

Frank Vera III

www.GeorgeAFB.Info

4 April 2012

BY FAX TO: 571-305-8229

Secretary of the Air Force
Thru: AFOSI/XILI
Attn: FOIA Section
27130 Telegraph Rd.
Quantico, VA. 22134
Phone: 571-305-8728
afosi.hq.foia@ogn.af.mil

Freedom of Information Act (FOIA) Appeal
FOIA/Privacy Act Request case number AFOSI 2012-FOIA 00156

Dear Sir or Madam:

I am appealing the 10 February 2012 FOIA/PA Act denial based on its being a “duplicate request”. (*See pages 5 and 6*)

While this is my third FOIA/PA request for this information, it is not and should not be considered a “duplicate request.”

1. This request should have been processed as a new FOIA/PA request as it contained a sworn Statement of Facts from [REDACTED], former OSI Special Agent. This Statement of Facts contains *new information* to help the AF FOIA Officer locate the requested records. (*See page 10*)
2. This request was filed with Headquarters Air Force/ICIO and not with AF OSI/XILI because the OSI was unsuccessful in locating the requested records for the last two FOIA requests that were filed with them. Considering the facts that George AFB was closed in December 1992, 20 years ago, and the requested records dealt exclusively with environmental contamination at the former base, it is reasonable to believe that the records are maintained by another branch of the AF or stored in a record repository other than with the OSI. (*See page 5*)
3. I did not have Mr. [REDACTED] Statement of Facts, dated 18 February 2011, when I filed FOIA requests AFOSI; 2011-FOIA-00142 dated 3 January 2011 or 2011-FOIA-00201 dated 4 February 2011. Furthermore, I was not aware that I could submit new information during a FOIA/PA appeal.
4. Mr. [REDACTED] Statement of Facts provides the following new information:
 - a. Confirmation that the investigations did occur in 1990 or 1991 and that documentation was generated.

- b. Mr. [REDACTED] did conduct an investigation into my possible exposure to an unknown, possible CBRN material at the former George Air Force Base, CA.
 - c. Mr. [REDACTED] did conduct a separate investigation into “potential [environmental] hazards that were known to the Air Force at that time” at George AFB.
 - d. Mr. [REDACTED] was assigned to “OSI Detachment 1802.”
 - e. Mr. [REDACTED] supervisor was “Special Agent [REDACTED].”
 - f. The location of my possible exposure was “Southern portion of GAFB” (SEDA).
 - g. Mr. [REDACTED] current contact information, “[REDACTED],” and he is willing to provide the AF with any additional information needed to help locate the requested records.
- [REDACTED]

Additional New Information

I am providing the following additional new information to help the AF FOIA Officer locate the requested records:

1. This was an approximately three-weeklong joint investigation between the FBI and OSI; the investigators were [REDACTED], Special Agent FBI and [REDACTED], Special Agent OSI. *(See page 11)*
2. The unmarked barrel was located in the base recreational area (motocross track south of Air Base Rd.), behind the former small arms range. It was olive drab in color, smaller than a 55-gallon drum, the lid was extremely heavy, the seal ring was stainless steel and had a screw clamp, the material looks like broken up ceramic dust to about 2 - inch long shards that was tan and was slightly yellow. I opened the barrel, dug all the contents out, and stopped when I saw the top edge of the bottom. The location of the barrel was approximately where IRP sites DP-33 / (M-1) are shown on the attached map. *(See page 12)*
3. During the course of the investigation, Mr. [REDACTED] asked me to show him where the barrel was located. We drove east on the Los Angeles Department of Water and Power (LADWP) power line road and he stopped the car about 1/8 mile before we got to the site. He stated that he “could not enter the area,” but would not say why. We could clearly see that hundreds, possibly thousands of yards of dirt had recently been removed.
4. The George AFB Administrative record does not show remediation of the site prior to 1992.

AFOSI 2011 FOIA-00142 and 2011-FOIA-00201

The 10 February 2012 FOIA (AFOSI 2012-FOIA 00156) denial letter refers to the two previous FOIA/PA requests (AFOSI 2011 FOIA-00142 and AFOSI 2011-FOIA-00201).

1. AFOSI 2011 FOIA-00142 was filed on 3 January 2011.
 - a. On 6 January 2011 10:45, Michael Jenkins called to clarify the FOIA/PA request.
 - b. I received a “no records” response dated 25 January 2011. Apparently, when I spoke to Mr. Jenkins on 6 January 2011, my physical pain had caused my verbal explanation to be disjointed because his understanding of what documents I had requested did not resemble the original 3 January 2011 FOIA/PA request.
2. AFOSI 2011-FOIA-00201 was filed on 25 January 2011.
 - a. In this request I asked, “Please do not call to clarify this request, limit the scope, and/ or alter this request” because of the problems with the pervious request.
 - b. I received a FOIA/PA response dated 8 March 2011. This response consisted of a 2-page letter and 77 pages of documents pertaining to two AFOSI cases (960110D58-799640 and 950L304ED558-Z776135). Both of these cases were limited to the former Norton AFB, CA. The documents do mention that International Technology Corporation (ITC) did contract work at George AFB and Norton AFB. (Copies of these FOIA records are at www.georgeafb.info/foia/foia-request)

Public Interest Statement

George AFB had about 14 Installation Restoration Program (IRP) sites (unpermitted dumpsites and unpermitted burn pits) within 500 feet to a mile upstream of the drinking water supply wells for George AFB, Adelanto, and private homes. (*See pages 13 and 14*)

The AF acknowledges that these 14 IRP sites contain the following: the outflow from the sewage treatment plant, aviation gas, tetraethyl lead, VOCs, weapons' residue, heavy metals; industrial, chemical, and/or radioactive waste.

The AF by its own admission has no record of all of the dump locations, or what or how much that it disposed at George AFB. *“Burial of Radioactive Waste in the USAF” - AF - 1972; “Nuclear Regulation - The Military Would Benefit From a Comprehensive Waste Disposal Program” - GAO - 1990; “Environmental Cleanup - Better Data Needed For Radioactively Contaminated Defense Sites” - GAO - 1994; “Lost Atomic Energy Commission (AEC) Records” - EPA - 1996*

The Air Force admits that it routinely withheld records and information about radioactive waste from regulators, contractors, and the public. "*Buried Radioactive Weapons Maintenance Waste*" - Air Force Real Property Agency (AFRPA) – 8 May 2003

In Closing

Because the AF has not acknowledged the nature and extent of the environmental contamination at the former George AFB:

- Doctors cannot treat toxic exposures of base personnel and family members.
- Military personnel are being defrauded of their Medical Discharge, Military Pension, and medical care (TRICARE).
- Military personnel's family members are being defrauded of their medical care (TRICARE).
- Veterans are being defrauded of their VA Service Connected Pension and VA medical care.
- Veterans' family members are being defrauded of their VA medical care (CHAMPVA).
- Parents were never given the choice of whether or not to have children because these parents were not provided information about their toxic exposure and the possible effect that it may have on their pregnancy and unborn children.
- The two schools on George AFB remained open for 15 years after the base was closed, potentially unnecessarily exposing the children and staff to environmental contamination.

I am asking that the Air Force release unredacted copies of all of the requested records.

Thank you for processing this FOIA/AP Appeal.

Sincerely,

[Redacted Signature]

Frank Vera III

[Redacted Address Line 1]

[Redacted Address Line 2]

[Redacted Address Line 3]



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE OFFICE OF SPECIAL INVESTIGATIONS
QUANTICO VIRGINIA

HQ AFOSI/XILI
Attn: FOIA Section
27130 Telegraph Rd.
Quantico, VA. 22134

FEB 10 2012

Mr. Frank Vera
[REDACTED]


Dear Mr. Vera,

This letter is in response to the 3 January 2012 Freedom of Information Act (FOIA) request that you submitted directly to the Headquarters Air Force (HAF) FOIA office. On 4 January 2012, they forwarded your request to us for processing and direct response to you. You are seeking records associated with your possible exposure to chemical, biological, radiological, and/or nuclear (CBRN) material at George AFB, CA in 1973. We assigned AFOSI 2012-FOIA 00156 to your request. On 3 January 2011, you submitted a FOIA request to us seeking the same information (reference AFOSI 2012-FOIA-00142). We provided you a "no records" response on 25 January 2011. On 4 February 2011, you submitted a FOIA request seeking copies of any and all records about you that we had in our possession. We identified two AFOSI cases (960110D58-799640 and 95OL304ED558-Z776135) and we provided you redacted versions of those cases on 8 March 2011 (reference AFOSI 2011-FOIA-00201). In our response letter to you, we informed you of your appeal rights. You had 60 days from the date of our letters to appeal our previous decision and our records reflect that you never appeal our decisions.

In accordance with DoD 5400.7-R_AFMAN 33-302, Freedom of Information Act, paragraph C5.2.2.8, this is a duplicate request, and therefore we are not required to process it. AFOSI 2012-EXP-00002 hereby administratively closed. If you interpret this response as an adverse action, you may appeal it to the Secretary of the Air Force and it must be postmarked within 60 days from the date of this letter. Include in the appeal your reasons for reconsideration, and attach a copy of this letter. Address your letter as follows:

Secretary of the Air Force
Thru: AFOSI/XILI
Attn: FOIA Section
27130 Telegraph Rd.
Quantico, VA. 22134

Sincerely,


CAROLYN F. WARREN
Chief, Information Services Division

"EYES OF THE EAGLE"

HQ AFOSI/XILI
ATTN: FOIA SECTION
27130 TELEGRAPH RD.
QUANTICO VA 22134
OFFICIAL BUSINESS

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FIRST CLASS



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MR. FRANK VERA

960-R38 95327

Frank Vera III

www.GeorgeAFB.info

3 January 2012

BY FAX TO: 703-693-5728

Department of the Air Force
Headquarters Air Force/ICIO (FOIA)
1000 Air Force Pentagon
Washington, DC 20330-1000
Phone: 703-696-7263
Fax: ~~703-696-7273~~ out of order
haf.foia@pentagon.af.mil

FOIA/Privacy Act Request

Dear FOIA Officer:

Please process this request pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and the Privacy Act, 5 U.S.C. § 552a.

Per instructions at <http://www.foia.af.mil/main/welcome.asp>, I am filing this request with Headquarters Air Force/ICIO (FOIA) as I do not know the location of the requested records.

Please conduct a thorough search for and provide a copy of the following records:

1. The investigation conducted by [REDACTED] Special Agent OSI, in approximately 1990 - 1991, at George AFB, CA of my possible exposure to chemical, biological, radiological, and/or nuclear (CBRN) material at George AFB, CA in 1973 (*See page 4, Declaration of Christian S. Filipiak*).
2. The investigation conducted by [REDACTED] Special Agent OSI, in approximately 1990 - 1991, at George AFB, CA of possible chemical, biological, radiological, and/or nuclear (CBRN) material/contamination at George AFB, CA.

Definition of Record

The term "record" includes, *but is not limited to*: 1) all email communications to or from any individual within your agency; 2) memoranda; 3) inter-agency communications; 4) sound recordings; 5) tape recordings; 6) video or film recordings; 7) photographs; 8) notes; 9) notebooks; 10) indices; 11) jottings; 12) message slips; 13) letters or correspondence; 14) telexes; 15) telegrams; 16) facsimile transmissions; 17) statements; 18) policies; 19) manuals or binders; 20) books; 21) handbooks; 22) business records; 23) personnel records; 24) ledgers; 25) notices; 26) warnings; 27) affidavits; 28) declarations

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Frank Vera III - 3 January 2012
FOIA/Privacy Act Request - Special Agent [REDACTED] investigation - CBRN

under penalty of perjury; 29) unsworn statements; 30) reports; 31) diaries; 32) calendars, regardless of whether they are handwritten, printed, typed, mechanically or electronically recorded or reproduced on any medium capable of conveying an image, such as paper, CDs, DVDs, or diskettes.

Record Search

When processing this request, please note that the D.C. Circuit has previously held that agencies have a duty to construe the subject material of FOIA requests *liberally* to ensure responsive records are not overlooked. See *Nation Magazine, Washington Bureau v. U.S. Customs Service*, 71 F.3d 885, 890 (D.C. Cir. 1995).

In line with the guidance issued by the Department of Justice ("DOJ") on 9 September 2008 to all federal agencies with records subject to FOIA, agency records that are currently in the possession of a U.S. Government contractor for purposes of records management remain subject to FOIA. Please ensure that your search complies with this clarification on the effect of Section 9 of the OPEN Government Act of 2007 of the definition of a "record" for purposes of FOIA. In addition, the Air Force should not interpret this request to exclude correspondence sent to outside third parties. Please also consider this letter an affirmative rejection of any limitation of your search to Air Force originated records.

Exempt Records

If you assert that any of the requested records are exempt from mandatory disclosure under FOIA, I request that you disclose them nevertheless, as such disclosure would serve the public interest of educating citizens regarding the operations and activities of the Air Force regarding this matter.

If you deny all or part of this request, please cite the specific exemptions you believe justify your refusal to release the information or permit the review and notify me of your appeal procedures available under the law.

In addition, I would like to draw your attention to president Obama's 21 January 2009 Memorandum for the Heads of Executive Departments and Agencies, directing federal agencies to adopt a presumption in favor of disclosure and stating that government information should not be kept confidential "merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears."

Redaction

In excising material, please "black out" rather than "white out" or "cut out." Additionally, any reasonably segregable portion of a responsive record must be provided to me after redaction of any allegedly exempt material, as the law requires. 5 U.S.C. § 552(b). I reserve the right to appeal any decision to withhold information.

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Preservation of Records

Please ensure that, in accordance with the DC Circuit's ruling in Chambers v. Department of the Interior, 568 F.3d 998 (D.C. Cir. 2009), all records potentially responsive to this FOIA request are immediately preserved from destruction until the final resolution of this FOIA action. Destruction of potentially responsive records after the receipt of a FOIA request is considered "contumacious conduct" by the DC Circuit. See id. at 1004.

Record Format

I request that any documents or records produced in response to this request be provided in electronic (soft-copy) form wherever possible. Acceptable formats are .pdf, .doc, docx, .jpg, .gif, .tif. Please provide soft-copy records by email or on a CD if email is not feasible.

However, I do not agree to pay an additional fee to receive records on a CD, and in the instance that such a fee is required, I will accept a paper copy of responsive records.

I look forward to receiving the requested documents within twenty (20) business days.

If you wish to discuss this request, please do not hesitate to contact me at 209-984-5517.

Thank you for processing this FOIA/Privacy Act request.

Sincerely,

Frank Vera III
[Redacted Signature]

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that I am the person named above (requester) and I understand that any falsification of this statement is punishable under the provisions of 18 U.S.C. section 1001 by a fine of not more than \$10,000.00 or by imprisonment of not more than five years or both, and that requesting or obtaining any record(s) under false pretenses is punishable under the provisions of 5 U.S.C. 552a(i)(3) by a fine of not more than \$5,000.00.

Frank Vera III

3 Jan 2012

Frank Vera III

Date

Enclosures:

Page 4: Declaration of [Redacted] former OSI Special Agent

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Frank Vera III - 3 January 2012
FOIA/Privacy Act Request - Special Agent [Redacted] investigation - CBRN

Declaration of [REDACTED]

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[REDACTED]

From [REDACTED], I was a Special Agent with the United States Air Force, stationed at George AFB (GAFB), Victorville, CA. I was assigned to Detachment 1802. My supervisor was Special Agent [REDACTED]

During 1990 or 1991, as part of my duties, I was assigned an investigation into a complaint by a local citizen, Frank Vera, that he had suffered some physical ailments after having been riding his bike through the desert on the Southern portion of GAFB when he came across a 55 gallon drum of a jelly like substance. Mr. Vera placed either his hand or his arm in the substance. Shortly there after, Mr Vera began suffering from adverse health which he attributed to this event. Mr. Vera suspected the drum may have contained some type of radioactive material.

I recall interviewing him during the investigation, conducting some interviews of the base environmental personnel and reviewing some documents related to potential hazards that were known to the Air Force at that time. I recall there being some issue of cathode ray tubes, which contained low level radio active contaminants having been dumped in this area, munitions being deposited of in this area and other chemicals, the name of which at this time I cannot recall.

I do recall generating some kind of report or memo regarding the investigation, although I cannot recall the specifics at this time. I do not recall the conclusions of the report or memo.

I declare under penalty of perjury, under the laws of the State of California that the above information is true and correct to the best of my knowledge.

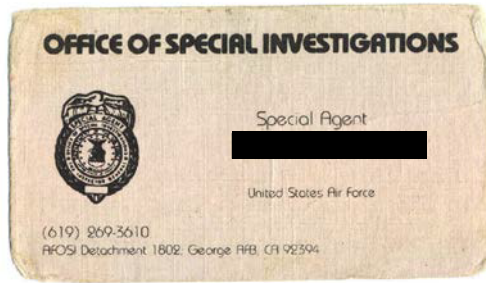
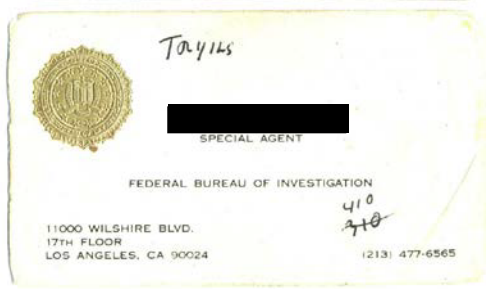
Date: 2/18/2011

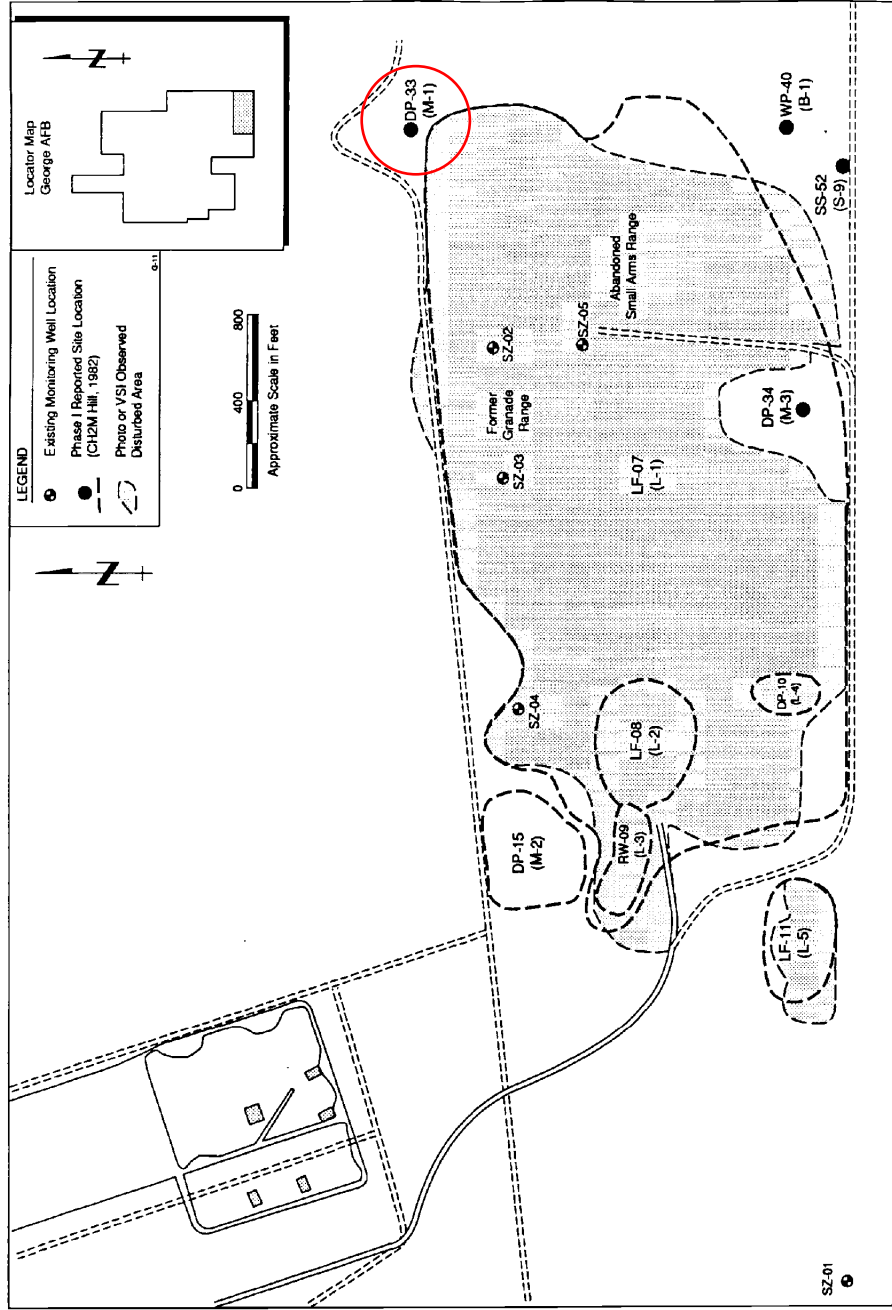
[REDACTED]

Page 1 of 1

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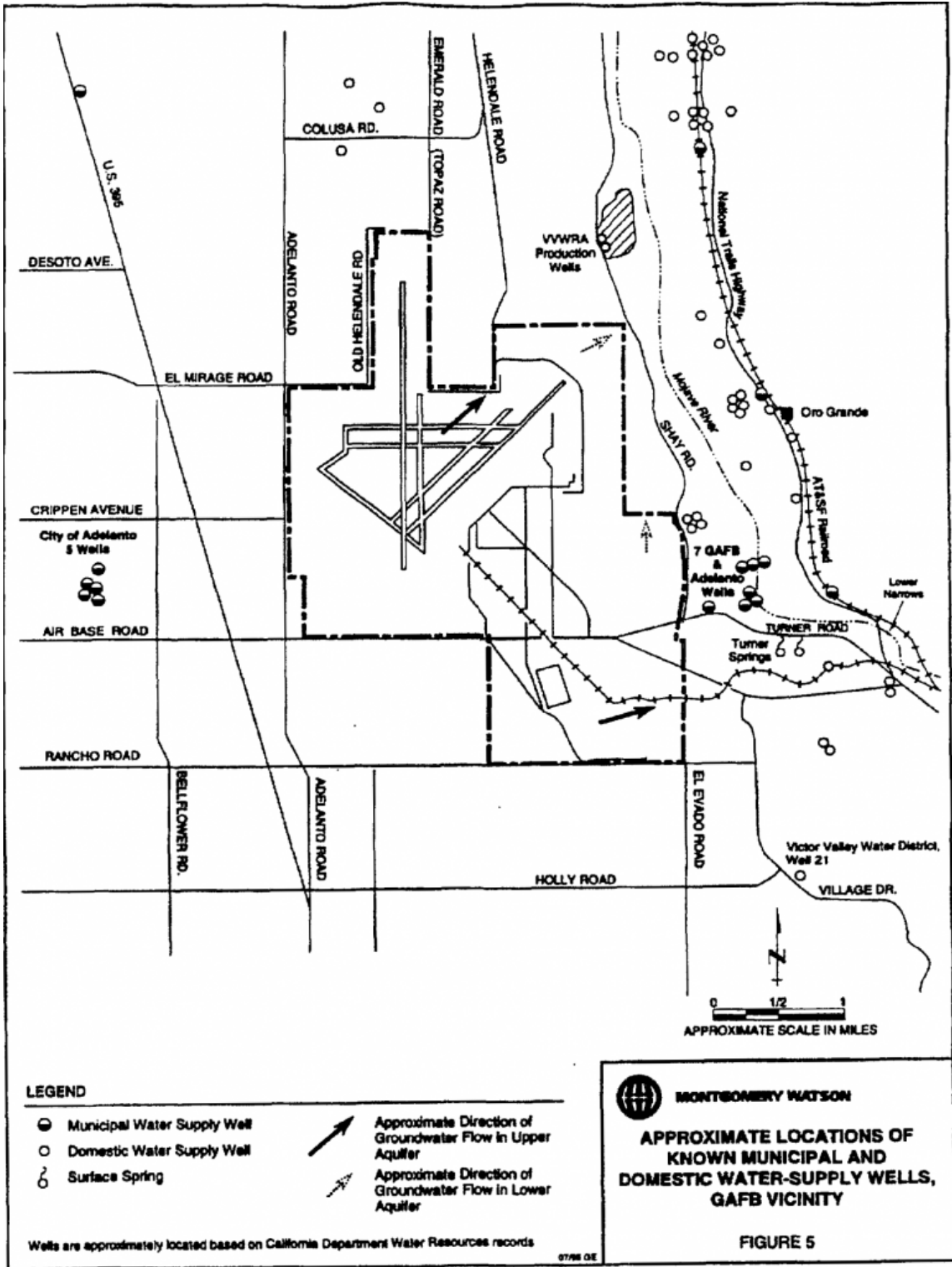
Frank Vera III - 3 January 2012
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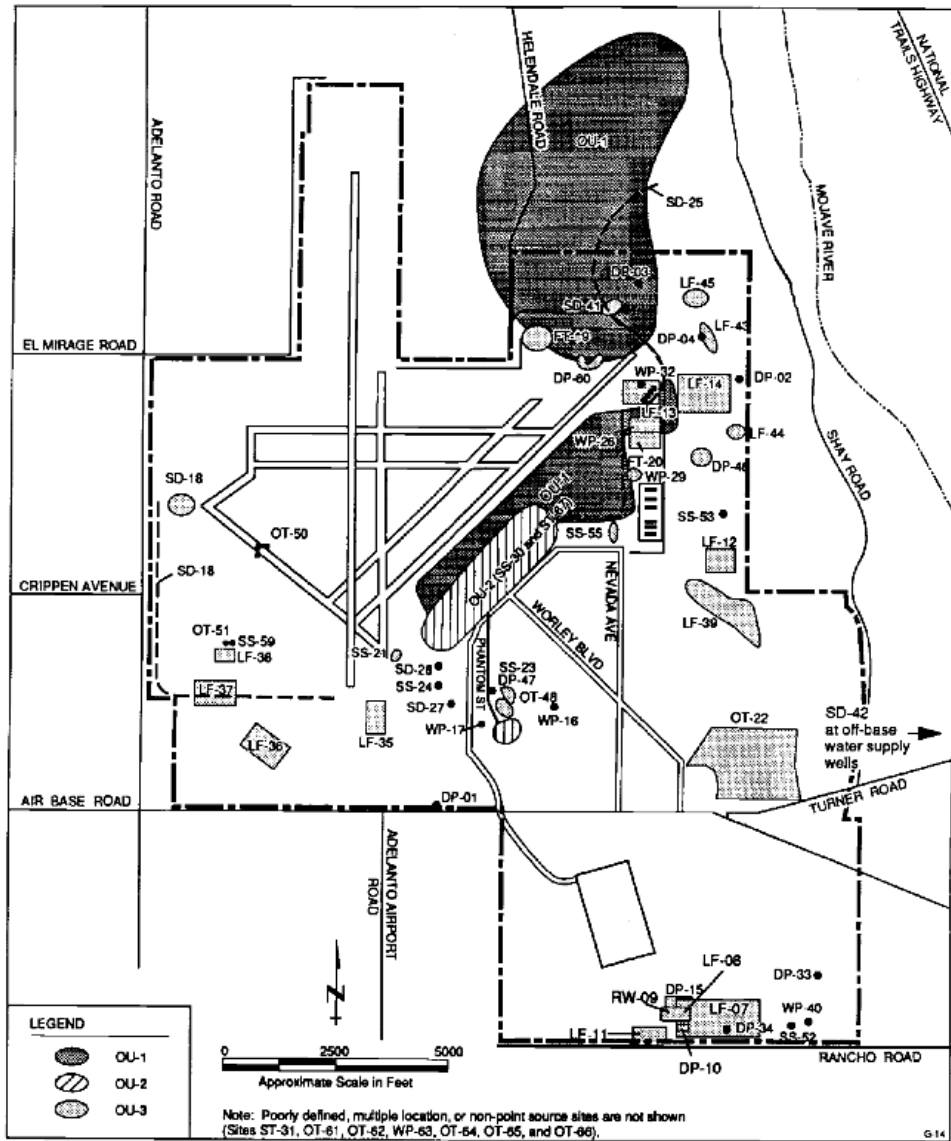




**SOUTHEAST DISPOSAL AREA
LOCATIONS OF SITES**

FIGURE 2-16





IRP SITES

FIGURE 1-2

TRANSMISSION VERIFICATION REPORT

TIME : 04/04/2012 14:23
NAME :
FAX :
TEL :
SER. # :

DATE, TIME	04/04 14:12
FAX NO./NAME	15713058229
DURATION	00:05:29
PAGE(S)	14
RESULT	OK
MODE	FINE ECM