United States Department of Energy Office of Hearings and Appeals

D	ecision a	and Order
Issued: O	ctober 15	5, 2013
Filing Date: October 2, 2013)))	Case No. FIA-13-0064
In the Matter of Ferdinand Lohman)	

This Decision concerns the Appeal that Ferdinand Lohman filed from a determination that the Office of Legacy Management (OLM) of the Department of Energy (DOE) issued to him on September 5, 2013. In that determination, the OLM responded to his request under the Freedom of Information Act, 5 U.S.C. § 552, as the DOE implemented in 10 C.F.R. Part 1004. This Appeal, if granted, would require the OLM to perform an additional search and either release newly discovered records or issue a new determination justifying its withholding of records.

I. Background

Mr. Lohman filed a FOIA request with the DOE's Office of Legacy Management (OLM) for any records associated with his father's employment at the Fernald Feed Materials Production Center. OLM conducted a search for responsive documents which did not locate any responsive documents. On September 5, 2013, OLM issued a Determination Letter to Mr. Lohman, informing him that a search for responsive documents had been conducted in response to his request, but that no responsive documents had been located. Mr. Lohman then filed the present Appeal with the Office of Hearings and Appeals (OHA), challenging the adequacy of the OLM's search. Appeal Letter.

II. Analysis

In responding to a request for information filed under the Freedom of Information Act (FOIA), an agency must "conduct[] a search reasonably calculated to uncover all relevant documents." *Truitt v. Dep't of State*, 897 F.2d 540, 542 (D.C. Cir. 1990) (citations omitted). "[T]he standard of reasonableness which we apply to agency search procedures does not require absolute exhaustion of the files; instead, it requires a search reasonably calculated to uncover the sought materials." *Miller v. Dep't of State*, 779 F.2d 1378, 1384-85 (8th Cir. 1985); *accord Truitt*, 897 F.2d at 542. We have not hesitated to remand a case where the search was inadequate. *Aurimas Svitojus*, Case No. TFA-0349 (2010) (remanding where the site office performed no search).

We contacted the OLM to gain additional information to evaluate the adequacy of its search. OLM informed us that it conducted an extensive search for documents responsive to Mr. Lohman's request. This search included files in the DOE-LM Electronic Recordkeeping System (ERKS) for information potentially responsive to the request. The DOE-LM ERKS is an electronic information system database containing records, finding aids, and information for all records in its custody. As a result, OLM did not locate any records concerning Mr. Lohman's father. E-mail from John V. Montgomery, Archives and Information Management Team Leader, OLM, October 3, 2013.

Based on the description of the OLM's search, we find that it conducted a search that was reasonably calculated to uncover all relevant records and was therefore adequate. Therefore, we will deny the Appeal.

It Is Therefore Ordered That:

- (1) The Appeal that Ferdinand Lohman filed on October 2, 2013, OHA Case No. FIA-13-0064, is denied.
- (2) This is a final order of the Department of Energy from which any aggrieved party may seek judicial review pursuant to 5 U.S.C. § 552(a)(4)(B). Judicial review may be sought in the district in which the requester resides or has a principal place of business, or in which the agency records are situated, or in the District of Columbia.

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Poli A. Marmolejos Director Office of Hearings and Appeals

Date: October 15, 2013