DEPARTMENT OF THE NAVY
BASE REALIGNMENT AND CLOSURE
PROGRAM MANAGEMENT OFFICE WEST
33000 NIXIE WAY, BLDG 50 Suite 207
SAN DIEGO, CA 92147

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December 18, 2019

Mr. Conrad Sherman
1 Irving Place G11C
New York, NY 10003

Dear Mr. Sherman:

This correspondence is in regard to your Freedom of Information Act (FOIA) request of October 23, 2019, in which you seek the following:

> *"NAVFAC brac reports from 2014 to present involving testing for radiation at hunters point former naval shipyard prepared for navfac containing radiation or RADIOLOGICAL in the title not already posted online"*

You also requested that fees associated with the processing of your request be waived. Your request was received in this office on October 23, 2019 and assigned file number DON-NAVY-2020-00727. By email dated November 4, 2019, we informed you that we did not have enough information to grant your fee waiver request. On November 6, 2019, you discussed your request with Mr. Thomas Macchiarella of our office and indicated that you intended to narrow your request to specific documents. At that time, you also indicated that you are seeking the documents out of personal curiosity and not for any business-related purpose. On December 4, 2019, you provided a list, thus narrowing your request to the following specific documents:

1. FINAL REVISON 1 RADIOLOGICAL CHARACTERIZATION SURVEYS WORK PLAN, PARCEL F STRUCTURES Site(s): PARCEL F APTIM FEDERAL SERVICES, LLC 11/19/2018, REPORT Record#: 005962

2. FINAL WORK PLAN BASEWIDE RADIOLOGICAL SUPPORT Site(s): PARCEL E, SITE 00002, SITE 00003, SITE 00012 APTIM FEDERAL SERVICES, LLC 10/23/2017 REPORT, Record#: 005861

3. FINAL WORK PLAN, BASEWIDE RADIOLOGICAL SUPPORT (CD COPY ENCLOSED) [DOCUMENT ALSO CONTAINS SENSITIVE TRADE SECRETS] Site(s): BASEWIDE CB AND I FEDERAL SERVICES, LLC 12/08/2015 REPORT Record#: 005505

4. FINAL EXECUTION PLAN, RADIOLOGICAL REMEDIATION AND SUPPORT, PHASE II (INCLUDES SAMPLING AND ANALYSIS PLAN, DCN: ITSI-0808-0004-0006 AND CD COPY) [SEE RECORD # 5084 - BRAC PMO WEST TRANSMITTAL LETTER] Site(s): PARCEL D-1 ITSI GILBANE COMPANY 07/01/2013 REPORT Record#: 005085

5. FINAL BASEWIDE RADIOLOGICAL MANAGEMENT PLAN Site(s): PARCEL B, PARCEL C, PARCEL D, PARCEL D-1, PARCEL D-2, PARCEL E PARCEL E2, PARCEL F, PARCEL G, PARCEL UC1, PARCEL UC2, PARCEL UC3 ITSI GILBANE COMPANY 07/01/2013 REPORT Record#: 004997

6. FINAL SAMPLING AND ANALYSIS PLAN (FIELD SAMPLING PLAN AND QUALITY ASSURANCE PROJECT PLAN) FOR RADIOLOGICAL SCREENING AND DATA GAP INVESTIGATION (CD COPY ENCLOSED) [SEE RECORD # 1537 - BRAC PMO WEST TRANSMITTAL LETTER] Site(s): PARCEL F

This letter provides the final determination to your request.

Department of Defense regulations state that fees shall be charged for processing FOIA requests unless a fee waiver is granted. 32 C.F.R. §286.12. In order for a fee waiver to be granted, you must demonstrate how disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester. The following three factors must be satisfied for a fee waiver to be granted: the disclosure of the information (i) will shed light on operations or activities of the government; (ii) will contribute significantly to public understanding of those operations or activities (specifically, the disclosure must be meaningfully informative about government operations or activities and must contribute to the understanding of a reasonably broad audience of interested persons as opposed to the individual understanding of the requester); and (iii) must not be primarily in the commercial interest of the requester. 32 C.F.R. §286.12(l). Based on the information you provided, you do not qualify for a fee waiver because you indicated that the records are requested out of personal curiosity and not for the purposes of contributing to the understanding of a reasonably broad audience.

For your information, we have placed you in the "all other" category for purposes of assessing fees and as such are obligated to charge you search fees in accordance with 32 C.F.R. §286.12. You are entitled to 2 hours of search time for no charge. We estimate no more than 2 hours will be spent searching for the 6 specific documents you requested. Because this is less than 2 hours, we estimate no search fees will be incurred in responding to your request. If we find that more than 2 hours of search time is required to complete processing your request, we will contact you before incurring fees.

We are processing the requested records for releasability and responsive portions of each record will be released to you when processing is complete. We anticipate that the following exemptions to disclosure under FOIA will apply to certain portions of the requested records:

- FOIA Exemption 4 [5 U.S.C. § 552(b)(4)], which protects from disclosure "trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential."

- FOIA Exemption 6 [5 U.S.C. § 552(b)(6)], which protects from disclosure information that, if disclosed, would invade an individual's personal privacy.

In view of the above, you may consider this to be an adverse determination that may be appealed. Since you have created an account in FOIA online, you may submit an appeal directly within the web-based system. To do this, you would log in to your account, retrieve your original request, and then click on the "Create Appeal" tab in the left-hand column. The basic information from your request will be duplicated for you, and then you can type in the basis of your appeal. If you prefer to use regular mail, you may submit an appeal to:

The Department of the Navy
Office of the General Counsel (ATTN: FOIA APPEALS)
1000 Navy Pentagon, Room 5A532
Washington, DC 20350-1000

Your appeal, if any, must be transmitted (if appealing by FOIA ONLINE) or postmarked (if appealing by mail) within 90 calendar days from the date of this letter. Please be advised that a FOIA requestor has the burden of proving timely submission of an appeal. Additionally, you must include in your appeal a statement indicating why you believe your appeal should be granted, and you are encouraged to also include a copy of your initial request and a copy of this letter.

For any further assistance regarding any aspect of your request, you have the right to contact the Department of the Navy FOIA Public Liaison, Mr. Christopher Julka, at Christopher.A.Julka@navy.mil or 703-697-0031. Additionally, you have the right to contact the Office of Government Information Services (OGIS) to inquire about the FOIA mediation services they offer. The contact information for OGIS is: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-01, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Please direct any questions concerning this matter to Ms. Heather Wochnick, who may be contacted at heather.wochnick@navy.mil or 619-524-4605.

Sincerely,

KIMBERLY A. OSTROWSKI
Director