY OF THE AIR FORCE

SUBJECT: Presidential Determination on Classified
Information Concerning the Air Force's
Operating Location Near Groom Lake, Nevada

I find that it is in the paramount interest of the United States to exempt the United States Air Force's operating location near Groom Lake, Nevada (the subject of litigation in Kasza v. Browner (D. Nev. CV-S-94-795-PMP) and Frost v. Perry (D. Nev. CV-S-94-714-PMP) from any applicable requirement for the disclosure to unauthorized persons of classified information concerning that operating location. Therefore, pursuant to 42 U.S.C. 6961(a), I hereby exempt the Air Force's operating location near Groom Lake, Nevada, from any Federal, State, interstate or local provision respecting control and abatement of solid waste or hazardous waste disposal that would require the disclosure of classified information concerning that operating location to any unauthorized person. This exemption shall be effective for the full one-year statutory period.

Nothing herein is intended to: (a) imply that in the absence of such a Presidential exemption, the Resource Conservation and Recovery Act (RCRA) or any other provision of law permits or requires disclosure of classified information to unauthorized persons; or (b) limit the applicability or enforcement of any requirement of law applicable to the Air Force's operating location near Groom Lake, Nevada, except those provisions, if any, that would require the disclosure of classified information.

The Secretary of the Air Force is authorized and directed to publish this determination in the Federal Register.

William J. Clinton

THE WHITE HOUSE
WASHINGTON

September 27, 1996

ACTION

MEMORANDUM FOR THE PRESIDENT

THROUGH: THE EXECUTIVE CLERK

FROM: ANTHONY LAKE

SUBJECT: Presidential Determination on RCRA Exemption for
the Operating Location at Groom Lake

President sgd per WH
Executive Clerk *SP1. 29. 1996*
DRS

Purpose

To continue to exempt the Air Force from public disclosure requirements concerning the inspection and inventory of hazardous waste at the Air Force "operating location near Groom Lake."

Background

On September 29, 1995, you issued an exemption under the Resource Conservation and Recovery Act (RCRA) protecting from disclosure classified information regarding an Air Force facility near Groom Lake, Nevada. By statute, the exemption is effective for one year, unless renewed. As a result, the attached exemption should be signed by September 29. The exemption was necessitated by litigation over RCRA compliance at the facility. While ruling that the information in question was appropriately classified, the Federal district court ruled that under RCRA classified information could only be protected from public disclosure pursuant to a Presidential exemption.

That ruling is now being appealed, as is plaintiffs' challenge to the sufficiency of your original exemption. In the interim, Deputy Secretary of Defense White and Secretary of the Air Force Widnall recommend that you renew the exemption to provide continued protection for national security information while the matter is on appeal. EPA Administrator Browner and Department of Justice, Environmental and Natural Resources Division concur in this recommendation as does Katie McGinty. As with last year's exemption, the attached document is worded narrowly, to exempt the location only from disclosure requirements and not from applicable environmental standards.

cc: Vice President
Chief of Staff

RECOMMENDATION

That you sign the exemption at Tab A.

Attachments

Tab A Presidential Determination

Tab B Incoming Correspondence from the Deputy Secretary of Defense

DRAFT

September 29, 1996

Presidential Determination
No. _____

MEMORANDUM FOR THE ADMINISTRATOR OF THE ENVIRONMENTAL
PROTECTION AGENCY
THE SECRETARY OF THE AIR FORCE

SUBJECT: Presidential Determination on Classified Information Concerning
the Air Force's Operating Location Near Groom Lake, Nevada

I find that it is in the paramount interest of the United States to exempt the United States Air Force's operating location near Groom Lake, Nevada (the subject of litigation in Kasza v. Browner (D. Nev. CV-S-94-795-PMP) and Frost v. Perry (D. Nev. CV-S-94-714-PMP)) from any applicable requirement for the disclosure to unauthorized persons of classified information concerning that operating location. Therefore, pursuant to 42 U.S.C. § 6961(a), I hereby exempt the Air Force's operating location near Groom Lake, Nevada from any Federal, State, interstate or local provision respecting control and abatement of solid waste or hazardous waste disposal that would require the disclosure of classified information concerning that operating location to any unauthorized person. This exemption shall be effective for the full one-year statutory period.

Nothing herein is intended to: (a) imply that in the absence of such a Presidential exemption, the Resource Conservation and Recovery Act (RCRA) or any other provision of law permits or requires disclosure of classified information to unauthorized persons; or (b) limit the applicability or enforcement of any requirement of law applicable to the Air Force's operating location near Groom Lake, Nevada, except those provisions, if any, that would require the disclosure of classified information.

The Secretary of the Air Force is authorized and directed to publish this Determination in the Federal Register.



DEPUTY SECRETARY OF DEFENSE

1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

Staff

6505



25 SEP 1996

MEMORANDUM FOR PRESIDENT CLINTON
THRU: MR. LAKE

SUBJECT: Classified Information Concerning the Air Force's Operating Location Near Groom Lake, Nevada

On September 29, 1995, you issued an exemption under the Resource Conservation and Recovery Act (RCRA) protecting from disclosure classified information concerning an Air Force operating location near Groom Lake, Nevada. By statute, the exemption is effective for one year, unless renewed. The exemption was necessitated by a Federal district court ruling that held that classified information could not be withheld from public disclosure under RCRA absent such an exemption. That ruling is now being appealed. In the meantime, and for reasons addressed in the attached memorandum from Secretary Widnall, I concur in her request and recommendation that you renew the exemption to provide continued protection for the full one-year statutory period while the matter is on appeal.

I note that EPA Administrator Browner and the Justice Department's Environment and Natural Resources Division concur in this recommendation.

Attachment:
SECAF Memo

THE WHITE HOUSE
WASHINGTON

September 27, 1996

96 SEP 27 P/2: 40

ACTION

MEMORANDUM FOR THE PRESIDENT

THROUGH: THE EXECUTIVE CLERK *f*FROM: ANTHONY LAKE *AL*SUBJECT: Presidential Determination on RCRA Exemption for
the Operating Location at Groom LakePurpose

To continue to exempt the Air Force from public disclosure requirements concerning the inspection and inventory of hazardous waste at the Air Force "operating location near Groom Lake."

Background

On September 29, 1995, you issued an exemption under the Resource Conservation and Recovery Act (RCRA) protecting from disclosure classified information regarding an Air Force facility near Groom Lake, Nevada. By statute, the exemption is effective for one year, unless renewed. As a result, the attached exemption should be **signed by September 29**. The exemption was necessitated by litigation over RCRA compliance at the facility. While ruling that the information in question was appropriately classified, the Federal district court ruled that under RCRA classified information could only be protected from public disclosure pursuant to a Presidential exemption.

That ruling is now being appealed, as is plaintiffs' challenge to the sufficiency of your original exemption. In the interim, Deputy Secretary of Defense White and Secretary of the Air Force Widnall recommend that you renew the exemption to provide continued protection for national security information while the matter is on appeal. EPA Administrator Browner and Department of Justice, Environmental and Natural Resources Division concur in this recommendation as does Katie McGinty. As with last year's exemption, the attached document is worded narrowly, to exempt the location only from disclosure requirements and not from applicable environmental standards.

cc: Vice President
Chief of Staff

RECOMMENDATION

That you sign the exemption at Tab A.

Attachments

Tab A Presidential Determination

Tab B Incoming Correspondence from the Deputy Secretary of Defense

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20504

6505

September 25, 1996

ACTION

MEMORANDUM FOR ANTHONY LAKE

THROUGH: ALAN KRECZKO *AK*

FROM: JAMES E. BAKER *JB*

SUBJECT: Presidential Determination on Continuation of RCRA
Exemption for Groom Lake

Last year, the President exempted the "Operating Location near Groom Lake" from the public disclosure requirements of the Resource Conservation Recovery Act in order to protect national security information. By statute, the exemption is effective for one year.

With the concurrence of EPA and Justice, the Deputy Secretary of Defense is recommending that the President renew the Groom Lake exemption. As with last year's exemption, the continuation expressly notes that it is not intended to limit the applicability or enforcement of any requirement of law applicable to the facility except those concerning the disclosure of classified information. To ensure continued protection of classified information the **President should sign the attached exemption by September 29.**

Katie McGinty concurs in this recommendation.

Concurrence by: *JB* Bob Bell and David Sandalow

RECOMMENDATION

That you sign the attached memorandum to the President.

Attachments

Tab I Memorandum for the President

Tab A Presidential Determination

Tab B Incoming Correspondence from the Deputy Secretary of Defense

TO: LAKE

FROM: BAKER

DOC DATE: 25 SEP 96
SOURCE REF:

KEYWORDS: LEGAL ISSUES
PD

ENVIRONMENT



PERSONS:

SUBJECT: PD ON CONTINUATION OF RCRA EXEMPTION FOR GROOM LAKE

ACTION: APPROPRIATE ACTION

DUE DATE: 28 SEP 96 STATUS: S

STAFF OFFICER: BAKER

LOGREF:

FILES: WH

NSCP:

CODES:

D O C U M E N T D I S T R I B U T I O N

FOR ACTION

BAKER

FOR CONCURRENCE

BELL
SANDALOW

FOR INFO

KRECKO

COMMENTS: _____

DISPATCHED BY _____ DATE _____ BY HAND W/ATTCH

OPENED BY: NSTSM CLOSED BY:

DOC 1 OF 1

NATIONAL SECURITY COUNCIL
DISTRIBUTION RECEIPT

LOG 9606505
DATE 29 SEP 96

SUBJECT: PD ON CLASSIFIED INFO CONCERNING AIR FORCE OPERATING LOCATION NEAR
DOCUMENT CLASSIFICATION: UNCLASSIFIED

EXTERNAL DISTRIBUTION:

DATE _____ TIME _____ SIGNATURE _____

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ENVIRONMENTAL PROTECTION AGENCY
VIA ROOM 1135, WEST TOWER
401 M STREET, SW
WASHINGTON, DC 20460

PRINT LAST NAME: _____

COPY: 0 + 1 _____

DR. SHEILA WIDNALL
DEPARTMENT OF DEFENSE

PRINT LAST NAME: _____

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MR. WILLIAM J. BURNS
DEPARTMENT OF STATE
ROOM 7224, MAIN STATE
2201 C STREET, N.W.
WASHINGTON, D.C. 20520

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MS. RYAN CONROY
AGENCY FOR INTL DEVELOPMENT
ROOM 5945, NEW STATE
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WASHINGTON, DC 20523

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MR. PHILIP DUSAULT
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MR. TIM SAUNDERS
WH EXECUTIVE CLERK
ROOM 5
OEBO

PRINT LAST NAME: _____

COPY: 2 _____

THE WHITE HOUSE
WASHINGTONACTION

MEMORANDUM FOR THE PRESIDENT

THROUGH: THE EXECUTIVE CLERK

FROM: ANTHONY LAKE

SUBJECT: Presidential Determination on RCRA Exemption for
the Operating Location at Groom LakePurpose

To continue to exempt the Air Force from public disclosure requirements concerning the inspection and inventory of hazardous waste at the Air Force "operating location near Groom Lake."

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That ruling is now being appealed, as is plaintiffs' challenge to the sufficiency of your original exemption. In the interim, ~~the~~ Deputy Secretary of Defense White and Secretary of the Air Force Widnall recommend that you renew the exemption to provide continued protection for national security information while the matter is on appeal. EPA Administrator Browner and Department of Justice, Environmental and Natural Resources Division concur in this recommendation as does Katie McGinty. As with last year's exemption, the attached document is worded narrowly, to exempt the location only from disclosure requirements and not from applicable environmental standards.

cc: Vice President
Chief of Staff