

United States Department of Energy  
Office of Hearings and Appeals

In the Matter of Rachel Cook )  
 ) Case No.: FIA-14-0031  
Filing Date: June 5, 2014 )  
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Issued: June 12, 2014

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**Decision and Order**  
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On June 5, 2014, Rachel Cook (“Appellant”) filed an Appeal from a determination issued to her on May 1, 2014, by the Office of Legacy Management (LM) of the Department of Energy (DOE) (FOIA Request Number HQ-2014-00852-F). In its determination, LM responded to the Appellant’s request for information filed under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, as implemented by DOE in 10 C.F.R. Part 1004. Specifically, the Appellant contends that there should be documents that are responsive to her FOIA request, which LM has not produced. Thus, this Appeal, if granted, would require LM to conduct another search for the documents that the Appellant requested.

**I. Background**

On April 14, 2014, the Appellant filed a FOIA Request seeking all records pertaining to a deceased relative, Raymond Cook. On May 1, 2014, LM responded to the Appellant’s FOIA Request stating that it could not locate any responsive documents. *See* Determination Letter from John V. Montgomery, FOIA Officer, LM, to Appellant (May 1, 2014). The Appellant subsequently submitted the instant appeal challenging the adequacy of LM’s search.

**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.” *Valencia-Lucena v. U.S. Coast Guard*, 180 F.3d 321, 325 (D.C. Cir. 1999) (quoting *Truitt v. Dep’t of State*, 897 F.2d 540, 542 (D.C. Cir. 1990)). “[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 it is evident that the search conducted was in fact inadequate. *See, e.g., Project on Government Oversight, Case No. TFA-0489 (2011).*\*

In response to our inquiries, LM described its search for responsive documents. LM searched its Electronic Recordkeeping System (ERKS), which is “an electronic information system database containing records, finding aids, and information for all records in its custody.” *See* Email from Tamara Wilson, Contractor, LM, to Shiwali Patel, Attorney Advisor, OHA (June 10, 2014). LM used the following search terms: “Cook,” “Raymond,” “Ray” and Raymond Cook’s social security number. *Id.* However, LM did not locate any responsive documents. Hence, based on the foregoing, we are satisfied that LM has conducted an adequate search for responsive documents. As stated above, the standard for agency search procedures is reasonableness, which “does not require absolute exhaustion of the files.” *Miller, 779 F.2d at 1384-85.*

It Is Therefore Ordered That:

(1) The Freedom of Information Act Appeal filed by Rachel Cook on June 5, 2014, OHA Case Number FIA-14-0031, 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.

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Poli A. Marmolejos  
Director  
Office of Hearings and Appeals

Date: June 12, 2014

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