Department of Energy
Washington, DC 20585

United States Department of Energy
Office of Hearings and Appeals

In the Matter of Beverly Jean Parks	)	
	)	
Filing Date: March 17, 2015	)	Case No.: FIA-15-0012
	)	
	)	

Issued: MAR 3 0 2015

Decision and Order

On March 17, 2015, David H. Dunaway, Esq. filed an Appeal from a determination issued to him on January 8, 2015, by the Department of Energy's (DOE) Oak Ridge Operations Office (Oak Ridge) (Privacy Act Request ORO-2015-00127-PA). That determination was issued in response to a request for information that Mr. Dunaway submitted under the Privacy Act, 5 U.S.C. § 552a, as implemented by DOE in 10 C.F.R. Part 1008. Mr. Dunaway asks that Oak Ridge conduct an additional search for documents responsive to his request.

I. Background

Mr. Dunaway requested information regarding the industrial hygiene, medical, personnel and radiation exposure records on behalf of Ms. Beverly Jean Parks. In his request, Mr. Dunaway indicated that Ms. Parks was employed by the University of Tennessee and worked at the Oak Ridge National Laboratory. Oak Ridge conducted a search by name and Social Security number for responsive material, but was only able to locate Ms. Park's radiation exposure record. In its January 8, 2015 Determination Letter, Oak Ridge provided the radiation exposure record to Mr. Dunaway. On March 17, 2015, Mr. Dunaway filed the present Appeal with the Office of Hearings and Appeals (OHA). In his Appeal, Mr. Dunaway challenges the adequacy of the search conducted by Oak Ridge and asserts that there should be additional records related to Ms. Parks in the possession of DOE.

II. Analysis

In assessing the adequacy of a search under the Privacy Act, courts apply the "adequacy of search" analysis as under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. *Sussman v. U.S. Dep't of Justice*, 03 Civ. 3618 DRH ETB, 2006 WL 2850608 (E.D.N.Y. Sept. 30, 2006); *see Shores v. FBI,* 185 F. Supp. 2d 77, 82 (D.D.C. 2002); *cf. Sneed v. U.S. Dep't of Labor*, 14 Fed. Appx. 343,

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345 (6th Cir. 2001). In responding to a request for information filed under the FOIA, it is well established that an agency must "conduct a search reasonably calculated to uncover all relevant documents." *Truitt v. United States Department of State*, 897 F.2d 540, 542 (D.C. Cir. 1990). "The 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. United States Department 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 it is evident that the search conducted was in fact inadequate. *See, e.g., Project on Government Oversight,* Case No. TFA-0489 (2011).

We contacted Oak Ridge to ascertain the extent of the search that had been performed and to determine whether any other documents responsive to Mr. Dunaway's request might reasonably be located. Upon receiving Mr. Dunaway's request for information, Oak Ridge contacted specific divisions within the Oak Ridge National Laboratory, including the Medical Division, the Personnel Division, the Industrial Hygiene Division and the Nuclear and Radiological Protection Division. Each division searched its record databases by name and social security number. The Nuclear and Radiological Protection Division located one document, a radiation exposure document, which was provided to Mr. Dunaway. The other divisions found no records responsive to Mr. Dunaway's request. *See* Record of Telephone Conversation between Linda Chapman, Oak Ridge Operations Office, and Kimberly Jenkins-Chapman, OHA (March 26, 2015). Based on the information above, we find that Oak Ridge has conducted a search reasonably calculated to uncover any records relating to Ms. Beverly Jean Parks. Accordingly, we must deny this Appeal.

It Is Therefore Ordered That:

(1) The Privacy Act Appeal filed on behalf of Ms. Beverly Jean Parks by David H. Dunaway, Esq., on March 17, 2015, OHA Case No. FIA-15-0012, is hereby denied.

(2) This is a final Order of the Department of Energy from which any aggrieved party may seek judicial review pursuant to the provisions of 5 U.S.C. § 552a(g)(1). 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.

Poli A. Marmolejos
Director
Office of Hearings and Appeals

Date: MAR 3 0 2015