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NSC/RMO PROFILE

RECORD ID: 9700698
RECEIVED: 03 FEB 97 18

TO: PRESIDENT

FROM: WHITE, J

DOC DATE: 30 JAN 97
SOURCE REF:

KEYWORDS: DEFENSE POLICY
ENVIRONMENT

AIR FORCE
CONGRESSIONAL

PERSONS:

SUBJECT: CONGRESSIONAL NOTIFICATION OF PRES EXEMPTION CONCERNING AIR FORCE
OPERATING LOCATION NEAR GROOM LAKE NEVADA

ACTION: SEE 9700471 FOR FINAL ACTION

DUE DATE: 06 FEB 97 STATUS: C

STAFF OFFICER: KRECZKO

LOGREF: 9700471

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

FOR CONCURRENCE

FOR INFO

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ACTION DATA SUMMARY REPORT

RECORD ID: 9700698

DOC ACTION OFFICER

001 SESTAK
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001 KRECZKO
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CAO ASSIGNED ACTION REQUIRED

Z 97020318 PREPARE MEMO FOR BERGER
Z 97020408 ACTION TRANSFERRED
Z 97020408 PREPARE MEMO FOR BERGER
X 97020410 SEE 9700471 FOR FINAL ACTION

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DEPUTY SECRETARY OF DEFENSE

1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010



0698
30 JAN 1997

MEMORANDUM FOR PRESIDENT CLINTON
THROUGH MR. BERGER

SUBJECT: Congressional Notification of Presidential Exemption Concerning the Air Force's Operating Location Near Groom Lake, Nevada

I recommend you provide the enclosed report to Congress pursuant to section 6001(a) of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6961(a).

Section 6001(a) requires that you "report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with [your] reason for granting each such exemption." You granted such an exemption on September 28, 1996, in Presidential Determination 96-54, which protects classified information concerning the Air Force's operating location near Groom Lake, Nevada, from public disclosure. The enclosed report provides notice to Congress of the exemption.

The EPA Office of General Counsel and the Department of Justice Environment and Natural Resources Division have reviewed the report and concur with the Department of Defense that this report should be provided.

Attachment:
A/S

Dear Mr. Speaker:

Consistent with section 6001(a) of the Resource Conservation and Recovery Act (RCRA) (the "Act"), as amended, 42 U.S.C. § 6961(a), notification is hereby given that on September 28, 1996, I issued Presidential Determination 96-54 (copy attached) and thereby exercised the authority to grant certain exemptions under section 6001(a) of the Act.

Presidential Determination No. 96-54 exempted the United States Air Force's operating location near Groom Lake, Nevada, from any Federal, State, interstate, or local hazardous or solid waste laws that might require the disclosure of classified information concerning that operating location to unauthorized persons. Information concerning activities at the operating location near Groom Lake has been properly determined to be classified, and its disclosure would be harmful to national security. Continued protection of this information is, therefore, in the paramount interest of the United States.

The Determination was not intended to imply that in the absence of a Presidential exemption RCRA or any other provision of law permits or requires the disclosure of classified information to unauthorized persons, but rather to eliminate any potential uncertainty arising from a decision in pending litigation, Kasza v. Browner (D. Nev. CV-S-94-795- PMP), appeal pending (9th Cir. Nos. 96-15535 and 96-15537). The Determination also was not intended to limit the applicability or enforcement of any requirement of law applicable to the Air Force's operating location near Groom Lake except those provisions, if any, that would require the disclosure of classified information.

Sincerely,

The Honorable Newt Gingrich
Speaker of the
House of Representatives
Washington, D.C. 20515

Dear Mr. President:

Consistent with section 6001(a) of the Resource Conservation and Recovery Act (RCRA) (the "Act"), as amended, 42 U.S.C. § 6961(a), notification is hereby given that on September 28, 1996, I issued Presidential Determination 96-54 (copy attached) and thereby exercised the authority to grant certain exemptions under section 6001(a) of the Act.

Presidential Determination No. 96-54 exempted the United States Air Force's operating location near Groom Lake, Nevada, from any Federal, State, interstate, or local hazardous or solid waste laws that might require the disclosure of classified information concerning that operating location to unauthorized persons. Information concerning activities at the operating location near Groom Lake has been properly determined to be classified, and its disclosure would be harmful to national security. Continued protection of this information is, therefore, in the paramount interest of the United States.

The Determination was not intended to imply that in the absence of a Presidential exemption RCRA or any other provision of law permits or requires the disclosure of classified information to unauthorized persons, but rather to eliminate any potential uncertainty arising from a decision in pending litigation, Kasza v. Browner (D. Nev. CV-S-94-795- PMP), appeal pending (9th Cir. Nos. 96-15535 and 96-15537). The Determination also was not intended to limit the applicability or enforcement of any requirement of law applicable to the Air Force's operating location near Groom Lake except those provisions, if any, that would require the disclosure of classified information.

Sincerely,

The Honorable Albert Gore, Jr.
President
U. S. Senate
Washington, D. C. 20510

Presidential Documents

Title 3—

The President

Presidential Determination No. 96-54 of September 28, 1996

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

Memorandum for the Administrator of the Environmental Protection Agency [and] the Secretary of the Air Force

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.



THE WHITE HOUSE,
Washington, September 23, 1996.

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