



June 9, 2003

Mr. Richard Frank
Army Corps of Engineers CECC
441 G. St. NW
Washington, DC 20314

*Via Facsimile Transmission
And Mail Delivery*

Dear Mr. Frank:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, Friends of the Earth – United States hereby requests copies of the following materials:

- Any contract between the Army Corps of Engineers and Halliburton, Inc., Kellogg, Brown & Root (KBR), Inc., or any of their subsidiaries, for activities and services to be conducted in Iraq or the immediate vicinity after March 1, 2003.
- Any materials related to such contract, including any appendices and annexes thereto; any subcontracts to such contract; any environmental assessments or environmental impact statements conducted in connection with such contract; and any other materials or documents related to such contract.

There is no basis for claiming that the records requested herein are exempt from immediate disclosure under the FOIA. Each of these records is described by 5 U.S.C. § 552(a)(2) as information an agency is required to make available to the public. If, however, it is your position that any portion of the requested records is exempt from disclosure, we request that you provide us with a detailed explanation of why you consider each document exempt, as required by FOIA, 5 U.S.C. §552(a)(6)(A)(i). *See Fidduccia v. DOJ*, 185 F.3d 1035, 1041 (9th Cir. 1999) (pursuant to section 552(a)(6)(A)(i)'s requirement that the agency provide the reasons for a denial, agency must "provide enough information, presented with sufficient detail, clarity, and verification, so that the requester can fairly determine what has not been produced and why, and the court can decide whether the exemptions claimed justify the nondisclosure").

1025 Vermont Avenue, NW • Third Floor • Washington, DC 20005-6303
202.783.7400 • 202.783.0444 fax • www.foe.org



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In the event that some portions of the requested documents are properly exempt from disclosure, please disclose any reasonably segregable nonexempt portions of the requested documents. See 5 U.S.C. § 552(b) ("Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt . . ."); see also *Schiller v. National Labor Relations Board*, 964 F.2d 1205, 1209 (D.C. Cir. 1992); 32 C.F.R. §518.22. If it is your position that a document contains non-exempt segments but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt and how the material is dispersed throughout the document. *Mead Data Central*, 566 F.2d at 261. Claims of nonsegregability must be made with the same degree of detail as required for claims of exemptions in a Vaughn index. If a request is denied in whole, please state specifically that it is not reasonable to segregate portions of the record for release.

We respectfully request that you waive all fees in connection with this request as provided by 5 U.S.C. § 552(a)(4)(A)(iii). Disclosure of any Army Corps of Engineers contract with Halliburton and Kellogg Brown & Root (KBR) for activities in Iraq is likely to contribute significantly to the public's understanding of such contracts and their public policy implications. The information requested directly relates to the public interest missions of the organizations described below, and is not intended for commercial use in any way. In the event you reject this fee waiver request, we are willing to pay up to \$100.00 to process this request.

Friends of the Earth – US is a public interest, not-for-profit advocacy organization. The organization works to protect the planet from environmental degradation, and to preserve biological, cultural and ethnic diversity. The organization's International Program protects the global environment and local communities by raising awareness of activities and standards that threaten the planet's future, and by promoting environmentally sound alternatives. Friends of the Earth – US has for many years addressed concerns about the environmental impacts, especially involving environmental reviews, of government financing of U.S. companies' international projects. At the forefront of international environmental issues, and as an affiliate to the world's largest environmental federation, Friends of the Earth – US has the knowledge and the resources to disseminate the information contained in the records requested.

Please respond to this request in writing within twenty (20) days as required under 5 U.S.C. § 552(a)(6)(A)(i). If all of the requested documents are not available within that time period, we request that you provide all requested documents or portions of documents which are available within that time period. If you have any questions about this request or foresee problems in fully releasing the requested records within the twenty day period, please contact David Waskow by phone at (202) 783-7400 x108 within that time period. To facilitate delivery, please send the

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requested records to David Waskow, Friends of the Earth, 1025 Vermont Ave. NW, Washington, DC, 20005.

Sincerely,



David Waskow
Friends of the Earth

cc: Martin Wagner, Managing Attorney, International Program, EarthJustice;
Linda Selinger, Army Corps of Engineers, Humphreys Engineer Center Support Activity