



Fort Ord Reuse Authority

MEDIA RELEASE

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FORA Addresses Public Records Concerns

There have been several suggestions lately that the Fort Ord Reuse Authority has been trying to prevent a non-profit group known as Keep Fort Ord Wild (KFOW) from reviewing public documents concerning munitions clean-up on the former Fort Ord.

Nothing could be further from the truth. FORA is committed to transparency and will live up to both the specifics and spirit of the Public Records Act. FORA has already released the requested records in its possession. As FORA informed KFOW in February, certain documents that they deemed critical (such as the insurance policy covering the munitions clean-up and the invoices for work performed on the clean-up, except for the first three monthly invoices) were never in FORA's possession, but were rather in the possession of ARCADIS, Inc., FORA's contractor on the project. ARCADIS objected to the release of the documents on confidentiality grounds.

For the past eight weeks, FORA has worked tirelessly with ARCADIS, as well as with the insurance company and subcontractor, to secure release of the requested documents. ARCADIS has withdrawn its confidentiality objections, and FORA is pleased to announce that the core documents sought by KFOW have either been released or are scheduled for release, as follows:

1. The Environmental Protection Program insurance policy, one of the main documents sought by KFOW, was produced to KFOW on April 10, 2012.
2. The monthly invoices from ARCADIS to the insurance carrier were produced directly by ARCADIS to KFOW the week of April 23, 2012 (detailed back-up is scheduled to be released this week).
3. Detailed monthly backup documentation for the invoices from 2007-2009 was provided by ARCADIS to FORA on May 9, 2012, and the remaining backup documentation is currently being reviewed for production on or before May 18, 2012.
4. Correspondence and other documentation maintained by FORA's special counsel, who served as lead ESCA negotiator for FORA, is currently being reviewed for production on or before May 25, 2012.
5. Certain additional documents related to the application for the insurance policy are maintained by Chartis Insurance. FORA is working with Chartis to retrieve those documents.

6. KFOW submitted an additional public records act request for documents relating to the ESCA program on March 21, 2012. FORA produced significant documentation pursuant to that request on March 30, 2012.

Counsel for FORA and KFOW have been working collaboratively to address the issues raised in KFOW's complaint. An example of that is the recent court order concerning document production, which was the result of joint effort between counsel to arrange a workable schedule for the production of voluminous documents. The court agreed with that document production timetable. It is important to note, of course, that because these documents were largely in the possession of ARCADIS or other companies, FORA is relying on the cooperation of those companies to produce the records. Should ARCADIS fail to provide all documentation by May 18, 2012, the Court has agreed that FORA would not held liable and need only notify the court of the delay.

In addition, KFOW has requested that the FORA Board of Directors consider the adoption of a formal written document retention policy in an open session. While FORA is not required under state law to have such a policy, the FORA Board nonetheless agrees with the request. Consideration of a written document retention policy will appear on the open session agenda for the next board meeting on June 8, 2012. As KFOW is currently in litigation with FORA involving issues relating to document retention, the request was initially heard in closed session at the May 11, 2012 FORA Board meeting. This permitted the Board to receive preliminary legal guidance from counsel on litigation issues. With that procedural step having been taken, the FORA Board feels it is appropriate and proper to have the substantive policy discussion during open session.

The Board agreed to place the issue of a written public records policy on the June 8, 2012 Board Meeting Agenda for review in open session. To this end, FORA staff will prepare a draft staff report that will be available to the public on June 1, 2012 as part of the larger Agenda packet. The packet is available on the FORA website at www.fora.org.