

# FOIA MARKER

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| Original OA/ID Number:<br>3240 |            |               |             |                |
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| Document ID: 9706404           |            |               |             |                |
| Stack:<br>V                    | Row:<br>46 | Section:<br>6 | Shelf:<br>3 | Position:<br>3 |

UNCLASSIFIED  
NSC/RMO PROFILE

RECORD ID: 9706404  
RECEIVED: 22 SEP 97 14

TO: WIDNALL, S  
BROWNER, C

**CHRON FILE**

FROM: PRESIDENT

DOC DATE: 26 SEP 97  
SOURCE REF:

KEYWORDS: SECURITY

PERSONS: BAKER

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

ACTION: PRESIDENT SGD PD 97-35

DUE DATE: 27 SEP 97 STATUS: C

STAFF OFFICER: BAKER

LOGREF: 9700471 9700698

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

OPENED BY: NSSWD

CLOSED BY: NSGP

DOC 4 OF 4

UNCLASSIFIED

UNCLASSIFIED  
ACTION DATA SUMMARY REPORT

RECORD ID: 9706404

DOC ACTION OFFICER

001 BERGER  
002 PRESIDENT  
002 EXECSEC  
003 PRESIDENT  
004

CAO ASSIGNED ACTION REQUIRED

Z 97092320 FWD TO PRESIDENT FOR SIGNATURE  
Z 97092408 FOR SIGNATURE  
Z 97092522 FOR FURTHER ACTION  
Z 97092522 FOR SIGNATURE  
X 97092910 PRESIDENT SGD PD 97-35

DISPATCH DATA SUMMARY REPORT

DOC DATE DISPATCH FOR ACTION

002 970924  
002 970924  
003 970925  
003 970925  
004 970926 WIDNALL, S  
004 970926 BROWNER, C  
004 970926  
004 970926

DISPATCH FOR INFO

VICE PRESIDENT  
WH CHIEF OF STAFF  
VICE PRESIDENT  
WH CHIEF OF STAFF  
BURNS, W  
CONROY, R  
DUSAULT, P  
SAUNDERS, T

UNCLASSIFIED

National Security Council  
The White House

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

LOG # 6404 Redo

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

SYSTEM (PRS) NSC INT ARS

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

DOCLOG K A/O \_\_\_\_\_

|                   | SEQUENCE TO | INITIAL/DATE         | DISPOSITION   |
|-------------------|-------------|----------------------|---------------|
| <u>K</u> Cosgriff | <u>1</u>    | <u>Kp 9.24</u>       | _____         |
| Rice              | _____       | _____                | _____         |
| Davies            | _____       | _____                | _____         |
| Kerrick           | <u>2</u>    | <u>(10) See NOTE</u> | _____         |
| Steinberg         | <u>copy</u> | _____                | _____         |
| Berger            | <u>3</u>    | <u>[Signature]</u>   | _____         |
| Situation Room    | _____       | _____                | _____         |
| West Wing Desk    | <u>4</u>    | <u>TMA 9.25</u>      | <u>A stem</u> |
| Records Mgt. →    | <u>5</u>    | <u>TMA 9.29</u>      | <u>D</u>      |
| →                 | <u>6</u>    | _____                | <u>D</u>      |

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

cc:

COMMENTS: Must be signed  
by Sep. 27

Exec Sec Office has diskette? Yes

National Security Council  
The White House

PROOFED BY: \_\_\_\_\_ LOG # 6404  
URGENT NOT PROOFED: \_\_\_\_\_ SYSTEM PRS NSC INT ARS  
BYPASSED WW DESK: \_\_\_\_\_ DOCLOG 70 A/O \_\_\_\_\_

|                | SEQUENCE TO | INITIAL/DATE        | DISPOSITION |
|----------------|-------------|---------------------|-------------|
| Cosgriff       | _____       | _____               | _____       |
| Rice           | _____       | _____               | _____       |
| Davies         | <u>1</u>    | <u>8/23 w/edits</u> | _____       |
| Kerrick        | <u>2</u>    | <u>(10) 9/23</u>    | _____       |
| Steinberg      | <u>copy</u> | _____               | _____       |
| Berger         | <u>copy</u> | _____               | _____       |
| Situation Room | _____       | _____               | _____       |
| West Wing Desk | <u>3</u>    | <u>Stewart</u>      | <u>D</u>    |
| Records Mgt.   | _____       | _____               | _____       |
| _____          | _____       | _____               | _____       |

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

cc:

COMMENTS:

'97 SEP 23 PM 7:21

Exec Sec Office has diskette yes

Sandy: Routine extension of  
existing policy.... Jamied I  
are look at a trip in 2d  
week of October. Unless you  
feel otherwise, will push to  
have this autopenned with  
sac. Given from you.  
OK \_\_\_\_\_

67  
9/24

Sandy:

Following our talk this morning, Jamie, Rob and I talked... WE HAVE redone the memo to the President taking into account our trip there next month.

Request you initial off on memo to the President. WE will send to the road. Ed Rice is our Rep. Jamie has reconsidered and believes POTUS should actually sign/OK since a court case is involved.

(10)



THE WHITE HOUSE

WASHINGTON

September 26, 1997

Presidential Determination  
No. 97-35

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 S. Clinton

## THE WHITE HOUSE

WASHINGTON


September 25, 1997

President sgd per WH  
Executive Clerk TMS 9-26

ACTION

MEMORANDUM FOR THE PRESIDENT

THROUGH: THE EXECUTIVE CLERK

FROM: SAMUEL R. BERGER 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

You have twice 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 27**. 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 remains under appeal. In the interim, Deputy Secretary of Defense Hamre and Secretary of the Air Force Widnall recommend that you renew the exemption to provide continued protection for national security information. EPA Administrator Browner and the Department of Justice's 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.

Continuation of this exemption does not prejudice our review of the health and environmental record at the Air Force location. General Kerrick and Jamie Baker are scheduled to visit the

cc: Vice President  
Chief of Staff



location in mid-October. As you know, Secretary Cohen is also taking an interest in the matter. We will report back to you, and to Bill, after General Kerrick's trip.

RECOMMENDATION

That you sign the exemption at Tab A.

Attachments

Tab A Presidential Determination

Tab B Incoming Correspondence from the Deputy Secretary of  
Defense



## DEPUTY SECRETARY OF DEFENSE

1010 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1010

20 SEP 1997

MEMORANDUM FOR PRESIDENT CLINTON  
THROUGH: MR. BERGERSUBJECT: Classified Information Concerning the Air Force's Operating Location  
Near Groom Lake, Nevada

On September 28, 1996, 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



SECRETARY OF THE AIR FORCE  
WASHINGTON

SEP 19 1997

MEMORANDUM FOR THE DEPUTY SECRETARY OF DEFENSE

FROM: SECRETARY OF THE AIR FORCE, SHEILA E. WIDNALL

Prepared by: Mr. Slater, SAF/GC, 697-4406

A handwritten signature in dark ink, appearing to read "Sheila E. Widnall", is written over the "FROM" line and extends to the right.

SUBJECT: Renewal of Presidential Exemption for Classified Information Concerning the Air Force's Operating Location Near Groom Lake, Nevada - ACTION MEMORANDUM

PURPOSE: Protect classified information concerning the operating location near Groom Lake

DISCUSSION: I recommend and request that you seek from the President a renewal of the exemption he issued on September 28, 1996, protecting from public disclosure classified information concerning an Air Force operating location near Groom Lake in the Nellis Range Complex in Nevada. By statute, the exemption granted last year is effective for one year, unless renewed. The exemption was prompted by a judicial decision in a lawsuit against the Environmental Protection Agency, Kasza v. Browner, which is now on appeal to the U.S. Court of Appeals for the Ninth Circuit. In the meantime, continued protection through a renewed exemption is necessary.

As discussed in the memoranda requesting the exemption the last two years, the activities undertaken at the operating location near Groom Lake are crucial to national security. The nature of the activities requires that virtually all information about the location remain classified. To protect national security in the pending litigation, I have made a formal claim of the military and state secrets privilege, which the court has found procedurally and substantively proper.

In the ruling at issue, the court nonetheless held that classified information must be produced pursuant to the public disclosure provisions of Section 3007(b) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6927(b), unless an exemption is granted by the President pursuant to Section 6001(a) of RCRA, 42 U.S.C. § 6961(a). EPA, through briefs filed by the Justice Department, has contested that construction, arguing that RCRA is properly interpreted as not mandating disclosure of classified information, which is consistent with other statutes, the common law, and separation of powers considerations. That issue is now on appeal. To protect classified information concerning the operating location near Groom Lake while the issue is litigated, the President granted such an exemption on September 29, 1995, which he renewed on September 28, 1996. To ensure continued protection of the information during the appeal process, a further renewal is required now.



The text of the proposed exemption is the same as that granted last year. It exempts the Air Force's operating location near Groom Lake from any provision of hazardous waste law that might require disclosure of classified information concerning the operating location. It also makes clear that other environmental obligations are not diminished. We ask that the exemption be executed and made effective on (but in all events not later than) September 28, 1997, the one-year anniversary of the previous exemption.

COORDINATION: As was true last year, EPA Administrator Browner concurs in this request for exemption, as does the Department of Justice's Environment and Natural Resources Division, which is defending EPA in the pending litigation.

OSD/GC \_\_\_\_\_

RECOMMENDATION: I recommend you send to the President the enclosed memorandum and proposed Presidential Determination.

Attachment:

A/S

DEPSECDEF DECISION:

\_\_\_\_\_ Approved  
\_\_\_\_\_ Disapproved  
\_\_\_\_\_ Other

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.



NATIONAL SECURITY COUNCIL  
WASHINGTON, D.C. 20504

6404  
Redo

September 24, 1997

ACTION

MEMORANDUM FOR SAMUEL R. BERGER

THROUGH: ALAN KRECZKO *AK*

FROM: JAMES E. BAKER *JB*

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

The President has twice 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.

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 27.**

Subsequent to receiving concurrence on the attached memorandum to the President, we have added a paragraph noting that execution of this determination does not prejudice our review of the health record and current conditions at the location and that you will report back to the President after General Kerrick's trip.

Concurrence by: Bob Bell and David Sandalow *3 previous drafts*

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

# FACSIMILE COVER SHEET

AIR FORCE GENERAL COUNSEL  
SAF/GC  
1740 AIR FORCE PENTAGON  
WASHINGTON, DC 20330-1740

I CERTIFY THAT THE MATERIAL BEING TRANSMITTED  
IS UNCLASSIFIED AND FOR OFFICIAL USE ONLY

TO: Jamie Baker  
Company: \_\_\_\_\_  
Phone: 202-456-9111  
Fax: 202-456-9110

FROM: Matt Slater  
COMPANY: **SAF/GC**  
PHONE: 703-697-0941 (DSN: 2270941)  
FAX: 703-693-9355 (DSN: 223-9355)

DATE: 9/22/97

PAGES INCLUDING THIS  
COVER PAGE: 5

SUBJECT: Groom Lake  
\_\_\_\_\_  
\_\_\_\_\_

COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

THE WHITE HOUSE  
WASHINGTON

'97 SEP 24 AM 8:27

September 24, 1997

ACTION

MEMORANDUM FOR THE PRESIDENT

THROUGH: THE EXECUTIVE CLERK

FROM: SAMUEL R. BERGER (K) For

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

You have twice 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 27**. 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 remains under appeal. In the interim, Deputy Secretary of Defense Hamre and Secretary of the Air Force Widnall recommend that you renew the exemption to provide continued protection for national security information. EPA Administrator Browner and the Department of Justice's 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

RECOMMENDATION

That you sign the exemption at Tab A.

## Attachments

Tab A Presidential Determination

Tab B Incoming Correspondence from the Deputy Secretary of  
Defense



THE WHITE HOUSE

WASHINGTON

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



20 SEP 1997

MEMORANDUM FOR      PRESIDENT CLINTON  
THROUGH: MR. BERGER

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

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

Attachment:  
SECAF Memo



SECRETARY OF THE AIR FORCE  
WASHINGTON

SEP 19 1997

MEMORANDUM FOR THE DEPUTY SECRETARY OF DEFENSE

FROM: SECRETARY OF THE AIR FORCE, SHEILA E. WIDNALL  
Prepared by: Mr. Slater, SAF/GC, 697-4406

A handwritten signature in dark ink, appearing to read "Sheila E. Widnall", is written over the typed name and extends to the right.

SUBJECT: Renewal of Presidential Exemption for Classified Information Concerning the Air Force's Operating Location Near Groom Lake, Nevada - ACTION  
MEMORANDUM

PURPOSE: Protect classified information concerning the operating location near Groom Lake

DISCUSSION: I recommend and request that you seek from the President a renewal of the exemption he issued on September 28, 1996, protecting from public disclosure classified information concerning an Air Force operating location near Groom Lake in the Nellis Range Complex in Nevada. By statute, the exemption granted last year is effective for one year, unless renewed. The exemption was prompted by a judicial decision in a lawsuit against the Environmental Protection Agency, Kasza v. Browner, which is now on appeal to the U.S. Court of Appeals for the Ninth Circuit. In the meantime, continued protection through a renewed exemption is necessary.

As discussed in the memoranda requesting the exemption the last two years, the activities undertaken at the operating location near Groom Lake are crucial to national security. The nature of the activities requires that virtually all information about the location remain classified. To protect national security in the pending litigation, I have made a formal claim of the military and state secrets privilege, which the court has found procedurally and substantively proper.

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The text of the proposed exemption is the same as that granted last year. It exempts the Air Force's operating location near Groom Lake from any provision of hazardous waste law that might require disclosure of classified information concerning the operating location. It also makes clear that other environmental obligations are not diminished. We ask that the exemption be executed and made effective on (but in all events not later than) September 28, 1997, the one-year anniversary of the previous exemption.

COORDINATION: As was true last year, EPA Administrator Browner concurs in this request for exemption, as does the Department of Justice's Environment and Natural Resources Division, which is defending EPA in the pending litigation.

OSD/GC \_\_\_\_\_

RECOMMENDATION: I recommend you send to the President the enclosed memorandum and proposed Presidential Determination.

Attachment:  
A/S

DEPSECDEF DECISION:

\_\_\_\_\_ Approved  
\_\_\_\_\_ Disapproved  
\_\_\_\_\_ Other



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.

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

NATIONAL SECURITY COUNCIL  
WASHINGTON, D.C. 20504

September 22, 1997

ACTION

MEMORANDUM FOR SAMUEL R. BERGER (D) [initials]

THROUGH: ALAN KRECZKO [initials]

FROM: JAMES E. BAKER [initials]

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

The President has twice 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.

With the concurrence of EPA and Justice, the Deputy Secretary of Defense is recommending that the President renew the 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 27.**

Katie McGinty concurs in this recommendation.

Concurrence by: [signature] 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



THE WHITE HOUSE  
WASHINGTON

ACTION

MEMORANDUM FOR THE PRESIDENT

THROUGH: THE EXECUTIVE CLEF.K

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

You have twice 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 27**. 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 remains under appeal. In the interim, ~~the~~ Deputy Secretary of Defense Hamre and Secretary of the Air Force Widnall recommend that you renew the exemption to provide continued protection for national security information. EPA Administrator Browner and ~~the~~ Department of Justice's Environmental and Natural Resources Division ~~of~~ 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