

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

HISPANIC FEDERATION, ALIANZA)
NACIONAL DE CAMPESINAS,)
GREENLATINOS, LABOR COUNCIL)
FOR LATIN AMERICAN)
ADVANCEMENT, NATIONAL)
HISPANIC MEDICAL ASSOCIATION,)
and SOUTHWEST ENVIRONMENTAL)
CENTER,)

Plaintiffs,)

v.)

UNITED STATES DEPARTMENT OF)
THE ARMY,)

Defendant.)

Case No.

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

INTRODUCTION

1. Plaintiffs Hispanic Federation, Alianza Nacional de Campesinas, GreenLatinos, Labor Council for Latin American Advancement, National Hispanic Medical Association, and Southwest Environmental Center (collectively, “Plaintiffs”) assert violations of the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, by Defendant United States Department of the Army (“Army”) for failing to provide an expedited release of requested agency records concerning toxic waste sites at the Fort Bliss Army Base, where the Trump Administration plans to construct detention camps for the purpose of detaining thousands of immigrant children and families.

2. As a part of its “zero-tolerance” immigration policy, the Trump Administration has pursued plans to construct semi-permanent immigration detention camps to detain and hold

as many as 20,000 immigrants at the Fort Bliss Army Base (“Fort Bliss”) in Texas and New Mexico.

3. Like many military bases, Fort Bliss is known to have areas where toxic substances have been stored and/or disposed of over many years. However, neither the Army nor the U.S. Department of Health and Human Services (“HHS”) have released detailed information about the locations of these proposed immigrant detainment camps, nor the potential environmental hazards that could harm the families detained there.

4. On August 17, 2018, Plaintiffs submitted a FOIA request to Defendant for records related to toxic sites and environmental hazards near the proposed detention camps at Fort Bliss. Additionally, Plaintiffs asked that the FOIA request be processed on an expedited basis pursuant to 32 C.F.R. § 286.8(e) in light of the urgent need to inform the public, the imminent threat to the lives and physical safety of the families and children who would be detained at these proposed camps, and the substantial humanitarian interests at stake.

5. Since the FOIA request was submitted, Defendant Army has not responded to Plaintiffs’ request for expedited processing or released any records or information in response to their FOIA request.

6. Defendant Army has failed to respond to Plaintiffs’ request for expedited processing of their FOIA request within the 10-day timeframe required by FOIA and Department of Defense (“DOD”) regulations.

JURISDICTION AND VENUE

7. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 5 U.S.C. § 552(a)(4)(B).

8. Venue is proper in this district because plaintiff Hispanic Federation resides and has its principal place of business in this judicial district. 5 U.S.C. § 552(a)(4)(B).

PARTIES

9. Plaintiff Hispanic Federation (“HF”), founded in 1990, is one of the nation’s leading Latino nonprofit membership organizations with 100-plus member organizations. With headquarters in New York, offices in Washington, D.C., Connecticut, Florida, and Puerto Rico, and a program footprint in 20 states with significant Latino and immigrant populations, HF works to support Hispanic and immigrant families and strengthen Latino institutions in the areas of education, health, immigration, civic engagement, economic empowerment, and the environment.

10. HF has worked for years using both legislative and grassroots advocacy to support passage of immigration policies that are humane and that provide solutions to fix our broken immigration system. As co-chair of both the Energy and Environment and Immigration Committees of the National Hispanic Leadership Agenda, a broad coalition of 46 national Latino organizations, HF has been a leading Latino voice in rapid response efforts regarding anti-immigrant legislation as well as legislation that causes environmental harm. HF has been present at every major mobilization in support of Dreamers in Washington, D.C., and, most recently, participated in protests at the El Tornillo Detention Center in El Paso, Texas.

11. HF is a nonprofit organization with a mission to protect and promote the public interest especially as it relates to immigrant and Latino communities. HF has extensive outlets for public education and information dissemination and intends to make any information received available to its constituents, and to the broader public, as widely as possible, and at no

charge. HF intends to use its mailing lists, social media platforms, website, and broad network of member organizations, political colleagues and press to disseminate information it receives.

12. Alianza Nacional de Campesinas (“Alianza”) is a national farmworker women’s organization that was founded in 2011 to address and advance the rights of more than 700,000 farmworker women in the United States through its national coalition. Alianza’s members include groups and individuals that are located in El Paso, Texas, an area that will be directly impacted by the proposed immigrant detention camp at Fort Bliss Army base. Since it was founded in 2011, Alianza has called for the fair treatment of immigrant women and children, including refugees and asylees, improved immigration protections and more expedient processing of immigration petitions for those seeking relief.

13. As a part of its immigration advocacy efforts, Alianza has been a part of a broad coalition that has advocated closing family detention centers, and it has raised concerns about violence against immigrant women and children in immigration detention. Most recently, it has called on the U.S. Government to respect the rights afforded to refugee and asylum seekers as provided under U.S. immigration law, and it has repeatedly raised its concerns about the safety of the immigrant children who have been separated from their parents under the Trump Administration’s “zero tolerance” policy.

14. Alianza is a non-profit, social good organization. Alianza intends to share the information that it obtains through this request to educate farmworker women and other community members. Alianza will disseminate this information through its social media platforms and through direct educational efforts with its members across the country, including members living in and around Fort Bliss who may be directly impacted by the construction of

these camps. Alianza will also disseminate this information to its media contacts and through mass distribution using its mailing list, among other efforts.

15. GreenLatinos is a national nonprofit organization that convenes a broad coalition of Latino leaders committed to addressing national, regional and local environmental, natural resources and conservation issues that significantly affect the health and welfare of the Latino community in the United States. GreenLatinos seeks to provide an inclusive table at which its members establish collaborative partnerships and networks to improve the environment; protect and promote conservation of land and other natural resources; amplify the voices of minority, low-income and tribal communities; and train, mentor, and promote the current and future generations of Latino environmental leaders for the benefit of the Latino community and beyond.

16. GreenLatinos has demonstrated the ability and clear intent to timely disseminate information received from this FOIA request to a broad audience of persons interested in the subject – including its members, national and local ally organizations who have significant memberships and constituencies interested in this issue, and members of the media who regularly cover immigrant detention. In addition, GreenLatinos has the ability and intent to share the information it obtains to the public by means of email, website posts, social media posts, and in-person communication including at the organization's National Summit.

17. Labor Council for Latin American Advancement (“LCLAA”) is the leading national organization for Latino(a) workers and their families. LCLAA was born in 1972 out of the need to educate, organize and mobilize Latinos in the labor movement and has expanded its influence to organize Latinos in an effort to impact workers' rights and their influence in the political process. LCLAA represents the interest of more than 2 million Latino workers in the

American Federation of Labor-Congress of Industrial Organizations (AFL-CIO), the Change to Win Federation, Independent Unions and all its membership.

18. LCLAA is a non-profit organization with a mission to defend and work for immigrant and working family rights. LCLAA plans to disseminate this information for free through its 52 chapters in 23 states, thus further helping to inform the public across the country about this crucial issue. LCLAA will also circulate this information through its social media platforms, and will reach out to national and international media outlets.

19. National Hispanic Medical Association (“NHMA”) works to improve the health of Hispanics through advocacy, leadership development and educational activities. The mission of NHMA is to empower Hispanic physicians to lead efforts to improve the health of Hispanic and other underserved populations. NHMA has been involved in advocacy concerning immigration policy and the direct health implications of these policies for families that are detained in government-funded detention centers. NHMA has called on Congress to fix these issues and treat families that are currently detained with the dignity they deserve.

20. NHMA has the ability and intends to share information obtained from this FOIA request through its social media networks and its networks via email and its monthly newsletter.

21. Southwest Environmental Center (“SWEC”) is a non-profit conservation organization dedicated to the protection and restoration of native wildlife and their habitats in the Southwest. Headquartered in Las Cruces, New Mexico, SWEC has more than 10,000 members and online activists. SWEC’s members and staff live in or regularly visit the U.S.-Mexico borderlands region in New Mexico and Texas and regularly use the myriad federal, state, and local protected lands along the U.S.-Mexico border in New Mexico and Texas for hiking,

camping, viewing and studying wildlife, photography, hunting, horseback riding, and other scientific, vocational, and recreational activities.

22. SWEC has a long history of advocacy within the borderlands region, including advocacy against border militarization and for the protection of human rights and the environment of the Southwest. SWEC has taken a leading role in organizing protests against the construction of a border wall along the U.S.-Mexico border, and has partnered closely with human rights and immigration groups in this fight.

23. SWEC intends to disseminate any information it receives from this request promptly to the public at large via social media. In addition, SWEC intends to draw attention to this information at public events, in letters to editors, and through other means during the course of its advocacy. SWEC will also share any information it receives with local government officials in Las Cruces and Doña Ana County.

24. Plaintiffs use FOIA to obtain information from federal agencies in order to inform their members and the public about immigration, public health, and environmental issues. Plaintiffs regularly convey important information to their members and the public through publications and press releases, as well as by publicly releasing information and documents obtained through FOIA requests.

25. Plaintiffs bring this action on their own behalf and on behalf of their members. Plaintiffs and their members have been and continue to be injured by Defendant's failure to timely respond to Plaintiffs' request for expedited processing within the timeframe mandated by FOIA. The requested relief will redress these injuries.

26. Defendant Army is a federal agency within the meaning of FOIA, 5 U.S.C. § 552(f)(1), and has possession or control of the records Plaintiffs seek in this action.

LEGAL BACKGROUND

27. Enacted in 1966, the Freedom of Information Act was designed to “encourage public disclosure of information” in order to “ensure an informed citizenry.” *Am. Civil Liberties Union v. Dep’t of Def.*, 543 F.3d 59, 66 (2d Cir. 2008) (citations omitted). To this end, FOIA requires agencies of the federal government to release, upon request, information to the public, unless one of nine specific statutory exemptions applies. 5 U.S.C. § 552(a)(3)(A). These exemptions are narrowly construed, and the agency bears the burden of establishing the applicability of each exemption as to each record for which it is claimed. *See Milner v. Dep’t of Navy*, 562 U.S. 562, 565 (2011).

28. Upon receiving a FOIA request, an agency has twenty working days to respond by determining whether responsive documents exist and whether the agency will release them. 5 U.S.C. § 552(a)(6)(A). Once a determination is made, FOIA further requires agencies to make the requested records themselves “promptly available” to requesting parties. *Id.* § 552(a)(3)(A). An agency may delay an initial determination by ten working days only if the agency can demonstrate that it faces “unusual circumstances.” *Id.* § 552(a)(6)(B); 32 C.F.R. § 286.8(c).

29. Over and above these statutory mandates for all FOIA requests, FOIA requires agencies to provide for expedited processing of requests for records in cases in which the requestor demonstrates a compelling need. 5 U.S.C. § 552(a)(6)(E)(i); 32 C.F.R. § 286.8(e)(1). A compelling need exists when the failure to obtain expedited processing could reasonably be expected to pose an imminent threat to the life or physical safety of an individual, or when there is an urgency to inform the public concerning an actual or alleged Government activity on a request that is made by an individual primarily engaged in disseminating information. 5 U.S.C. § 552(a)(6)(E)(v); 32 C.F.R. § 286.8(e)(1)(i). In addition, DOD regulations require agency

components to provide for expedited processing of requests for records if loss of substantial due process rights is imminent, or if the failure to obtain expedited processing could reasonably be expected to harm substantial humanitarian interests. 32 C.F.R. § 286.8(e)(1)(ii).

30. Upon receiving a request for expedited processing, an agency must provide a determination of whether the request for expedited processing will be granted within 10 calendar days after the date of the request. 5 U.S.C. § 552(a)(6)(E)(ii)(I); 32 C.F.R. § 286.8(e)(4). An agency shall process as soon as practicable any request for records to which the agency has granted expedited processing. 5 U.S.C. § 552(a)(6)(E)(iii); 32 C.F.R. § 286.8(e)(4).

31. If an agency withholds responsive records, in whole or in part, the burden is on the agency to prove that an exemption applies and that it outweighs FOIA's policy of disclosure. *See, e.g.*, 5 U.S.C. § 552(a)(4)(B); *Halpern v. F.B.I.*, 181 F.3d 279, 287 (2d Cir. 1999).

32. Whenever an agency determines that a portion of a record should be withheld under one of FOIA's exemptions, the agency must still release to the public any portions of that record that contain "reasonably segregable" non-exempt information. 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 under this subsection.").

33. FOIA provides that the district court shall have jurisdiction "to enjoin [an] agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant." 5 U.S.C. § 552(a)(4)(B).

FACTUAL BACKGROUND

34. In May 2018, the Trump Administration announced its "zero-tolerance" immigration policy, under which the U.S. Government has taken a stricter stance on illegal crossings at the Mexico border, including increased detention of immigrants and separation of

children from their parents or guardians. In June 2018, the Trump Administration announced that it would pursue plans to construct semi-permanent immigration detention camps at Fort Bliss to detain as many as 20,000 immigrants.

35. On August 8, 2018, Plaintiffs submitted a FOIA request to the United States Department of the Air Force (“Air Force”) seeking several categories of records including, but not limited to, records concerning known or suspected toxic sites at Goodfellow Air Force Base in Texas and Fort Bliss that have the potential to cause dangerous human exposure to toxic chemicals via air, water, and soil to immigrants detained at and to workers constructing proposed detention camps at the military bases. Plaintiffs also asked that the FOIA request be processed on an expedited basis pursuant to 32 C.F.R. § 286.8(e) in light of the urgent need to inform the public, the imminent threat to the lives and physical safety of the families and children who would be detained in these proposed camps, and the substantial humanitarian interests at stake.

36. On August 17, 2018, Plaintiffs submitted a similar FOIA request to Defendant Army seeking records concerning known or suspected toxic sites at Fort Bliss that have the potential to cause dangerous human exposure to toxic chemicals via air, water, and soil to immigrants detained at Fort Bliss and to workers constructing the detention camps. A copy of the request is attached to this complaint as Exhibit A. Additionally, the request seeks other categories of records, including (but not limited to) records concerning:

- Fort Bliss’s 24-hour call center that was created for those who believe they may have been exposed to contaminated materials;
- the location at Fort Bliss of the proposed immigrant detention camps;
- the testing of environmental media at and surrounding the proposed location;
- environmental hazards or concerns that pertain to the proposed location;

- the testing that has been conducted for health and environmental hazards that uniquely impact women and children at the proposed location;
- the type of dwellings that will be constructed;
- the expected or actual date of occupancy of the immigrant detention camps, the number of expected occupants, and the number of single and family dwellings;
- the last date that documents have been purged or destroyed as related to environmental reports or hazards on Fort Bliss, the type of documents, a description of the documents and the individual(s) responsible for requesting the destruction or purge of said documents;
- the number of workers who will be employed in the construction of the immigrant detention camps, the type of workers, the length of time for which they will be employed and any job descriptions related to their role/function to build the detention camps;
- the Environmental Assessment and Environmental Impact Assessment completed for the proposed construction of the immigrant detention camps; and
- the U.S. Navy draft or final planning memorandum that identifies the specific DOD facilities at which immigrant detention camps may be constructed by the Trump Administration.

37. Plaintiffs also asked that their FOIA request to Defendant Army be processed on an expedited basis pursuant to 32 C.F.R. § 286.8(e) in light of the urgent need to inform the public, the imminent threat to the lives and physical safety of the families and children who would be detained in these proposed camps, and the substantial humanitarian interests at stake.

38. Plaintiffs' request for expedited processing of their FOIA requests to Defendant Army was in conformance with the requirements for such requests set forth in FOIA and DOD's regulations. Plaintiffs stated that the FOIA request meets the criteria for expedited processing under DOD's regulations, 32 C.F.R. § 286.8(e), as Plaintiffs urgently need the information to inform their members and the public about imminent government plans to detain thousands of immigrant families and unaccompanied minors at Fort Bliss; the failure to obtain the requested records on an expedited basis could reasonably be expected to pose an imminent threat to the lives or physical safety of the adults and children detained at Fort Bliss; and the failure to obtain the requested information could reasonably be expected to harm substantial humanitarian interests. As Plaintiffs stated in their request, Fort Bliss has numerous areas under investigation where past military operations have contaminated soil, and potentially water and air, with hazardous chemicals that can cause cancer, neurological damage and injury to major human organs. Furthermore, the DOD is currently investigating these areas pursuant to the requirements of the federal Superfund program, but the contaminated and unsafe areas have not yet been remediated and the threat has not yet been clearly delineated.

39. Plaintiffs submitted their FOIA request to Defendant Army by mail and email according to the instructions on Defendant's public-facing website on August 17, 2018. *See* Records Management and Declassification Agency, U.S. Army, Army Freedom of Information Act Contact, <https://www.rmda.army.mil/foia/RMDA-FOIA-Contact.html?param=CI0-S3J-I5D-CMT> (last visited Aug. 28, 2018). Plaintiffs received confirmation from the U.S. Postal Service package tracking that the request was delivered to Defendant on Monday August 20, 2018, at 8:24 am. Plaintiffs submitted their request via email to the email address listed on the website, usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia@mail.mil, but received an email delivery failure

notification in response, which stated that Defendant Army's servers had rejected the email. Plaintiffs also submitted their request via email to the FOIA Public Liaison Officer's email address, listed on the website, and received the same email delivery failure notification.

40. On August 23, 2018, Plaintiffs received an acknowledgment letter from the Air Force confirming receipt of their August 8, 2018 FOIA request to the Air Force, which (among other things) notified Plaintiffs that their request for records related to Fort Bliss was being transferred to Defendant Army's Fort Bliss FOIA office.

41. On August 28, 2018, Plaintiffs received an acknowledgement letter from Defendant Army's FOIA Office at Fort Bliss confirming receipt of the August 8, 2018 FOIA request that had been forwarded to Defendant Army by the Air Force. The August 28, 2018 letter made no reference to Plaintiffs' request for expedited processing in their Air Force FOIA request and did not acknowledge or reference Plaintiffs' August 17, 2018 FOIA request.

42. Defendant Army has yet to confirm receipt of Plaintiffs' August 17, 2018 FOIA request or provide any response to Plaintiffs regarding that request. Indeed, since sending their August 17, 2018 FOIA request to Defendant Army, Plaintiffs' counsel have made multiple attempts by telephone and email to contact Defendant Army's national FOIA office, FOIA Public Liaison, and the Fort Bliss FOIA Public Liaison, and have yet to receive any response to any of their inquiries concerning the status of their request.

43. To date, Defendant Army has not responded to Plaintiffs' request for expedited processing of either their (forwarded) August 8, 2018 FOIA request to the Air Force or their August 17, 2018 FOIA request to Defendant Army, let alone released any records or other information in response to either request.

CLAIM FOR RELIEF

44. Plaintiffs re-allege and incorporate the allegations of all preceding paragraphs of this Complaint as if fully set forth herein.

45. By failing to timely respond to Plaintiffs' request for expedited processing of their August 17, 2018 FOIA request, Defendant Army has violated FOIA and DOD's regulations promulgated thereunder. 5 U.S.C. § 552(a)(6)(E)(ii); 32 C.F.R. § 286.8(e)(4).

46. FOIA authorizes Plaintiffs to seek judicial review of Defendant Army's failure to timely respond to Plaintiffs' request for expedited processing without further exhausting any administrative remedies.

47. Plaintiffs are entitled to expedited processing of their FOIA request under the standards contained in FOIA and DOD's regulations.

48. Plaintiffs are entitled to obtain the requested records from Defendant Army as soon as is practicable.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs request that this Court enter a judgment:

(1) declaring that Defendant Army has violated FOIA by failing to timely respond to Plaintiffs' request for expedited processing of their FOIA request;

(2) ordering that Defendant Army process Plaintiffs' FOIA request as soon as is practicable;

(3) ordering that Defendant Army, upon completion of such expedited processing, make all requested records promptly available to Plaintiffs;

(4) retaining jurisdiction over this case to rule on any assertions by Defendant Army that any responsive records, in whole or in part, are exempt from disclosure;

(5) awarding Plaintiffs' litigation costs and reasonable attorneys' fees in this action;

and

(6) ordering such other relief as the Court may deem just and proper.

DATED: August 31, 2018

Respectfully Submitted,

/s/ Thomas J. Cmar

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Alianza Nacional de Campesinas, GreenLatinos,
Labor Council for Latin American Advancement,
National Hispanic Medical Association, and
Southwest Environmental Center*

EXHIBIT A

08/17/2018 FOIA Request Regarding
Fort Bliss Army Base



August 17, 2018

BY ELECTRONIC MAIL

U.S. Army Freedom of Information Act
Office
Records Management and Declassification
Agency
9301 Chapek Rd. Bldg 1458
Fort Belvoir, VA 22060-5605

usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia@mail.mil

Re: Request for Information Regarding Fort Bliss Army Base

Dear FOIA Officer:

On behalf of Alianza Nacional de Campesinas (Alianza), GreenLatinos, Hispanic Federation (HF), the Labor Council for Latin American Advancement (LCLAA), the National Hispanic Medical Association (NHMA), and Southwest Environmental Center (SWEC), Earthjustice hereby requests information pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the pertinent U.S. Department of Defense (DOD) regulations, 32 C.F.R. Parts 285, 286. **This is a request for expedited processing pursuant to 32 C.F.R. § 286.8 and 28 C.F.R. § 16.5(d)(1)(iv).**

Due to the extremely time-sensitive nature of this request, we are not requesting a fee waiver at this time, although we believe we are entitled to such a waiver pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 32 C.F.R. § 286.12(l). We request that you produce documents as soon as possible and notify us if the fee exceeds \$500.00.

I. RECORDS REQUESTED

This FOIA request seeks multiple records concerning toxic waste sites at Fort Army Base, where the Trump Administration will soon be constructing tent shelters for the purpose of holding thousands of immigrant children and families. These waste sites have the potential to cause dangerous human exposure to toxic chemicals via air, water and soil to migrants housed in tent encampments and to workers constructing the detention camps. Because the Trump Administration plans to construct and house immigrant children and families on a greatly expedited schedule, timely receipt of the following information is required to inform the public of potential adverse impacts and to ensure the safety of those detained and those constructing the encampments.

This request seeks the following records:

1. This FOIA request seeks the following documents pertaining to the eight areas under investigation described in the Fort Bliss Restoration Advisory Board document, available at <https://www.bliss.army.mil/dpw/Environmental/documents/2016%20RAB%20-%20Presentations.pdf>. Please provide “draft” and “final” copies of all requested documents:

a. Snake Pit Site: Please provide all data, data analysis, reports, radiation surveys, subsurface investigations, findings, decision documents, recommendations, remedial action plans, and documentation of remedial action for the “Snake Pit Site,” which was an Operational Storage Site location for nuclear weapons, comprised of approximately 189 acres at the former U.S. Biggs Army Air Field. Investigators found 10 areas that may exceed action levels for radioactivity at the site.

b. Fort Bliss Former Maneuver Area A (Site ID FTBLS-002-R-01): Please provide the 2014 Remedial Investigation Report, 2015 Feasibility Study, Proposed Plan completed in 2016, and the Decision Document pertaining to the Fort Bliss Former Maneuver Area A and the surface clearance and subsurface removal of munitions and explosives occurring in Area A. This former munitions response area (MRA) encompasses 72,520 acres. This area was used for military training from 1939 to the 1970s. Discrete locations within this MRA are suspected to contain unexploded ordnances, discarded military munitions, high explosives, bombs, and munitions constituents.

c. Biggs Open Burn (OB)/Open Detonation (OD) Site I ((Site ID FTBLS-006-R-01): Please provide the Remedial Investigation (RI) completed to evaluate the nature and extent of munitions and explosives of concern (MEC) and potential munitions constituents (MC) in soil; the Feasibility Study (FS) based on the RI, any decision documents arising from the RI and FS, including Remedial Design (RD) report and any remedial action documentation based on activities conducted pursuant to the decision documents. Biggs OB/OD Site I is a 40-acre area filled with mounds of several types of detonated/burned munitions, as well as unknown buried waste in trenches and detonation pits. This unknown debris is suspected to contain munitions and explosives of concern (MEC) or materials presenting potential explosive hazard (MMPEH), large amounts of munitions debris (MD) and other debris scattered across the surface of the site. In addition to the debris, soil contamination by OB/OD may include release of carcinogens (DNT, RDX, TNT), developmental neurotoxicants (lead, arsenic, mercury), endocrine disrupters (dioxins, PAHs, perchlorate), particle pollutants, respiratory irritants (sulphur dioxide, nitrogen oxides), and toxic metals (cadmium, chromium, nickel, copper, barium, lead).

d. Biggs Open Burn Site II (Site ID FTBLS-006-R-02): Please provide the Site Inspection (SI) completed to evaluate the presence of MEC and MC, data or surveys associated with MEC and MC investigations, “Phase II” activities report, Remedial Investigation (RI), Feasibility Study (FS), decision documents relating to the SI, RI and FS, including Remedial Design (RD) report, and any documentation of remedial actions

taken. Open Burn Site II is a 14-acre area containing unknown burned debris potentially containing munitions and trenches with unknown buried waste.

e. Far East Illegal Dump Sites (Site ID CCFTBL-001): Please provide the Preliminary Assessment performed in 2014, soil sampling and analysis fieldwork performed in 2017, Remedial Investigation (RI), Feasibility Study (FS), decision documents relating to the Preliminary Assessment, RI and FS, including Remedial Design (RD) report, and any documentation of remedial actions taken. The Far East Illegal Dump Sites comprise a 2.24-acre area that served as an illegal dumping site for medical waste, lead acid batteries, electronic components, tires, burned materials, asbestos, and petroleum. Testing has shown levels of pesticides, volatile organic compounds, and metals above the Texas protective levels.

f. Oro Grande Landfill (Site ID FTBL-014): Please provide the closure report, decision documents, including Remedial Design (RD) report, and any documentation of remedial action taken at the landfill. Past investigations at the Oro Grande Landfill found that the landfill is composed of buried waste material including wood, plastic, paper, scrap metal, and demolition debris.

g. Closed Castner Firing Range ((Site ID FTBLS-004-R-01): Please provide the Phase II Analytical Results, Remedial Investigation (RI) to determine the nature and extent of MEC and MC, Minutes of the Castner Range Public Meeting held after completion of the draft RI report, Feasibility Study, decision documents including development of cleanup alternatives, and any documentation of remedial actions taken, including munitions removal and/or remediation. The Castner Firing Range consists of 8,325 acres that were heavily used as a small arms, range and artillery firing and impact area from 1926-1966. The RI investigated extent of munitions, munitions debris, unexploded ordinances, soil, subsurface, surface water, and groundwater contamination at the site.

h. Area of Interest North of Castner Range (Site ID FTBLS-007-R-01): Please provide the Final Project Management Plan (PMP), Draft Explosives Site Plan (ESP), Historical Records Report (HRR); Community Relations Plan (CRP), Preliminary Assessment, Site Inspection, Minutes of Public Meeting(s); Remedial Investigation, Feasibility Study, Proposed Plan, Decision Documents, Remedial Design, and documentation of Remedial Action. This site comprises 4,909 acres where evidence of munitions debris including high explosive munitions were discovered.

2. Please provide any additional Preliminary Assessments, Site Investigations, and Remedial Investigations of areas known or suspected of being impacted by MC or MEC at Fort Bliss, which are not specifically named above.

3. Please provide any records of phone calls and other documents regarding Fort Bliss's 24-hour call center that was created for those who believe they may have been exposed to contaminated materials.

4. We request that you provide any maps or plans indicating the location at Fort Bliss of the migrant detention camp, including residential tents that are scheduled for construction. The maps or plans should clearly indicate the location of the camp on the base.

5. We request that you provide data regarding the testing of environmental media at and surrounding the proposed housing area. Please provide results from all testing of soil, subsurface conditions, groundwater, surface water and air for hazardous substances, including, but not limited to radiation, gases, fuel, munitions debris, and munitions constituents, which has been conducted in and around the area where the temporary tent housing will be constructed. The results of testing shall include environmental media on and below the footprint of the proposed housing area and the area within a quarter-mile radius from the construction footprint.

6. Please provide the Environmental Assessment and Environmental Impact Assessment completed for the proposed construction of temporary housing for immigrant children and families at Fort Bliss AFB.

7. Supply all reports or findings related to environmental hazards or concerns that pertain to the site of the proposed migrant detention centers at Fort Bliss.

8. Provide any information related to testing that has been conducted for health and environmental hazards that uniquely impact women and children on the premises that have been identified for the Fort Bliss Detention Center.

9. Provide any documentation, reports or other information related to the type of dwellings that will be constructed on the proposed Fort Bliss Migrant Detention Center.

10. Provide all documentation related to the expected or actual date of occupancy of the Fort Bliss Migrant Detention Center, the number of expected occupants (including numbers of adults and minors), and the number of single and family dwellings.

11. Provide any documentation related to the last date that documents have been purged or destroyed as related to environmental reports or hazards on the Fort Bliss Army Base, the type of documents, a description of the documents and the individual(s) responsible for requesting the destruction or purge of said documents.

12. Provide any information related to the number of workers who will be employed in the construction of the migrant detention camps at Fort Bliss, the type of workers, the length of time for which they will be employed and any job descriptions related to their role/function to build the detention camp.

13. Finally, this request seeks the U.S. Navy draft or final planning memorandum that identifies the specific DOD facilities at which migrant detention centers may be constructed pursuant to the President's 2018 "zero-tolerance" policy. The document requested is referenced here: <http://time.com/5319334/navy-detainment-centers-zero-tolerance-immigration-family-separation-policy> and <https://www.washingtonpost.com/news/checkpoint/wp/2018/06/21/>

[pentagon-asked-to-make-room-for-20000-migrant-children-on-military-bases/](#). This request seeks any and all memorandums regarding the migrant detention centers on any DOD facilities.

We define “records” to include all data, analyses, studies, articles, correspondence (including emails, telephone messages, text messages, and internet “chat” or social media messages), memoranda, reports, notes, notices, meeting notes, calendars, telephone logs, telefaxes, photographs, videos, maps, diagrams and other records, whether paper or electronic. This request applies to any records within, or exchanged between, the following DOD offices: the U.S. Air Force Safety Center, the Public Health Command, the Army Environmental Command, and any other divisions that have been involved in the investigation of contamination at Fort Bliss.

In the event that any requested document is claimed exempt from disclosure, please identify each allegedly exempt record in writing, provide a brief description of that record, and explain the agency’s justification for withholding it. If a document contains both exempt and non-exempt information, please provide those portions of the document that are not exempted from disclosure. Finally, if a document does not exist, please indicate that in your written response.

We remind you that we have requested expedited processing of this FOIA request. Pursuant to 32 C.F.R. § 286.8(e)(1), the Army must make an expedited processing determination within 10 calendar days after receipt of this request. If the Army grants expedited processing, the request must be processed as soon as practicable. We ask that you disclose the requested information as it becomes available to you without waiting until all of the records have been assembled. To the extent responsive records are available in an electronic format, we would prefer to receive electronic versions of the records in native-file format.

II. REQUESTERS

The following groups request the above-described information and documents:

A. Alianza Nacional de Campesinas

Alianza Nacional de Campesinas is a national farmworker women’s organization that was founded in 2011 to address and advance the rights more than 700,000 farmworker women in the United States through its national coalition. Alianza’s members include groups and individuals that are located in El Paso, Texas, an area that will be directly impacted by the proposed migrant detention center at Fort Bliss Army base. Since it was founded in 2011, Alianza has called for the fair treatment of immigrant women and children, including refugees and asylees, improved immigration protections and more expedient processing of immigration petitions for those seeking relief.

Alianza has a specific interest in this matter, as many of the women and children who are fleeing their home countries come from rural communities in Latin America, much like the rural communities from which Alianza’s members migrated to the U.S. They have fled their countries of origin to escape gender-based violence, risk of gang violence, natural disasters and other

factors that make it impossible for them to continue to live in their countries of origin. Alianza also has deep concern for individuals living along the U.S.-Mexico border who have been impacted by US immigration policy, as well as those living in rural communities. Its members have extensive experience living in these communities and working on both environmental issues and immigration advocacy at the local level.

As a part of its immigration advocacy efforts, Alianza has been part of a broad coalition that has advocated closing family detention centers, and it has raised concerns about violence against immigrant women and children in immigration detention. Most recently, it has called on the United States to respect the rights afforded to refugee and asylum seekers as provided under US immigration law, and it has repeatedly raised its concerns about the safety of the immigrant children who have been separated from their parents under Trump's zero tolerance policy.

Alianza seeks information through this FOIA request to better understand the government's analysis of any potential environmental and health hazards that might exist on the premises where these camps are expected to be constructed, particularly as it relates to women's reproductive health, neurological impacts and other potential health consequences. In addition, Alianza seeks information about any analysis or known information related to emerging environmental hazards or risks to the communities surrounding the migrant detention camp location.

Alianza is a non-profit, social good organization. Alianza intends to share the information that it obtains through this request to educate farmworker women and other community members. Alianza will disseminate this information through its social media platforms and direct educational efforts with its members across the US, including some members living in and around Fort Bliss who could be directly impacted by the construction of these camps, as well as to its media contacts and through mass distribution using its mailing list, among other efforts.

B. GreenLatinos

GreenLatinos is a national nonprofit organization that convenes a broad coalition of Latino leaders committed to addressing national, regional and local environmental, natural resources and conservation issues that significantly affect the health and welfare of the Latino community in the United States. GreenLatinos seeks to provide an inclusive table at which its members establish collaborative partnerships and networks to improve the environment; protect and promote conservation of land and other natural resources; amplify the voices of minority, low-income and tribal communities; and train, mentor, and promote the current and future generations of Latino environmental leaders for the benefit of the Latino community and beyond.

GreenLatinos believes that Latino communities, regardless of immigration status, and all those residing in the United States should live in environmentally healthy, just, and vibrant communities, with access to clean air, clean water, and public lands in which to connect spiritually, culturally, and recreate within. Recent media investigations and reporting have shown that those being held in immigration detention centers are being exposed to conditions that grossly violate human rights and environmental standards. GreenLatinos is concerned about the siting of detention centers on or near military bases that are EPA-designated Superfund sites,

have violated the Clean Water Act, Clean Air Act, and Resource Conservation and Recovery Act historically, and in multiple cases have exposed those who reside or work on bases to toxic chemicals and polluted water that have resulted in health issues including cancer, asthma, lung disease and much more. Given the Trump Administration's proposal to use federal military bases, such as the Fort Bliss Army Base and Goodfellow Air Force Base, as additional sites for immigration detention, GreenLatinos is interested in ensuring a proper and transparent environmental investigation and analysis is done to ensure the health and safety of detainees.

GreenLatinos has demonstrated ability and the clear intent to timely disseminate information received from this FOIA request to a broad audience of persons interested in the subject – including its members, national and local ally organizations who have significant memberships and constituencies interested in this issue, and members of the media who regularly cover immigrant detention. In addition, GreenLatinos has the ability and intent to share the information we obtain to the public by means of email, website posts, social media posts, and in-person communication including at the organization's National Summit.

C. Hispanic Federation

Founded in 1990, Hispanic Federation is one of the nation's leading Latino nonprofit membership organizations with 100-plus member organizations. Through headquarters in New York, and offices in Washington D.C., Connecticut, Florida, and Puerto Rico, and a program footprint in 20 states with significant Latino and immigrant populations, HF works to support Hispanic and immigrant families and strengthen Latino institutions in the areas of education, health, immigration, civic engagement, economic empowerment, and the environment. Federal immigration law and policy continues to be a top priority for the Latino community. HF believes our immigration, asylum, and environmental policies must respect the dignity of the individual, end the criminalization of Hispanic immigrants and asylum-seekers, and most of all, reflect our nation's commitment to human and civil rights. Those rights include the right to live free from environmental contaminants that are harmful to health and well-being.

HF has worked for years using both legislative and grassroots advocacy to support passage of immigration policies that are humane and that provide solutions to fix our broken immigration system. As co-chair of both the Energy and Environment and Immigration Committees of the National Hispanic Leadership Agenda, a broad coalition of 46 national Latino organizations, HF has been a leading Latino voice in rapid response efforts regarding anti-immigrant legislation as well as legislation that causes environmental harm. HF has been present at every major mobilization in support of Dreamers in Washington, D.C., and, most recently, participated in protests at the El Tornillo Detention Center in El Paso, Texas.

Hispanic Federation is one of the co-founders of a large and diverse intersectional [coalition](#) of environmental, civil rights, wildlife, faith, and border community and immigration groups leading opposition to the president's quest to increase funding for a wasteful border wall that would divide communities and wreak environmental havoc. That opposition includes funding for an increase in immigration detention beds.

Hispanic Federation is a nonprofit organization with a mission to protect and promote the public interest especially as it relates to immigrant and Latino communities. HF has extensive outlets for public education and information dissemination and intends to make any information received available to its constituents, and to the broader public, as widely as possible, and at no charge. HF intends to use its mailing lists, social media platforms, website, and broad network of member organizations, political colleagues and press to disseminate information it receives.

D. Labor Council for Latin American Advancement

The Labor Council for Latin American Advancement is the leading national organization for Latino(a) workers and their families. LCLAA was born in 1972 out of the need to educate, organize and mobilize Latinos in the labor movement and has expanded its influence to organize Latinos in an effort to impact workers' rights and their influence in the political process. LCLAA represents the interest of more than 2 million Latino workers in the American Federation of Labor-Congress of Industrial Organizations (AFL-CIO), the Change to Win Federation, Independent Unions and all its membership.

LCLAA has been committed to family reunification and to defending immigrant rights for a long time. The organization has organized and participated in a number of events aimed at condemning this administration's treatment of immigrants. Among them, LCLAA led a rally in support of immigrant families as part of the Families Belong Together day of action. LCLAA also joined the protest and rally at the U.S.-Mexico border in Tornillo, TX to demand immediate family reunification for those immigrant families that have been separated by the Trump administration's unjust immigration policies. LCLAA's chapters all over the nation also mobilized to oppose these policies.

LCLAA is a non-profit organization, and our involvement in this FOIA request falls within the mission of LCLAA, to defend and work for immigrant and working family rights. LCLAA plans to disseminate this information for free through its 52 chapters in 23 states, thus further helping to inform the public across the country about this crucial issue. LCLAA will also circulate this information through its social media platforms, and will reach out to national and international media outlets.

E. National Hispanic Medical Association

The National Hispanic Medical Association works to improve the health of Hispanics through advocacy, leadership development and educational activities. The mission of the National Hispanic Medical Association is to empower Hispanic physicians to lead efforts to improve the health of Hispanic and other underserved populations.

The National Hispanic Medical Association believes that the science and evidence are clear that the area that is being planned for this detention center is not healthy or safe for anyone to live in for any extended amounts of time, and it is especially dangerous to the health and livelihood of children who will be placed in this facility.

The National Hispanic Medical Association has been involved in advocacy concerning immigration policy and the direct health implications of these policies for families that are housed in government-funded detention centers. The Association has called on Congress to fix these issues and treat families that are currently detained with the dignity they deserve.

The National Hispanic Medical Association has the ability and intends to share information obtained from this FOIA request to our social media networks and to our networks via email and our monthly newsletter.

F. Southwest Environmental Center

The Southwest Environmental Center is a non-profit conservation organization dedicated to the protection and restoration of native wildlife and their habitats in the Southwest. SWEC has more than 10,000 members and online activists. SWEC is headquartered in Las Cruces, New Mexico. SWEC's members and staff live in or regularly visit the U.S.-Mexico borderlands region in New Mexico and Texas. SWEC's members and staff regularly use the myriad federal, state, and local protected lands along the U.S.-Mexico border in New Mexico and Texas for hiking, camping, viewing and studying wildlife, photography, hunting, horseback riding, and other scientific, vocational, and recreational activities. SWEC has a long history of advocacy within the borderlands region.

SWEC's interest in this issue relates to its advocacy against border militarization and for the protection of human rights and the environment of the Southwest. In recent years, SWEC has become increasingly concerned about how militarization of the U.S.-Mexico border affects the environment of the Southwest. The impetus for SWEC's involvement with this issue was the construction of a border wall along the U.S.-Mexico border. SWEC has taken a leading role in organizing protests against the wall, and has partnered closely with human rights and immigration groups in this fight. Together with Border Network for Human Rights, SWEC filed a lawsuit earlier this year to block the Family Detention Policy.

SWEC intends to disseminate any information it receives from this request promptly to the public at large via social media. In addition, SWEC intends to draw attention to this information at public events, in letters to the editor, and through other means during the course of its advocacy. SWEC will also share any information it receives with local government officials in Las Cruces and Doña Ana County.

III. JUSTIFICATION FOR EXPEDITED PROCESSING

We request that you process this request on an expedited basis pursuant to 32 C.F.R. § 286.8(e). The above six public interest groups demonstrate a compelling need for the requested documents. First, the requesters urgently need the information to inform their members and the public about imminent government plans to house thousands of immigrant families and unaccompanied minors at Fort Bliss Army Base. *See id.* § 286.8(e)(1)(i)(B). Recent news reports indicated that DOD is preparing to house approximately 20,000 migrants on military bases, including Fort Bliss, and that construction of tent encampments is to begin shortly and be completed within 45 days. *See* <http://time.com/5324490/zero-tolerance-detention-centers->

military/. See also <https://wamu.org/story/18/06/28/military-bases-to-start-building-tents-after-july-4-to-house-migrant-families/>. DOD has been asked by the Department of Homeland Security to identify available land at southwestern bases and to construct “soft-sided camp facilities” capable of holding thousands of migrants. *Id.* Precise location of all the camps has not been reported. Local reports indicate that construction has not yet begun but may begin in the very immediate future.

The absence of specific information regarding the detention centers deprives the public of their right to know and understand the U.S. Government’s actions and policies regarding immigrant families. Serious harm has occurred and is currently occurring as a result of the Trump Administration’s Zero Tolerance Policy, pursuant to which immigrants, including minors, are detained in shelters and children were separated from their families. Consequently, the U.S. Government’s ill treatment of migrants is an issue of utmost concern to millions of Americans. Failure to provide records on an expedited basis deprives the public of crucial knowledge concerning this rapidly evolving situation on the Southern border and new and grave threats to the health of immigrant children and families detained there.

The requesters are groups that have been engaged for decades in defending the rights of immigrants. As described above, the requesting groups regularly disseminate information concerning the activities and policies of the U.S. Government relating to treatment of immigrants and U.S. immigration policy, and this is a primary professional activity for these organizations. The requesting groups are therefore uniquely well informed on these issues and well positioned to disseminate the critical information sought in this request.

Second, we request expedited processing because the failure to obtain the requested records on an expedited basis could reasonably be expected to pose an imminent threat to the lives or physical safety of adults and children housed in the temporary shelters at Fort Bliss. See 32 C.F.R. § 286.8(e)(1)(i)(A). As described above, Fort Bliss has numerous areas where past military operations have contaminated soil, and potentially water and air, with multiple sources and types of hazards and hazardous waste, including radioactive materials, unexploded ordnances, heavy metals, PCBs, asbestos, petroleum, pesticides, and volatile organic compounds. These hazardous chemicals can cause cancer, neurological damage and injury to major human organs. DOD is currently investigating these areas pursuant to the requirements of the federal Superfund program, but the contaminated and unsafe areas have not yet been remediated. In fact, the extent of the threat has not yet been clearly delineated, and it is clear that some areas of the Fort Bliss Army Base would pose a substantial and imminent threat to life or physical safety of those housed in tents in and near the contaminated and impacted areas.

In addition, water contamination by a group of toxic chemicals known as poly- and perfluoroalkyl substances, or PFAS, may be present at Fort Bliss. The military used PFAS-based foams to fight fires as part of military training exercises. PFAS have been linked to health problems including an increased risk of liver, kidney, and thyroid disease, certain types of cancers, infertility in women, and developmental problems in fetuses and infants. Children are particularly vulnerable to PFAS chemicals, which can decrease the body’s ability to produce disease-fighting antibodies after vaccination. Holding children on a base where drinking water is contaminated by toxic compounds would present an imminent threat to their health.

Third, we request expedited processing because the failure to obtain the requested information could reasonably be expected to harm substantial humanitarian interests. *See* 32 C.F.R. § 286.8(e)(1)(ii)(B). The safe, just, humane, lawful, and transparent treatment of those seeking residence in the United States is imperative to the protection of human rights. The rushed construction of temporary structures near or even on top of unremediated toxic waste sites would be a gross violation of such humanitarian interests. The housing of children and adults in or near unsafe and contaminated areas could occur due to lack of adequate planning and the total absence of transparency in the process. The resulting exposure to toxic chemicals, radioactivity and/or explosives would clearly harm substantial humanitarian interests. The documents requested will provide information regarding the location of tent shelters, the location of unsafe and contaminated areas, and the safety of drinking water on the base. This information is essential to protecting the health and safety of thousands of detainees, as well as workers constructing the detention camps. Failure to obtain the requested information will harm these substantial humanitarian interests.

The requestors certify that the reasons for the expedited processing request are true and correct. We look forward to hearing your response to this request within ten days.

If you have questions regarding this request, please contact Lisa Evans at (781) 631-4119 and levans@earthjustice.org or Melissa Legge at (212) 823-4978 and mlegge@earthjustice.org.

Thank you in advance for your attention to this important matter.

Sincerely,



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