

Frank Vera III

www.GeorgeAFB.Info

13 March 2013

BY FAX TO: 210-395-8012

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**FOIA Appeal
Denial of Public Interest and/or News Media Fee Waiver**

Dear Ms. Seals:

I am appealing your decision to deny my request for Fee Waiver on the following FOIA requests: 2013-02349-F, 2013-02366-F, 2013-02635-F, 2013-02636-F, and 2013-02637 (See pages 7 and 8).

Public Interest Fee Waiver

I request a Public Interest Fee Waiver for each of the aforementioned FOIA requests since disclosure of the [requested] information is in the public interest because it is likely to contribute significantly to the public's understanding of the operations or activities of the government and I have NO commercial interest in the requested information, as defined in DOD5400.7-R_AFMAN 33-302 § C6.1.4.1. and 5 U.S.C. § 552(a)(4)(A)(iii).

Based on the following, the requested records clearly meet all six of the requirements for a Public Interest Fee Waiver set forth in the Department of Defense Freedom of Information Act Handbook § 286.28 and the DOJ Guide to the FOIA § Fees and Fee Waivers:

1) *The subject of the request. § C6.1.4.3.1.1.*

All of the FOIA requests were for *previously unreleased* records that pertain to the environmental contamination at former George Air Force Base, CA, Superfund ID: CA2570024453. The requested records are necessary to establish the "Completed Exposure Pathways" for the hazardous materials at George AFB and will answer the following questions:

- a) When did the Air Force (AF) have knowledge that a problem existed and did its employees withhold information from the Agency for Toxic Substances and Disease Registry (ATSDR) for its Health Assessment of George AFB?
 - b) What deed restrictions were placed because of groundwater and soil contamination?
 - c) When did the AF place deed restrictions because of groundwater and soil contamination?
 - d) What were/are the locations of the supply wells to establish their relationship to the contamination and groundwater flow?
 - e) Did AF employees knowingly mislead the ATSDR and the public?
- 2) *The informative value of the information to be disclosed. § C6.1.4.3.1.2.*
 George Air Force Base had about 14 Installation Restoration Program (IRP) sites (effluent from the base wastewater treatment plant containing industrial waste, oils, and solvents was used to water the golf course from 1965 until 1 December 1981; unpermitted dumpsites and unpermitted burn pits) within 500 feet to a mile upstream of the drinking water supply wells for George AFB, Adelanto, private homes, and the former Victor Valley Country Club. This provided a possible exposure pathway to tens of thousands of people through contaminated drinking water. The Air Force failed to notify the Agency for Toxic Substances and Disease Registry (ATSDR) of these potential exposure pathways for the Health Assessment of George AFB.
- 3) *The contribution to an understanding of the subject by the general public likely to result from the disclosure. § C6.1.4.3.1.3.*
- a) The release of the unredacted documents is necessary to establish the nature and extent and the “Completed Exposure Pathway(s)” for the contamination at George AFB.
 - b) The disclosure is the first step in requesting a new Health Assessment by the ATSDR.
 - c) The contaminated drinking water at George AFB created a potential exposure to tens of thousands of civilians, and military personnel and their family members over the years.
- 4) *The significance of the contribution to public understanding. § C6.1.4.3.1.4.*
- a) The current belief is “On-site groundwater has never been used as a source for drinking water at George AFB and no supply wells are expected to be installed there in the foreseeable future. ...” This is a direct quote from the ATSDR’s 1 December 1998 report “Health Assessment for George AFB,” section “Evaluation of Groundwater Exposure Pathway”.
 - b) The AF knew that the ATSDR came to a flawed conclusion in their 1 December 1998 report “Health Assessment for George AFB”. This was because the ATSDR was not supplied with the information (by the AF) and/or did not fully understand of the nature and extent of the contamination, locations of the IRP sites, hydrology data (direction of the groundwater flow), and the locations of the water supply wells for George AFB, Adelanto, private homes, and the former Victor Valley Country Club. Because the AF did not correct the ATSDR during the Peer Review / Public Comments period or after the report was published in 1998.

- c) The AF knew that the groundwater flows northeast under George AFB's Southeast Disposal Area (SEDA) and OT-22 (a.k.a. S-12, the golf course), directly to the supply wells for George AFB, Adelanto, private homes, and the former Victor Valley Country Club. While OT-22 is adjacent to the supply wells, it should be considered to be upstream of these wells because of its close proximity to them and because it is in the zone of influence (cone of depression) of this large cluster of high volume wells.
 - d) A new Health Assessment is necessary before the AF and/or ATSDR will notify the U.S. Department of Veterans Affairs (VA) and former George AFB personnel of their possible exposure to potentially life threatening environmental contamination at George AFB.
- 5) *Disclosure of the information is not primarily in the commercial interest of the requester.*
 § C6.1.4.3.2.
- a) As stated in my FOIA requests section titled Fee Waiver, "...I have NO commercial interest in the requested documents and the requested records will be posted, free of charge, on www.GeorgeAFB.Info. ..."
- 6) *Which is greater, the identified public interest or the identified commercial interest.*
- a) Public interest is greater as there is NO commercial interest and the requested records will be posted, free of charge, on www.GeorgeAFB.Info.
- 7) *The ability of the requester to disseminate the information.*
- a) As stated in my FOIA requests section titled Fee Waiver, "... I have the ability to disseminate information on a wide scale, and intend to use information obtained through FOIA in original works." While [GeorgeAFB.Info](http://www.GeorgeAFB.Info) is not a large website, it has 30 to 70 thousand hits, 3 to 4 thousand unique visitors, 7 to 20 thousand page views, and visitors from more than 10 countries, a month (*See page 5*).
 - b) I have published dozens of records that I have received through FOIA(s). Over one hundred people have contacted me through [GeorgeAFB.Info](http://www.GeorgeAFB.Info) regarding health problems that these people, and their friends and family developed during and shortly after being stationed at George AFB. In some families, every child who was born at George AFB died before the age of twenty-four years, with some families experiencing the loss of up to four children. In other families, all but one of up to five family members, including adults, died at or shortly after leaving George AFB (*See Self-Reported Health Problems on www.GeorgeAFB.Info*). Some of these people were Adelanto School District employees who worked at the two schools that were allowed to remain open on the former George AFB, for 10 years after it closed.

Fee Waiver News Media

In my FOIA requests, I requested classification as a representative of the news media. As stated in my FOIA requests section titled Fee Waiver "... I have the ability to disseminate information on a wide scale, and intend to use information obtained through FOIA in original works and the requested records will be posted, free of charge, on www.GeorgeAFB.Info (*See 7a above*).

"Personal Interest" Versus "Public Interest"

You state: "The AFCEC Public Affairs Officer and myself reviewed your website www.GeorgeAFB.Info and agreed it leans more towards 'personal interest' versus 'public interest' as shown under "About" tab > George AFB Info".

On March 12, 2013, Google had 226 pages indexed from GeorgeAFB.Info (*See page 6*), and docs.GeorgeAFB.Info had 195 Mb of PDFs. This is equal to thousands of additional pages in PDF format.

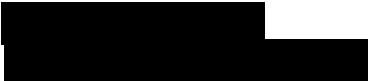
To state that GeorgeAFB.Info is a personal interest website because one page contains three paragraphs consisting of 243 words about my history ignores the other 1,000+ pages. This information was included to add a personal element to the website (a back-story). Furthermore, your statement disregards the primary mission of GeorgeAFB.Info, which is the outreach to the hundreds, possibly thousands of people who were potentially injured by the toxic contamination that was at George AFB. The large number of page views, the hundreds of "Self-Reported Health Problems"; dozens of personal accounts about miscarriages, stillbirths, birth defects, and childhood cancers at George AFB demonstrate the successful outreach of GeorgeAFB.Info.

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

Thank you for processing this FOIA Appeal.

Sincerely,

Frank Vera III

Physical address: 

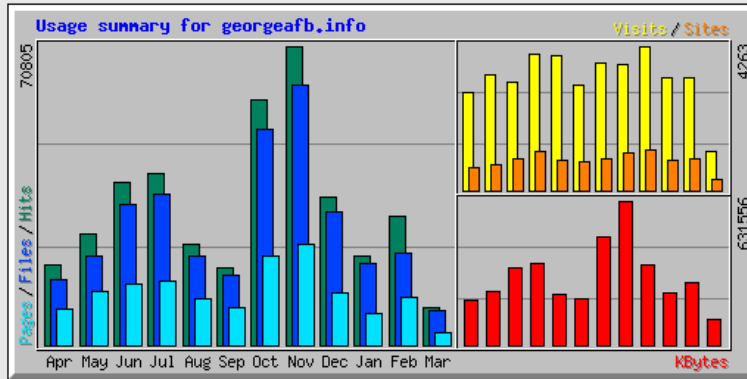
I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that I am the person named above (requester) and I understand that any falsification of this statement is punishable under the provisions of 18 U.S.C. section 1001 by a fine of 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

Date:

Usage Statistics for georgeafb.info

Summary by Month
Generated 10-Mar-2013 09:12 CDT



Summary by Month										
Month	Daily Avg				Monthly Totals					
	Hits	Files	Pages	Visits	Sites	KBytes	Visits	Pages	Files	Hits
Mar 2013	904	807	309	114	341	113835	1147	3096	8070	9044
Feb 2013	1087	778	405	119	952	274886	3341	11346	21798	30452
Jan 2013	682	628	241	107	886	231930	3323	7473	19482	21151
Dec 2012	1132	1016	394	137	1181	351067	4263	12242	31518	35094
Nov 2012	2360	2056	795	123	1118	631556	3713	23869	61705	70805
Oct 2012	1871	1643	685	121	957	476799	3776	21245	50944	58014
Sep 2012	612	555	295	103	860	200092	3097	8866	16667	18368
Aug 2012	774	684	350	129	872	223251	4000	10875	21207	24005
Jul 2012	1313	1158	490	129	1159	360382	4005	15220	35904	40729
Jun 2012	1288	1115	483	106	938	335921	3197	14514	33468	38655
May 2012	850	676	414	110	740	234880	3411	12857	20983	26351
Apr 2012	630	517	284	96	658	194787	2903	8537	15522	18912
Totals						3629386	40176	150140	337268	391580

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[George AFB: George Air Force Base, CA - Superfund Site](#)
www.georgeafb.info/
George AFB - Did the U.S. Department of Defense (DOD) Misrepresent the Nature and Extent of the Contamination at George Air Force Base, CA? Yes.

[Links - George AFB](#)
www.georgeafb.info/links
Links for Environmental Advocacy, Fighting Fraud Waste Abuse, FOIA Advocacy, and FOIA Articles.

[Contact Us - George AFB](#)
www.georgeafb.info/contact
George AFB - Did the U.S. Department of Defense (DOD) Misrepresent the Nature and Extent of the Contamination at George Air Force Base, CA? Yes.



DEPARTMENT OF THE AIR FORCE
AIR FORCE CIVIL ENGINEER CENTER
JOINT BASE SAN ANTONIO LACKLAND TEXAS

6 March 2013

MEMORANDUM FORM MR. FRANK VERA

FROM: AFCEC/CTP (FOIA)
2261 HUGHES AVE STE 155
JBSA LACKLAND TX 78236-9853

SUBJECT: Denial of Fee Waiver/News Media Representative, Five Freedom of Information Act (FOIA)
Requests--Corrected

1. The Air Force Civil Engineer Center (AFCEC) received 5 Freedom of Information Act (FOIA) from you with two dated February 15, 2013 and three dated February 20 2013. You requested various information pertaining to George AFB CA closed by the DoD/AF in 1992. The five requests are 2013-02349-F, 2013-02366-F, 2013-02635-F, 2013-02636-F, and 2013-02637.
2. The FOIA provides for the collection of fees based on the costs of processing a FOIA request. However, you requested a "public interest fee waiver" for all of them based on your "...ability to disseminate information on a wide scale, and intend to use information obtained through FOIA in original works". The AFCEC Public Affairs Officer and myself reviewed your website www.GeorgeAFB.Info and agreed it leans more towards "personal interest" versus "public interest" as shown under "About" tab > George AFB Info". Thus, you are denied fee waivers for the five requests submitted in February 2013 as well as denied classification as a representative of the news media based on criteria in DoD 5400.7-R_AFMAN33-302, *Freedom of Information Act Program*, Chapter 6. AFCEC determined your classification category is "Other". Chapter 6, Section C6.1.5.7.1 (pages 77-78) defines "representatives of the news media" (http://static.e-publishing.af.mil/production/1/saf_cio_a6/publication/dod5400.7-r_afman33-302/dod5400.7-r_afman33-302.pdf).
3. If you interpret this response as an adverse action, you may appeal to this office by justifying it in writing speaking to the 6 factors used in reviewing a fee waiver request. Address your letter to the address above and include the assigned eFOIA case numbers listed in paragraph 1 above. As the requester, you must provide supporting evidence for each factor, public interest vs. commercial:
 - a. Does the subject matter of the request concern the operations or activities of the federal government?
 - b. Are the records likely to contribute to the understanding of the subject of the request?
 - c. Will the records contribute to public understanding?
 - d. Will the contribution to public understanding be significant?
 - e. Does the requester have a commercial interest in the records?
 - f. Which is greater, the identified public interest or the identified commercial interest?
4. In addition, due to you submitting five requests within a short period of time, they have been placed in the Complex Track because of the volume of information you are requesting and the time involved in conducting a data search as well as the fee issue as discussed in Item 2 above. Therefore, your five FOIA requests are currently are "On Hold-Fee Related". AFCEC estimates it will take a minimum of 45 minutes (\$33.00) for each

search; however, due to your classification as “Other”, the first two hours of search time are deducted for an approximate estimated total fee of \$77.00 (1Hr 45Min total search time).

5. Request you please reply not later than March 14, 2013 as to whether you are willing to pay the cost for the searches associated with the five requests. If further assistance is needed, etc, please call me at 210-395-8221 or e-mail iris.seals.1@us.af.mil.

Iris W. Seals

IRIS W. SEALS, GS-11, DAF
FOIA/Privacy Act Manager