

June 23, 2004
DECISION AND ORDER

OF THE DEPARTMENT OF ENERGY

Appeal

Name of Petitioner: Mildred Clark

Date of Filing: May 10, 2004

Case Number: TFA-0061

On May 10, 2004, Mildred Clark (Clark) filed an Appeal from a determination issued to her on April 6, 2004, by the Richland Operations Office (Richland) of the Department of Energy (DOE) in response to a request for documents that Clark submitted under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, as implemented by the DOE in 10 C.F.R. Part 1004. This Appeal, if granted, would require that Richland perform an additional search for responsive material.

I. Background

On March 1, 2004, Clark made a FOIA request to Richland for a copy of the employment, medical, dosimetry and personnel security records pertaining to her deceased husband, Charlie Clark. FOIA Request Form 2004-0064 (March 1, 2004). According to Clark, between 1953 and 1963, her husband was employed as a construction worker at the Hanford site by the following contractors: Guy F. Atkinson & Jones, Blaw Know, and Morrison Knudson. *Id.* Clark also provided her husband's social security number and death certificate. Richland searched their database and found Mr. Clark's radiation exposure record and medical file. Richland informed Clark that the Hanford Environmental Health Foundation would forward her husband's medical records to her. However, Richland was unable to find any employment or security records related to Mr. Clark. Letter from Dorothy Riehle, Richland Operations Office, to Clark (April 6, 2004). Clark's attorney, Allen Counts, appealed that determination on May 10, 2004. Letter from Allen Counts, Esq. to Director, Office of Hearings and Appeals (OHA) (May 10, 2004) (Appeal). In the Appeal, Clark challenges the adequacy of the search and asks OHA to direct Richland to search again for responsive material regarding her husband's employment at Hanford.

II. Analysis

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. Department of*

State, 897 F.2d 540, 542 (D.C. Cir. 1990) (*Truitt*). “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. 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., Glen Milner*, 17 DOE ¶ 80,102 (1988).

We contacted Richland regarding the search for responsive material. Richland informed us that they searched their database on last name, first name, and social security number and found medical and dosimetry records. Telephone conversation between Dorothy Riehle, Richland, and Valerie Vance Adeyeye, OHA (June 8, 2004). The absence of employment records, however, was not uncommon according to Richland. Individuals who worked at the Hanford site but did not hold a security clearance would customarily have had medical and radiation records at the site, but no employment records. Mr. Clark was not a DOE employee, and his employer was not required to submit its records to the DOE. Most contractors, according to Richland, took their records with them at the conclusion of their work on the site. Richland also searched Mr. Clark’s medical and dosimetry records to see if they contained any information that pointed to a certain employer, but found nothing. Richland thus concluded that Mr. Clark’s employer had taken Mr. Clark’s records with them when they left the site, if such records existed at all.

Based on our analysis of the search as explained above, we find that Richland has conducted an adequate search for responsive material. Clark indicated that her husband worked for a contractor, and Richland has offered a credible explanation for the absence of contractor records in its files. Accordingly, the Appeal should be denied.

It Is Therefore Ordered That:

- (1) The Freedom of Information Act Appeal filed by Mildred Clark on May 10, 2004, OHA Case Number TFA-0061, 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 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: June 23, 2004