

January 15, 2004
DECISION AND ORDER
OF THE DEPARTMENT OF ENERGY

Appeal

Name of Petitioner: William Hooker
Date of Filing: October 28, 2003
Case Number: TFA-0042

On October 28, 2003, William Hooker appealed a determination issued by the Savannah River Operations Office (SR) of the Department of Energy (DOE) under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, as implemented by DOE in 10 C.F.R. Part 1004. In his appeal, Mr. Hooker contends that SR had failed to conduct an adequate search for documents that were responsive to a FOIA request he had filed. For the reasons detailed below, we find that SR conducted an adequate search for responsive documents and will deny the appeal filed by Mr. Hooker.

I. Background

Mr. Hooker filed a request in which he sought a copy of the Certificate of Analysis performed by General Engineering Laboratories (GEL) for the Westinghouse Savannah River Company (WSRC) EPD-Building 773-58A in 1995. *See* Determination Letter at 1. In this request, Mr. Hooker stated that this work was done under Project Description Analytical Services for Environmental Characterization WSRC00193. He later requested copies of all Certificates of Analysis completed by GEL in 1995. *Id.* On October 10, 2003, SR issued a determination which stated that SR contacted WSRC which in turn contacted GEL to search its files. *Id.* WSRC found no responsive documents. In his Appeal, Mr. Hooker challenges the adequacy of the search conducted by SR. *Id.*

II. Analysis

We have held that a FOIA request deserves a thorough and conscientious search for responsive documents. When we have found that a search was inadequate, we have consistently remanded the case and ordered a further search for responsive documents. *See, e.g. Todd J. Lemire*, 28 DOE ¶ 80,239 (2002); *Marlene R. Flor*, 23 DOE ¶ 80,130 (1993); *Native Americans for a Clean Environment*, 23 DOE ¶ 80,149 (1993). However, the FOIA requires that a search be reasonable, not exhaustive. “The standard of reasonableness that we apply to the agency search procedures does not require absolute exhaustion of files; instead it requires a search reasonably calculated to uncover the sought materials.” *Miller v. Department of State*, 779 F.2d 1378, 1384-85 (8th Cir. 1985).

In reviewing the present Appeal, we contacted officials at SR to ascertain the extent of the search that had been performed. Upon receiving Mr. Hooker's Request for Information, SR contacted WSRC which then contacted GEL to conduct a search for responsive documents. As stated in SR's determination letter, GEL informed WSRC that it does not and is not required to maintain records longer than five years. It further stated that in 1995, lab results were received electronically and placed into the site database, GIMS. Copies of all data and any Certificates of Analysis were sent to a data handling subcontractor. Copies were not routinely sent to a central site repository. GEL also stated that the data handling subcontractor does not maintain records for longer than five years after downloading the information. Thus, they do not have any information from 1995. In addition, WSRC has informed us that the Appellant has not identified the specific projects which generated the Certificates of Analysis he is interested in obtaining. Without knowing this information, WSRC has stated that it would have to conduct a manual search of tens of thousands of pages of information, a task not required by FOIA. *See* Record of Telephone Conversation between Pauline Conner, SR and Kimberly Jenkins-Chapman, OHA (January 7, 2004); Record of Telephone Conversation between Adrian Smith, WSRC and Kimberly Jenkins-Chapman, OHA (January 13, 2004).

Given the facts presented to us, we are convinced that SR conducted an adequate search which was reasonably calculated to uncover documents responsive to Mr. Hooker's request. Accordingly, Mr. Hooker's Appeal should be denied.

It Is Therefore Ordered That:

- (1) The Appeal filed by William Hooker, OH Case No. TFA-0042, on October 28, 2003, 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. § 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.

George B. Breznay
Director
Office of Hearings and Appeals

Date: January 15, 2004