

FOIA MARKER

This is not a textual record. This is used as an administrative marker by the Clinton Presidential Library Staff.

Original OA/ID Number: 3250				
Document ID: 9800538				
Stack: V	Row: 46	Section: 6	Shelf: 7	Position: 1

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001a. memo	Samuel R. Berger & Larry Stein to The President Re: Report to Congress (2 pages)	01/31/1998	P1/b(1)
001b. email	Joseph F. Bouchard to Joan S. Hunerwadel Re: Report to Congress [partial] (1 page)	01/27/1998	P6/b(6)
001c. memo	Samuel R. Berger & Larry Stein to The President Re: Report to Congress (1 page)	ca. 1/1998	P1/b(1)
001d. memo	Samuel R. Berger & Larry Stein to The President Re: Report to Congress (1 page)	ca. 1/1998	P1/b(1)

COLLECTION:

Clinton Presidential Records
NSC Records Management
([Area 51])
OA/Box Number: 3250

FOLDER TITLE:

9800538

2006-0527-F

ds219

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

Freedom of Information Act - [5 U.S.C. 552(b)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
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P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
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~~SECRET~~
NSC/RMO PROFILE

RECORD ID: 9800538
RECEIVED: 23 JAN 98 19

TO: GINGRICH, NEWT
GORE, A

CHRON FILE

FROM: PRESIDENT

DOC DATE: 31 JAN 98
SOURCE REF:

KEYWORDS: LEGAL ISSUES

CONGRESSIONAL

PERSONS:

SUBJECT: RPT TO CONGRESS ON PRES EXEMPTION CONCERNING OPERATING LOCATION
NEAR GROOM LAKE

ACTION: PRESIDENT SGD LTRS

DUE DATE: 29 JAN 98 STATUS: C

STAFF OFFICER: BAKER

LOGREF:

FILES: PA

NSCP:

CODES:

DOCUMENT DISTRIBUTION

FOR ACTION

FOR CONCURRENCE

FOR INFO

BAKER
BOUCHARD
FICKLIN
NSC CHRON
RUDMAN
SANDALOW

COMMENTS: DISPATCHED BY THE WH EXECUTIVE CLERK

DISPATCHED BY _____ DATE _____ BY HAND W/ATTCH

OPENED BY: NSTTS

CLOSED BY: NSDRS

DOC 3 OF 3

~~SECRET~~

DECLASSIFIED
E.O. 12958, As Amended,
White House Guidelines, August 28, 1997
By DM SNARA, Date 5/17/67

~~SECRET~~

RECORD ID: 9800538

ACTION DATA SUMMARY REPORT

DOC ACTION OFFICER

CAO ASSIGNED ACTION REQUIRED

001	BERGER	Z	98012917 FWD TO PRESIDENT FOR SIGNATURE
002	PRESIDENT	Z	98013112 FOR SIGNATURE
002		X	98020413 PRESIDENT SGD PER WH EXEC CLERK
003		X	98020413 PRESIDENT SGD LTRS

DISPATCH DATA SUMMARY REPORT

DOC DATE DISPATCH FOR ACTION

DISPATCH FOR INFO

003	980131	RGINF
003	980131	GORE, A

~~SECRET~~

Log # 0530

ADDITIONAL COMMENTS

Fm ② To SRB Date 1/29

This is a routine
REPORT ... Not a new
exemption ...

CHRON FILE

Fm _____ To _____ Date _____

Sandy;
a para has been
added, as you
suggested.

(12)

CHRON FILE

National Security Council
The White House

PROOFED BY: _____

LOG # 0530

URGENT NOT PROOFED: _____

SYSTEM PRS NSC INT ARS

BYPASSED WW DESK: _____

DOCLOG 5 A/O _____

	SEQUENCE TO	INITIAL/DATE	DISPOSITION
<u>h</u> Cosgriff			
Rice	<u>1</u>	<u>D/29</u>	
Davies			
Kerrick	<u>2</u>	<u>D/29</u>	<u>See Note</u>
Steinberg	<u>3</u>		
Berger	<u>4</u>		
Situation Room			
West Wing Desk	<u>5</u>	<u>F/30</u>	<u>STEIN</u>
Records Mgt.	<u>6</u>	<u>TMA 2.2</u>	<u>N</u>
	<u>7</u>		<u>N</u>

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

cc:

BYPASSED STEIN - COPIED 6/15/98 TO STAFF SEC AND CLERK FOR EXEC SEC

COMMENTS:

Report Needs to be Submitted by Jan 31

'98 JAN 29 AM 3:19

to Congress!

Exec Sec Office has diskette yes

THE WHITE HOUSE

WASHINGTON

January 31, 1998

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 26, 1997, I issued Presidential Determination No. 97-35 (copy attached) and thereby exercised the authority to grant certain exemptions under section 6001(a) of the Act.

Presidential Determination No. 97-35 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 district court decision in pending litigation, Kasza v. Browner (D. Nev. CV-S-94-795-PMP), the relevant appeal which, was subsequently dismissed as moot (9th Cir. Nos. 96-15535 and 96-15537; decided January 8, 1998). 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,

William J. Clinton

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

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January 31, 1998

Dear Mr. President:

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Sincerely,

William J. Clinton

The Honorable Albert Gore, Jr.
President of the Senate
Washington, D.C. 20510

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 J. Clinton

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

February 2, 1998

TEXT OF A LETTER FROM THE PRESIDENT
TO THE SPEAKER OF THE HOUSE OF REPRESENTATIVES
AND THE PRESIDENT OF THE SENATE

January 31, 1998

Dear Mr. Speaker: (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 26, 1997, I issued Presidential Determination No. 97-35 (copy attached) and thereby exercised the authority to grant certain exemptions under section 6001(a) of the Act.

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Sincerely,

WILLIAM J. CLINTON

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Withdrawal/Redaction Marker

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001a. memo	Samuel R. Berger & Larry Stein to The President Re: Report to Congress (2 pages)	01/31/1998	P1/b(1)

COLLECTION:

Clinton Presidential Records
NSC Records Management
([Area 51])
OA/Box Number: 3250

FOLDER TITLE:

9800538

2006-0527-F
ds219

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
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C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

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- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]



DEPUTY SECRETARY OF DEFENSE

1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010



JAN 27 1998

0645
0538

MEMORANDUM FOR THE PRESIDENT
THROUGH THE NATIONAL SECURITY ADVISOR

SUBJECT: Congressional Notification of Presidential Exemption under Section 6001(a) of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6961(a).

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 26, 1997, in Presidential Determination 97-35, 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

JAN 28 11:13

January 29, 1998

ACTION

MEMORANDUM FOR SAMUEL R. BERGER

FROM: JAMES BAKER *JB*

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

Don
Wrote to POTUS (remind)
needs to remind
him we are
concern working
usual issue
JB

Under the Resource Conservation and Recovery Act (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 third such report during this Administration. The language is consistent with earlier reports with the addition of language noting the 9th Circuit's January 8 ruling that the litigation giving rise to the President's exercise of the exemption is moot.

The 9th Circuit upheld the validity and scope of the President's exemption, but declined to address the Government's argument that an exemption is not required because criminal statutes already preclude disclosure of classified information.

The report should be submitted to Congress no later than January 31.

Concurrence by: *JB JB* Joe Bouchard, Mara Rudman and David Sandalow

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

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001b. email	Joseph F. Bouchard to Joan S. Hunerwadel Re: Report to Congress [partial] (1 page)	01/27/1998	P6/b(6)

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Hunerwadel, Joan S.

From: Bouchard, Joseph F.
Sent: Tuesday, January 27, 1998 7:31 AM
To: Hunerwadel, Joan S.
Subject: RE: Report to Congress re Groom Lake [UNCLASSIFIED]

I clear for Defense Policy.

(b)(6)

50016J

Joe Bouchard

-----Original Message-----

From: Hunerwadel, Joan S.
Sent: Monday, January 26, 1998 8:31 PM
To: Bouchard, Joseph F.; Rudman, Mara E.; Sandalow, David B.
Subject: Report to Congress re Groom Lake [UNCLASSIFIED]

Could we please have your clearance on the attached report to Congress no later than OOB Wednesday, 28 January
This has to be submitted to Congress no later than January 31. David, Jamie said you would be clearing for CEQ as well.

Thanks for your help.

<< File: 0538aq.doc >> << File: 0538bc.doc >> << File: 0538ng.doc >> << File: 0538sb.doc >>

Hunerwadel, Joan S.

From: Rudman, Mara E.
Sent: Tuesday, January 27, 1998 8:37 PM
To: Hunerwadel, Joan S.
Cc: Bouchard, Joseph F.; Sandalow, David B.; @LEGISLAT - Legislative Affairs
Subject: RE: Report to Congress re Groom Lake [UNCLASSIFIED]

We're fine with it.

-----Original Message-----

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Hunerwadel, Joan S.

From: Sandalow, David B.
Sent: Wednesday, January 28, 1998 10:32 AM
To: Hunerwadel, Joan S.; Bouchard, Joseph F.; Rudman, Mara E.
Subject: RE: Report to Congress re Groom Lake [UNCLASSIFIED]

I clear (for NSC/Environment and CEQ).

-----Original Message-----

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THE WHITE HOUSE

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Sincerely,

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President of the Senate
Washington, D.C. 20515

Enclosure