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13 UNITED STATES DISTRICT COURT
14 CENTRAL DISTRICT OF CALIFORNIA
15 WESTERN DIVISION

16	_____)	No. CV 03-08023-AHM (RZx)
17	H. RAY LAHR,)	
18	Plaintiff,)	JOINT NOTICE OF FILING OF
19	v.)	CHART AND CHART
20	NATIONAL TRANSPORTATION)	
21	SAFETY BOARD, <i>et al.</i> ,)	
22	Defendants.)	
23	_____)	

24 By minute order filed July 10, 2006, the Court directed the parties to
25 “jointly prepare and file a chart to assist the Court in locating the parties’
26 arguments concerning the applicability of the government’s claimed exemptions,
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28

1 as they apply to individual records in this matter.” Such a chart is attached as Ex.
2
3 A.

4 The following comments apply to the chart:

5 1. Plaintiff alleges that certain responsive records exist for which
6
7 defendants have failed to account. *See, e.g.*, Pl.’s Mem. Opp’n CIA’s Mot. Partial
8 Summ. J. (Sept.13, 2005) at 26, 28. Plaintiff refers to these records as Nos. 4A,
9
10 5A, 6A, 7A, 11A, 14A, 18A, 20A - E, 21A, 24A, 32A, 35A, 36A, 57A, 75A, and
11
12 79. Clarke Decl. at 30, 33-37. These records are not listed in the attached chart.

13 2. Plaintiff alleges that certain records of the National Transportation
14
15 Safety Board (NTSB) are responsive to the request under the Freedom of
16
17 Information Act (FOIA), 5 U.S.C. § 552, that plaintiff submitted to the NTSB by
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19 letter dated October 8, 2003. *See* Clarke Decl. at 23-24. Plaintiff refers to these
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21 records as Nos. 80 and 81. *See id.* The NTSB considers these records
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23 nonresponsive to the above request. *See* Moye Decl. at 26. The records are not
24
25 listed in the attached chart.

26 3. The record to which plaintiff refers as No. 44 is duplicative of the record
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28 to which he refers as No. 18. Record No. 44 is not listed in the attached chart.

1 4. Plaintiff alleges that the record known as MORI ID No. 1305302 is the
2 same as the record known as MORI ID No. 1215200. Defendants disagree.
3
4 However, the parties agree that certain pages of the two records are the same and
5 that, in cases where a withholding has been made from a page of MORI ID No.
6 1215200, the same withholding has been made from the identical page of MORI
7 ID No. 1305302.
8

9 5. Plaintiff asserts that the description of the record in the foregoing
10 paragraph is inaccurate. Plaintiff will seek leave to file the record to which he
11 refers on Monday, July 24, 2006.
12

13 6. The Central Intelligence Agency (CIA) has released without redaction a
14 record known as MORI ID No. 1215118. *See* 4th Schulze Decl. at 112-14. As
15 indicated on its face, this record was received via fax by the CIA. Accordingly,
16 the copy of the record that the CIA possesses is in black and white. Nonetheless,
17 plaintiff seeks a copy of the record in color.
18

19 7. As noted in the attached chart, plaintiff contests the withholding pursuant
20 to FOIA Exemptions 6 and 7(C) of certain names from certain of the records
21 covered by Defendants' Motion for Partial Summary Judgment as to the CIA
22 (Second Motion). In defendants' judgment, plaintiff waived his right to contest
23 those withholdings when he said in his opposition to the Second Motion that he
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25
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27

1 did not contest “the CIA’s withholdings of the names of individuals” pursuant to
2 Exemptions 6 and 7(C). Pl. Mem. Opp’n CIA’s Mot. Partial Summ. J. (Sept. 13,
3 2005) at 21.
4

5 8. Plaintiff believes that it is inappropriate for the defendants to make the
6 foregoing argument in this notice of filing, and that defendants’ argument is
7 contrary to well-settled FOIA law.
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Respectfully submitted,
John H. Clarke by David M. Glass
per telephonic authorization

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Dated: July 21, 2006

LAHR v. NTSB

No. CV 03-08023-AHM (RZx)

JT. NOTICE OF FILING OF CHART

EX. A

Lahr v. NTSB
No. CV 03-8023-AHM (RZx)

Records With Contested Withholdings

1. First Motion (NTSB's Motion for Partial Summary Judgment)

Defs.' ID No.	Defs.' Alternative ID No.	PL.'s ID No.	Agency	Where Described in <i>Vaughn</i> Indices	Where Copy Appears in <i>Vaughn</i> Indices	Where Listed by Pl.	Where Copy Identifying Contested Material Appears	Exemptions at Issue	Contested Withholdings
NTSB 6	None	56	NTSB	Moye Decl. 338-46	None submitted. Record withheld in full	Clarke Decl. 25	None submitted. Record withheld in full	4	All withholdings under Exemption 4, except names of Boeing employees. Failure to segregate alleged
NTSB 8	None	59	NTSB	Moye Decl. 356-64	None submitted. Record withheld in full	Clarke Decl. 26	None submitted. Record withheld in full	4	All withholdings under Exemption 4, except names of Boeing employees. Failure to segregate alleged
NTSB 15	None	70	NTSB	Moye Decl. 416-23	None submitted. Record withheld in full	Clarke Decl. 27	None submitted. Record withheld in full	4, 5	All withholdings under Exemptions 4 and 5. Failure to segregate alleged

Defs.' ID No.	Defs.' Alternative ID No.	Pl.'s ID No.	Agency	Where Described in <i>Vaughn</i> Indices	Where Copy Appears in <i>Vaughn</i> Indices	Where Listed by Pl.	Where Copy Identifying Contested Material Appears	Exemptions at Issue	Contested Withholdings
NTSB 27	None	74	NTSB	Moye Decl. 483-85	None submitted. Record withheld in full	Clarke Decl. 27	None submitted. Record withheld in full	5	All withholdings under Exemption 5

2. Second Motion (Defendants' Motion for Partial Summary Judgment as to the CIA)

Def.' ID No.	Def.' Alternative ID No.	Pl.'s ID Nos.	Agency	Where Described in <i>Vaughn</i> Indices	Where Copy Appears in <i>Vaughn</i> Indices	Where Listed by Pl.	Where Copy Identifying Contested Material Appears	Exemptions at Issue	Contested Withholdings
MORI 1176343	MORI 1147318	2	CIA	1st Buroker Decl. 43	2d Buroker Decl. 24	Clarke Decl. 8	4th Schulze Decl. 106	6, 7(C)	Pl.'s Redaction Nos. 3-20 (names of eyewitnesses)
MORI 1176350	MORI 1147342	7	CIA	1st Buroker Decl. 49	2d Buroker Decl. 119-56	Clarke Decl. 9	4th Schulze Decl. 137-38	6, 7(C)	Pl.'s Redaction No. 1 (name of person for whom record prepared)
MORI 1215015	None	9	CIA	1st Buroker Decl. 68	2d Buroker Decl. 270	Clarke Decl. 10	4th Schulze Decl. 159	3	Pl.'s Redaction Nos. 1, 5 (name of author)
MORI 1215016	None	10	CIA	1st Buroker Decl. 64	2d Buroker Decl. 259	Clarke Decl. 11	4th Schulze Decl. 162	6, 7(C)	Pl.'s Redaction Nos. 3-8 (names of eyewitnesses)
MORI 1215017	None	13	CIA	1st Buroker Decl. 69	2d Buroker Decl. 271	Clarke Decl. 12	4th Schulze Decl. 179	4	Pl.'s Redaction No. 4 (Boeing information)

Defs.' ID No.	Defs.' Alternative ID No.	Pl.'s ID Nos.	Agency	Where Described in <i>Vaughn</i> Indices	Where Copy Appears in <i>Vaughn</i> Indices	Where Listed by Pl.	Where Copy Identifying Contested Material Appears	Exemptions at Issue	Contested Withholdings
MORI 1215200	None	45	CIA	1st Buroker Decl. 60	2d Buroker Decl. 212-26	Clarke Decl. 13, 21	4th Schulze Decl. 387-92	4	Pl.'s Redaction Nos. 4-6 (Boeing information)
MORI 1176352	MORI 1147324	18	CIA	1st Buroker Decl. 51	2d Buroker Decl. 159-60	Clarke Decl. 14	4th Schulze Decl. 226-27	6, 7(C)	Pl.'s Redaction Nos. 4-12, 17 (names of eyewitnesses)
MORI 1176344	MORI 1147334	23	CIA	1st Buroker Decl. 44	2d Buroker Decl. 25-30	Clarke Decl. 16	4th Schulze Decl. 264	3	Pl.'s Redaction No. 1 (CIA material). <i>In camera</i> review requested
MORI 1215195	None	27	CIA	1st Buroker Decl. 57	None submitted. Record withheld in full	Clarke Decl. 17	None submitted. Record withheld in full	4, 5	All withholdings under Exemptions 4 and 5. Failure to segregate alleged

Defs.' ID No.	Defs.' Alternative ID No.	PL.'s ID Nos.	Agency	Where Described in <i>Vaughn</i> Indices	Where Copy Appears in <i>Vaughn</i> Indices	Where Listed by PL.	Where Copy Identifying Contested Material Appears	Exemptions at Issue	Contested Withholdings
MORI 1215194	None	28	CIA	1st Buroker Decl. 56	None submitted. Record withheld in full	Clarke Decl. 17	None submitted. Record withheld in full	4, 5, 6, 7(C)	All withholdings under Exemptions 4, 5, 6, and 7(C). Failure to segregate alleged
MORI 1215196	None	29	CIA	1st Buroker Decl. 58	None submitted. Record withheld in full	Clarke Decl. 18	None submitted. Record withheld in full	4, 5	All withholdings under Exemptions 4 and 5. Failure to segregate alleged
MORI 1215202	None	32	CIA	1st Buroker Decl. 62	2d Buroker Decl. 231-58	Clarke Decl. 18; see 3d Lahr Decl. ¶¶ 3-4, 23	4th Schulze Decl. 290-317	4	Boeing information

Defs.' ID No.	Defs.' Alternative ID No.	Pl.'s ID Nos.	Agency	Where Described in <i>Vaughn</i> Indices	Where Copy Appears in <i>Vaughn</i> Indices	Where Listed by Pl.	Where Copy Identifying Contested Material Appears	Exemptions at Issue	Contested Withholdings
MORI 1215014	None	41	CIA	1st Buroker Decl. 67	2d Buroker Decl. 261-69	Clarke Decl. 19	4th Schulze Decl. 363-71	6, 7(C)	Pl.'s Redaction Nos. 1-9 (names of eyewitnesses). Through inadvertence, one page of this record was not released when the other pages were released. This page has now been released. Names of eyewitnesses are the sole material withheld from this page and from this record
MORI 1215018	None	42	CIA	1st Buroker Decl. 70	2d Buroker Decl. 272-79	Clarke Decl. 20	4th Schulze Decl. 374-80	6, 7(C)	Pl.'s Redaction Nos. 1-23 (names of eyewitnesses)

Defs.' ID No.	Defs.' Alternative ID No.	Pl.'s ID Nos.	Agency	Where Described in <i>Vaughn</i> Indices	Where Copy Appears in <i>Vaughn</i> Indices	Where Listed by Pl.	Where Copy Identifying Contested Material Appears	Exemptions at Issue	Contested Withholdings
MORI 1215024	None	43	CIA	1st Buroker Decl. 65	None submitted. Record withheld in full	Clarke Decl. 20	None submitted. Record withheld in full	5, 6, 7(C)	All withholdings under Exemptions 5, 6, and 7(C). Failure to segregate alleged and <i>in camera</i> review requested
MORI 1215209	None	46	CIA	1st Buroker Decl. 63	None submitted. Record withheld in full	Clarke Decl. 21	None submitted. Record withheld in full	4	All withholdings under Exemption 4
MORI 1175603	MORI 1080903	50	CIA	1st Buroker Decl. 55	2d Buroker Decl. 164-211	Clarke Decl. 22	4th Schulze Decl. 416-63	6, 7(C)	Pl.'s Redaction Nos. 1-40 (names of eyewitnesses)

Def.' ID No.	Def.' Alternative ID No.	Pl.'s ID Nos.	Agency	Where Described in <i>Vaughn</i> Indices	Where Copy Appears in <i>Vaughn</i> Indices	Where Listed by Pl.	Where Copy Identifying Contested Material Appears	Exemptions at Issue	Contested Withholdings
MORI 1232320	None	52	CIA	2d Buroker Decl. 17	2d Buroker Decl. 284- 407	Clarke Decl. 23	4th Schulze Decl. 509- 21	6, 7(C)	Pl.'s Redaction Nos. 1-26 (names of eyewitnesses). Because of a photocopying error, one page of this record was withheld in its entirety. A corrected page has now been released. The name of an eyewitness is the sole material withheld from this page

3. Third Motion (Defendants' Second Motion for Partial Summary Judgment as to the CIA)

Def.' ID No.	Def.' Alternative ID No.	Pl.'s ID No.	Agency	Where Described in <i>Vaughn</i> Indices	Where Copy Appears in <i>Vaughn</i> Indices	Where Listed by Pl.	Where Copy Identifying Contested Material Appears	Exemptions at Issue	Contested Withholdings
None	None	54	NSA	Giles Decl. 6-8	None submitted. Record withheld in full	Clarke Decl. 24; see 3d Lahr Decl. ¶ 23	None submitted. Record withheld in full	2, 3	All withholdings under Exemptions 2 and 3. Submission of <i>in camera</i> declaration ordered
MORI 1255552	None	48	CIA	3d Buroker Decl. 51	3d Buroker Decl. 22-24	Clarke Decl. 22	4th Schulze Decl. 404-05	6, 7(C)	Pl.'s Redaction Nos. 1-6 (names of eyewitnesses). <i>In camera</i> review ordered
MORI 1255554	None	12	CIA	3d Buroker Decl. 53	3d Buroker Decl. 26-31	Clarke Decl. 12	4th Schulze Decl. 171-76	6, 7(C)	Pl.'s Redaction Nos. 6-9, 11-18, 21-22 (names of eyewitnesses and FBI special agents). <i>In camera</i> review ordered

Defs.' ID No.	Defs.' Alternative ID No.	Pl.'s ID No.	Agency	Where Described in <i>Vaughn</i> Indices	Where Copy Appears in <i>Vaughn</i> Indices	Where Listed by Pl.	Where Copy Identifying Contested Material Appears	Exemptions at Issue	Contested Withholdings
MORI 1255556	None	1	CIA	3d Buroker Decl. 55	3d Buroker Decl. 34	Clarke Decl. 8	4th Schulze Decl. 103	3	Pl.'s Redaction Nos. 1-4, 6-7 (CIA material). <i>In camera</i> review ordered
MORI 1305302	Disputed	Disputed	CIA	3d Buroker Decl. 56	3d Buroker Decl. 37-48	Disputed	Disputed	4	All withholdings under Exemption 4. <i>In camera</i> review ordered
NTSB 33	MORI 1147380	66	NTSB	1st Supp. Moye Decl. 62-64	1st Supp. Moye Decl. 65-73	Clarke Decl. 26	4th Schulze Decl. 558-66	5	Pl.'s Redaction Nos. 1-10 (deliberative process material). <i>In camera</i> review ordered
NTSB 34	MORI 1147382	76	NTSB	1st Supp. Moye Decl. 74	1st Supp. Moye Decl. 75-103	Clarke Decl. 28	4th Schulze Decl. 608-12	5	Pl.'s Redaction Nos. 1-5 (deliberative process material). <i>In camera</i> review ordered

Def's. ID No.	Def's. Alternative ID No.	Pl.'s ID No.	Agency	Where Described in <i>Vaughn</i> Indices	Where Copy Appears in <i>Vaughn</i> Indices	Where Listed by Pl.	Where Copy Identifying Contested Material Appears	Exemptions at Issue	Contested Withholdings
NTSB 35	MORI 1147382	77	NTSB	1st Supp. Moye Decl. 104	1st Supp. Moye Decl. 105- 14	Clarke Decl. 29	4th Schulze Decl. 615- 24	5	Pl.'s Redaction Nos. 1-9 (deliberative process material). <i>In camera</i> review ordered
NTSB 36	None	78	NTSB	1st Supp. Moye Decl. 115- 17	1st Supp. Moye Decl. 118- 79	Clarke Decl. 29	4th Schulze Decl. 627	5	All withholdings under Exemption 5. <i>In camera</i> review ordered