

# FOIA MARKER

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Original OA/ID Number: 2059				
Document ID: 9806405				
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UNCLASSIFIED  
NSC/RMO PROFILE

RECORD ID: 9806405  
RECEIVED: 17 SEP 98 14

TO: BROWNER, C  
PETERS, F W

FROM: PRESIDENT

DOC DATE: 25 SEP 98  
SOURCE REF:

KEYWORDS: LEGAL ISSUES  
PD

ACCESS

PERSONS:

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

ACTION: PRESIDENT SGD PD 98-36

DUE DATE: 23 SEP 98 STATUS: C

STAFF OFFICER: BAKER

LOGREF: 9507055 9507092

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

BAKER  
NSC CHRON

COMMENTS:

DISPATCHED BY

*SP*

DATE

*9/28*

BY HAND

W/ATTCH

OPENED BY: NSJWF

CLOSED BY: NSGP

DOC 4 OF 4

UNCLASSIFIED

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ACTION DATA SUMMARY REPORT

RECORD ID: 9806405

DOC ACTION OFFICER

CAO ASSIGNED ACTION REQUIRED

001 BAKER	Z 98091714 PREPARE MEMO FOR BERGER
002 BERGER	Z 98092413 FWD TO PRESIDENT FOR SIGNATURE
003 PRESIDENT	Z 98092413 FOR SIGNATURE
004	X 98092809 PRESIDENT SGD PD 98-36

DISPATCH DATA SUMMARY REPORT

<u>DOC</u>	<u>DATE</u>	<u>DISPATCH FOR ACTION</u>	<u>DISPATCH FOR INFO</u>
003	980924		VICE PRESIDENT
003	980924		WH CHIEF OF STAFF
004	980925	BROWNER, C	KENNEY, K
004	980925	PETERS, F W	CONROY, R
004	980925		DUSAULT, P
004	980925		SAUNDERS, T

UNCLASSIFIED

National Security Council  
The White House

9/23  
1536

PROOFED BY: \_\_\_\_\_

LOG # 10405

URGENT NOT PROOFED: \_\_\_\_\_

SYSTEM PRS NSC INT ARS

BYPASSED WW DESK: \_\_\_\_\_

DOCLOG TTC A/O \_\_\_\_\_

	SEQUENCE TO	INITIAL/DATE	DISPOSITION
h3 Cosgriff	_____	_____	_____
Rice	<u>1</u>	<u>@9/23</u>	_____
Davies	_____	_____	_____
Kerrick	_____	_____	_____
Steinberg	<u>2</u>	<u>[Signature]</u>	_____
Berger	<u>3</u>	<u>[Signature]</u>	_____
Situation Room	_____	_____	_____
West Wing Desk	<u>3</u>	_____	<u>D</u>
Records Mgt.	_____	_____	_____
_____	_____	_____	_____

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

cc:

198 SEP 23 pm 12:11  
COMMENTS:

Need signed by 9/25  
Groom Lake

Exec Sec Office has diskette up \_\_\_\_\_

National Security Council  
The White House

9/23 1530

PROOFED BY: \_\_\_\_\_

LOG # 6405

URGENT NOT PROOFED: \_\_\_\_\_

SYSTEM PRS NSC INT ARS

BYPASSED WW DESK: \_\_\_\_\_

DOCLOG ITC A/O \_\_\_\_\_

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<i>h</i> Cosgriff	_____	_____	_____
Rice	<u>1</u>	<u>@9/23</u>	_____
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Situation Room	_____	_____	_____
West Wing Desk	<u>3</u>	_____	<u>D</u>
Records Mgt.	_____	_____	_____
_____	_____	_____	_____

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cc:

98 SEP 23 pm 12:14  
COMMENTS:

*Need signed by 9/25  
Groom Lake*

Exec Sec Office has diskette up



THE WHITE HOUSE

WASHINGTON

September 25, 1998

Presidential Determination  
No. 98-36

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*

NATIONAL SECURITY COUNCIL  
WASHINGTON, D.C. 20504

6405

September 23, 1998

ACTION

MEMORANDUM FOR SAMUEL R. BERGER

FROM: JAMES E. BAKER *JB*

SUBJECT: Continuation of RCRA Exemption for Operating  
Location Near Groom Lake

Since 1995, the President has exempted the "Operating Location near Groom Lake" from the public disclosure requirements of the Resource Conversation Recovery Act in order to protect national security information. By statute, the exemption is effective for one year, unless renewed.

With the concurrence of EPA and Justice, the Deputy Secretary of Defense is recommending that the President renew the exemption. Katie McGinty concurs as well. 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 25.**

In response to questions from the President, you requested that Defense, CIA and Energy review certain questions with respect to the Operating Location. A summary of this review was sent to the President in August, and is presently with John Podesta. Execution of this determination would not prejudice the President's satisfaction with this review.

Concurrence by: *JB* Joe Bouchard 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



ADVANCE  
COPY - from NSC

THE WHITE HOUSE  
WASHINGTON

ACTION

'98 SEP 23 PM 1:14

MEMORANDUM FOR THE PRESIDENT

THROUGH: THE EXECUTIVE CLERK

FROM: SAMUEL R. BERGER

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

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

Since 1995, you have issued an exemption under the Resource Conservation and Recovery Act (RCRA) protecting from disclosure classified information concerning an Air Force location 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 25**. 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. On appeal, the circuit court declined to reach this issue and, consequently, an exemption continues to be required.

Deputy Secretary of Defense Hamre and Acting Secretary of the Air Force Peters recommend that you renew the exemption to provide continued protection for national security information. 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 to exempt the location only from disclosure requirements and not from applicable environmental standards.

cc: Vice President  
Chief of Staff



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TO: PRESIDENT  
BERGER

FROM: HAMRE, J

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SUBJECT: RENEWAL OF PRES EXEMPTION - RCRA - FOR CLASSIFIED INFO RE GROOM LAKE

ACTION: PREPARE MEMO FOR BERGER

DUE DATE: 23 SEP 98 STATUS: S

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FOR ACTION  
BAKER

FOR CONCURRENCE

FOR INFO

COMMENTS:

DISPATCHED BY \_\_\_\_\_ DATE \_\_\_\_\_ BY HAND W/ATTCH

OPENED BY: NSJWF

CLOSED BY:

DOC 1 OF 1

UNCLASSIFIED

THE WHITE HOUSE

WASHINGTON

September 25, 1998

Presidential Determination  
No. \_\_\_\_\_

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PROTECTION AGENCY  
THE SECRETARY OF THE AIR FORCE

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

*William J. Clinton*