

Title: GROOM LAKE SECRETS TOUGHER TO KEEP

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SECRECY

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A federal judge has dealt a setback in a government attempt to make it easier for the military to keep secret the identification of chemicals and other information at the Air Force's operating location near Groom Lake.

U.S. District Judge Philip Pro rejected an argument by the government that the requirement for a presidential exemption in cases such as the Groom Lake litigation would frustrate the military, which used to delegate such orders to subordinate executive branch officials.

In making his decision, Pro dismissed one of two lawsuits brought by former workers against the government. The workers claim they suffered injuries as a result of hazardous waste violations while working on base projects.

Pro said that because President Clinton had given such an exemption, keeping the details secret, he no longer had jurisdiction over the case.

Attorney Jonathan Turley, representing the workers, said the case dismissal will not affect another lawsuit his clients have pending against the military.

"The only disagreement we have is the acceptance of President Clinton's exemption," he said. "Even though he ruled in our favor, the public is still being barred from disclosure."

Clinton granted the exemption Sept. 29. Turley said an appeal of Pro's decision to the 9th U.S. Court of Appeals will be coming. Pro also denied a request by the government for a protective order that would require seizure of classified information Turley has in his possession.

Turley said the government has been dishonest in its position on how vigorously it sought to retrieve the documents from him, one of which is an Air Force manual he tried to submit under seal to Pro.

Air Force Col. Tom Boyd said at the time that no threat existed to seize the document and that the government merely "expressed an interest" in getting it back.

Turley said Pro's order on Thursday vindicated his position that he was being forced to relinquish the document. Pro's ruling said the government wanted Turley to turn over all copies of the document, delete any electronic reference to it and not divulge the contents to anyone.

Pro said he could not issue protective order because Turley obtained the document through "alternative means" outside the litigation. The judge said he lacked authority to force Turley to turn over documents, even if classified, to the government.

Also, in the second lawsuit, Pro rejected several requests for base information by Turley. Pro said the lawyer was seeking information that was protected by the state's secret privilege.

The judge said some of Turley's requests were rehash of old issues.

"Frankly we are relieved to have decisions on some of these issues so we can move on to the next level of judicial review," Turley said.

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