

FOIA MARKER

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Original OA/ID Number: 3220				
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UNCLASSIFIED
NSC/RMO PROFILE

RECORD ID: 9700471
RECEIVED: 24 JAN 97 14

CHRON FILE

TO: PRESIDENT

FROM: BERGER
HILLEY, J

DOC DATE: 31 JAN 97
SOURCE REF:

KEYWORDS: LEGAL ISSUES
CONGRESSIONAL

DEFENSE POLICY

PERSONS:

SUBJECT: RPT TO CONGRESS ON PRES EXEMPTION RE OPERATION LOCATION NEAR
GROOM LAKE

ACTION: PRESIDENT SGD PER WH EXEC CLERK DUE DATE: 28 JAN 97 STATUS: C

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

FOR CONCURRENCE

FOR INFO

BAKER
DANVERS
FICKLIN
KRECZKO
NSC CHRON
SANDALOW
SESTAK

COMMENTS: _____

DISPATCHED BY _____ DATE _____ BY HAND W/ATTCH

OPENED BY: NSTSM

CLOSED BY: NSDRS

DOC 2 OF 2

UNCLASSIFIED

UNCLASSIFIED
ACTION DATA SUMMARY REPORT

RECORD ID: 9700471

DOC ACTION OFFICER

001 BERGER
002 PRESIDENT
002

CAO ASSIGNED ACTION REQUIRED

Z 97013018 FWD TO PRESIDENT FOR SIG
Z 97013119 FOR SIGNATURE
X 97013120 PRESIDENT SGD PER WH EXEC CLERK

DISPATCH DATA SUMMARY REPORT

DOC DATE DISPATCH FOR ACTION

002 970131
002 970131

DISPATCH FOR INFO

VICE PRESIDENT
WH CHIEF OF STAFF

UNCLASSIFIED

National Security Council
The White House

rec'd 1/30
6:45pm

PROOFED BY: _____

LOG # 0471

URGENT NOT PROOFED: _____

SYSTEM PRS NSC INT ARS

BYPASSED WW DESK: _____

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	SEQUENCE TO	INITIAL/DATE	DISPOSITION
<u>W</u> Harmon	<u>1</u>	<u>[Signature]</u>	_____
Dohse	_____	_____	_____
Kerrick	<u>copy</u>	_____	_____
Steinberg	<u>2</u>	<u>[Signature]</u>	_____
Berger	_____	<u>[Signature]</u>	_____
Situation Room	_____	Deputy Natl Sec Advisor	_____
West Wing Desk	<u>3/4</u>	<u>has seen</u> <u>1/31 CK</u>	<u>[Signature]</u>
Records Mgt.	<u>5</u>	<u>Walter</u> <u>1/31</u>	<u>[Signature]</u>
_____	_____	_____	_____
_____	_____	_____	_____

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

cc:

COMMENTS:

Report due to Congress by
1/31.

'97 JAN 30 PM 6:17

Exec Sec Office has diskette _____

THE WHITE HOUSE

WASHINGTON

ACTION

January 31, 1997

MEMORANDUM FOR THE PRESIDENT

THROUGH: THE EXECUTIVE CLERK

FROM: SAMUEL R. BERGER *SRB*
JOHN HILLEY *JH**President and per WH 1/31/97
Executive Clerk*SUBJECT: Report to Congress on the Presidential Exemption
Concerning the Operating Location Near Groom LakePurpose

To report to the Congress pursuant to the Resource Conservation and Recovery Act (RCRA).

Background

On September 28, you exempted the Air Force operating location near Groom Lake, Nevada, (the operating location) "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" to unauthorized persons. You first granted such an exemption in 1995 in the context of litigation over the Government's compliance with RCRA at the location.

Under RCRA, you are required to report each January to the Congress all exemptions granted during the previous year and the reasons for doing so. In addition to noting that the exemption was necessary to protect national security (without providing details) the report indicates that the exemption was not intended to limit the applicability or enforcement of any requirement of law applicable to the operating location except those provisions, if any, that would require disclosure of classified information.

This report has been coordinated with CEQ as well as the Departments of Defense and Justice and the EPA.

RECOMMENDATION

That you sign the attached letters.

Attachments

Tab A Letter to Speaker of the House
Tab B Letter to President of the Senate

cc: Vice President
Chief of Staff

THE WHITE HOUSE

WASHINGTON

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 U.S. 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). 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

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.

William Clinton

THE WHITE HOUSE,
Washington, September 28, 1996.

[FR Doc. 96-25939

Filed 10-7-96; 8:45 am]

Billing code 3910-01-M

THE WHITE HOUSE
WASHINGTON

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.

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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). 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 of the Senate
Washington, D. C. 20510

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

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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 Clinton

THE WHITE HOUSE.

Washington, September 28, 1996.

[FR Doc. 96-25939

Filed 10-7-96: 8:45 am]

Billing code 3910-01-M

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20504

0471

January 30, 1997

ACTION

MEMORANDUM FOR SAMUEL R. BERGER

THROUGH: ALAN KRECZKO *AK*

FROM: JAMES BAKER *JB*

SUBJECT: Report to Congress on Presidential Exemption
Concerning the Operating Location Near Groom Lake

In September the President exempted the Air Force operating location near Groom Lake, Nevada, from any applicable provisions of hazardous or solid waste laws that would require disclosure of classified information. The exemption was first granted last year in the context of litigation (Browner) over the Government's compliance with the Resource Conservation and Recovery Act (RCRA).

Under RCRA, the President is required to report each January to the Congress all exemptions granted during the previous year and the reasons for doing so. This is the second such report during this Administration. The attached report has been coordinated with CEQ as well as the Departments of Defense and Justice and the EPA; it should be submitted to Congress no later than January 31.

Concurrence by: Joe Sestak, Bill Danvers, and David Sandalow *JS*

RECOMMENDATION

That you sign the memorandum to the President at Tab I.

Attachments

Tab I Memorandum for the President

Tab A Letter to Speaker of the House

Tab B Letter to President of the Senate

Tab II Incoming Correspondence