

one additional responsive document that it had located as a result of this further search. *Id.* OIR released a redacted version of this document to Mr. Becker from which OIR withheld information under Exemption 6.² *Id.* On April 15, 2014, Mr. Becker filed the present Appeal with OHA, challenging the adequacy of the OIR's search. April 15, 2014, Appeal at 1.

II. Analysis

In responding to a request for information filed under the Freedom of Information Act (FOIA), an agency must "conduct[] a search reasonably calculated to uncover all relevant documents." *Truitt v. Dep't of State*, 897 F.2d 540, 542 (D.C. Cir. 1990) (citations omitted). "[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 the search was inadequate. *Aurimas Svitojus*, Case No. TFA-0349 (2010) (remanding where the site office performed no search).³

In the instant case, we once again contacted the OIR to gain additional information to evaluate the adequacy of its search. OIR informed us that it conducted an extensive search for documents responsive to Mr. Becker's request. While OIR could not identify any employee named "David" who recalled speaking with Mr. Becker, between August 9, 2013 and December 17, 2013, OIR did identify "Jim" as Jim Secreto. On March 14, 2014, Mr. Secreto provided this office with a memorandum describing his search for responsive documents. This memo states in pertinent part:

In early January, I was contacted regarding [Mr. Becker's FOIA request]. That day, I conducted a search of my hard-copy and electronic records for documents dated August 9th, 2013[,] to December 17, 2013[,] that were responsive to Mr. Becker's request. Electronic search terms included "Martin" and "Becker" and "Martin Becker." Hard-copy searches included reviewing paper documents in my desk and file cabinet.

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When I learned of the FOIA appeal on March 14, 2014, I asked my colleague . . . to review the documents I provided in response to the initial FOIA.⁴ She identified one additional document that is responsive to Mr. Becker's request.

² Mr. Becker does not challenge OIR's withholdings under Exemption 6. April 15, 2014, Appeal at 1.

³ Decisions issued by the Office of Hearings and Appeals (OHA) are available on the OHA website located at <http://www.energy.gov/oha>.

⁴ Mr. Secreto's colleague informed this office that she also conducted a search of her electronic and hard copy records in response to Mr. Becker's FOIA request. March 14, 2014, email to James Secreto. This search identified one additional one-page record which was released to Mr. Becker by the April 9, 2014, Determination Letter.

March 14, 2014, Memorandum from James Secreto to the Office of Hearings and Appeals.

Based on the description of the OIR's search, we find that it conducted a search that was reasonably calculated to uncover all relevant records and was therefore adequate. Therefore, we will deny the Appeal.

It Is Therefore Ordered That:

- (1) The Appeal that Martin Becker filed on April 15, 2014, OHA Case No. FIA-14-0024, is 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: May 8, 2014