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Description of document: National Transportation Safety Board (NTSB) records provided to Chairman Darrell Issa, House Oversight and Government Reform Committee, concerning the administration of the Freedom of Information Act (FOIA), 2010-2011

Released date: 10-June-2013

Posted date: 02-September-2012

Source of document: National Transportation Safety Board  
Attention: FOIA Requester Service Center, CIO-40  
490 L'Enfant Plaza, S.W.  
Washington, DC 20594-2000  
Fax: (240) 752-6257  
[Submit an online Request](#)

Note: This is one of several files on the same subject for various agencies available on governmentattic.org. See: <http://www.governmentattic.org/5docs/chairmanIssa.htm>

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**National Transportation Safety Board**  
Washington, D.C. 20594

June 10, 2013

Re: National Transportation Safety Board (NTSB)  
Freedom of Information Act (FOIA) No. FOIA-2012-00060

This letter responds to your FOIA request for information regarding the above accident. In your request you seek an electronic copy of the records provided to the Honorable Chairman Darrell Issa and a copy of any correspondence sent to Chairman Issa's office on the subject of the January 2011 inquiry, and any correspondence sent during calendar year 2011 to Chairman Issa's office on the subject of FOIA.

The Safety Board has located a number of responsive documents that were not placed in the public docket. The approximately 20 pages of documents that we have determined may be released are enclosed on CD-ROM.

The NTSB has concluded processing your FOIA request. The fees associated with this request have not exceeded \$14.00; therefore the NTSB will not charge a fee for the processing of your request.

To the extent I have denied your FOIA request, you may appeal my decision by writing to: Mr. David L. Mayer, Managing Director, NTSB, Washington, DC 20594.

Sincerely,

A handwritten signature in black ink, appearing to read "Melba D. Moyer". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Melba D. Moyer  
FOIA Officer

Enclosure



# National Transportation Safety Board

Washington, D.C. 20594

Records Management Division

February 15, 2011

Congress of the United States  
House of Representatives  
Committee on Oversight and Government Reform  
2157 Rayburn House Office Building  
Washington, DC 20515-6143

Dear Ms. Millspaw:

In response to Chairman Darrell Issa's letter dated January 25, 2011 enclosed is the National Transportation Safety Board's (NTSB) responsive information. Please note two separate databases were used to compile the information as an off-the-shelf database was implemented in 2007 to improve the FOIA process. Please don't hesitate to contact me if you have any questions. I can be reached on (202) 314-6540.

Sincerely,

Melba D. Moyer  
FOIA Officer

Enclosure

Item 1 and 2: attached

Item 3:

1. **FOIA-2011-00049** – correspondence attached.

2. **FOIA-2011-00076** – correspondence attached.

Notes: contacted Mr. Nelson and informed him that it will be sometime before we process request (many request prior to his)-records are voluminous and we may require 1/2 of payment costs prior to processing-he's specifically seeking: field notes, internal transmittals & correspondence, party notes-informed Mr. Nelson that we will contact him again once we began processing request to keep him informed-tpc

3. **FOIA-2011-00077** – correspondence attached

4. **FOIA-2011-00079** – correspondence attached

5. **FOIA-2011-00084** - correspondence attached

6. **FOIA-2011-00087** - correspondence attached

7. **FOIA-2011-00089** - correspondence attached

8. **FOIA-2011-00093** – acknowledgement letter attached.

9. **FOIA-2011-00094** - correspondence attached

10. **FOIA-2011-00096** - correspondence attached

11. **FOIA-2011-00103** - correspondence attached

12. **R-2011-00004**

13. **R-2011-00005**

14. **R-2011-00006**

Items 4 and 5:

The only federal judicial action in which the NTSB, within the five years preceding the date of the committee's requesting letter, has been ordered by a court to pay any attorneys' fees or other litigation costs was the case of Lahr v. NTSB, et al. On July 19, 2010, the United States District Court for the Central District of California entered a consent judgment which provided for payment by the NTSB of \$42, 242.00 for attorney's fees and litigation costs. That lawsuit had been initiated on November 6, 2003, based on withholdings and redactions in a response to a request for records regarding the 1996 TWA 800 accident investigation. The court order is attached.



**National Transportation Safety Board**  
Washington, D.C. 20594

December 17, 2010

Mr. William Ballow  
Reed, Smith  
136 Main Street  
Suite 250  
Princeton, NJ 08540

Re: Freedom of Information Act (FOIA) Request  
FOIA-2011-00049

Dear Mr. Ballow:

This acknowledges receipt of your FOIA request of November 09, 2010, concerning an aviation accident that occurred on November 13, 2008, in Tallahassee, Florida.

Your request will be processed in accordance with your inquiry. Please refer to the FOIA number listed above to inquire about the status of your request.

NTSB, FOIA Requester Service Center  
490 L'Enfant Plaza East, S.W.  
Washington, D.C. 20594  
(202) 314-6540



**National Transportation Safety Board**  
Washington, D.C. 20594

December 23, 2010

Mr. Stephen Nelson  
Wilson, Elser, Moskowitz, Edelman & Dicker, LLP  
525 Market Street, 17th Floor  
San Francisco, CA 94105-2725

Re: Freedom of Information Act (FOIA) Request  
FOIA-2011-00076

Dear Mr. Nelson:

This acknowledges receipt of your FOIA request of December 16, 2010, concerning an aviation accident that occurred on August 5, 2008, in Weaverville, California. You state in your letter that you submitted a preliminary FOIA request on May 19, 2009. Please note that the NTSB, FOIA Requester Service Center, does not have a record of receiving your May 19, 2009, FOIA request. We also left you a message on Friday, December 17, 2010, stating the same.

Your request will be processed in accordance with your inquiry. Please refer to the FOIA number listed above to inquire about the status of your request.

NTSB, FOIA Requester Service Center  
490 L'Enfant Plaza East, S.W.  
Washington, D.C. 20594  
(202) 314-6540

**FOIA-2011-00076**

1/6/11: contacted Mr. Nelson and informed him that it will be sometime before we process request (many request prior to his)- records are voluminous and we may require 1/2 of payment costs prior to processing-he's specifically seeking: field notes, internal transmittals & correspondence, party notes-informed Mr. Nelson that we will contact him again once we began processing request to keep him informed-tpc





**National Transportation Safety Board**  
Washington, D.C. 20594

December 23, 2010

Mr. Thomas Bingham  
Krutch, Lindell, Bingham, Jones & Petrie, P.S.  
1420 Fifth Avenue  
Suite 3150  
Seattle, WA 98101

Re: Freedom of Information Act (FOIA) Request  
FOIA-2011-00077

Dear Mr. Bingham:

This acknowledges receipt of your FOIA request of December 01, 2010, concerning an aviation accident that occurred on September 22, 2007, in Whittier, Alaska.

Your request will be processed in accordance with your inquiry. Please refer to the FOIA number listed above to inquire about the status of your request.

NTSB, FOIA Requester Service Center  
490 L'Enfant Plaza East, S.W.  
Washington, D.C. 20594  
(202) 314-6540



**National Transportation Safety Board**  
Washington, D.C. 20594

December 23, 2010

Mr. David Cain  
Cunningham Bounds, LLC  
1601 Dauphin Street  
Mobile, AL 36604

Re: Freedom of Information Act (FOIA) Request  
FOIA-2011-00079

Dear Mr. Cain:

This acknowledges receipt of your FOIA request of November 30, 2010, concerning an aviation accident that occurred on February 17, 2007, in Fountain, Florida.

Your request will be processed in accordance with your inquiry. Please refer to the FOIA number listed above to inquire about the status of your request.

NTSB, FOIA Requester Service Center  
490 L'Enfant Plaza East, S.W.  
Washington, D.C. 20594  
(202) 314-6540



**National Transportation Safety Board**  
Washington, D.C. 20594

December 30, 2010

Ms. Dotty Stroble  
Motley, Rice  
28 Bridgeside Blvd.  
Mount Pleasant, SC 29464

Re: Freedom of Information Act (FOIA) Request  
FOIA-2011-00084

Dear Ms. Stroble:

This acknowledges receipt of your FOIA request of December 22, 2010, concerning an aviation accident that occurred on July 7, 2008, in Bogota, Colombia.

Your request will be processed in accordance with your inquiry. Please refer to the FOIA number listed above to inquire about the status of your request.

NTSB, FOIA Requester Service Center  
490 L'Enfant Plaza East, S.W.  
Washington, D.C. 20594  
(202) 314-6540



**National Transportation Safety Board**  
Washington, D.C. 20594

December 30, 2010

Mr. Kerry Kovarik  
Krutch, Lindell, Bingham, Jones & Petrie  
1420 Fifth Avenue  
Suite 3150  
Seattle, WA 98101

Re: Freedom of Information Act (FOIA) Request  
FOIA-2011-00087

Dear Mr. Kovarik:

This acknowledges receipt of your FOIA request of December 20, 2010, concerning an aviation accident that occurred on August 4, 2008, in Gearhart, Oregon.

Your request will be processed in accordance with your inquiry. Please refer to the FOIA number listed above to inquire about the status of your request.

NTSB, FOIA Requester Service Center  
490 L'Enfant Plaza East, S.W.  
Washington, D.C. 20594  
(202) 314-6540



**National Transportation Safety Board**  
Washington, D.C. 20594

January 04, 2011

Ms. Kathleen Adler  
Attorney  
2012 West Rose Oak Drive  
Mustang, Oklahoma 73064

Re: Freedom of Information Act (FOIA) Request  
FOIA-2011-00089

Dear Ms. Adler:

This acknowledges receipt of your FOIA request of January 03, 2011, concerning an aviation accident that occurred on October 14, 2009, in Tahlequah, Oklahoma.

Your request will be processed in accordance with your inquiry. Please refer to the FOIA number listed above to inquire about the status of your request.

NTSB, FOIA Requester Service Center  
490 L'Enfant Plaza East, S.W.  
Washington, D.C. 20594  
(202) 314-6540



**National Transportation Safety Board**  
Washington, D.C. 20594

January 06, 2011

Ms. Carolyn Martinez  
Baumeister & Samuels, PC  
One Exchange Plaza  
New York, NY 10006-3008

Re: Freedom of Information Act (FOIA) Request  
FOIA-2011-00093

Dear Ms. Martinez:

We apologize for this late acknowledgement of your FOIA request dated, August 27, 2010, concerning four NTSB investigations at the TEB airport as referenced in an August 20, 2009, FAA memo.

Your request will be processed in accordance with your inquiry. Please refer to the FOIA number listed above to inquire about the status of your request.

NTSB, FOIA Requester Service Center  
490 L'Enfant Plaza East, S.W.  
Washington, D.C. 20594  
(202) 314-6540



**National Transportation Safety Board**  
Washington, D.C. 20594

January 06, 2011

Mr. Michael Ravnitzky  
1905 August Drive  
Silver Spring, MD 20902

Re: Freedom of Information Act (FOIA) Request  
FOIA-2011-00094

Dear Mr. Ravnitzky:

This acknowledges receipt of your FOIA request of December 24, 2010, concerning the three oldest FOIA requests at NTSB.

Your request will be processed in accordance with your inquiry. Please refer to the FOIA number listed above to inquire about the status of your request.

NTSB, FOIA Requester Service Center  
490 L'Enfant Plaza East, S.W.  
Washington, D.C. 20594  
(202) 314-6540



**National Transportation Safety Board**  
Washington, D.C. 20594

January 10, 2011

Mr. David Cain  
Cunningham Bounds, LLC  
1601 Dauphin Street  
Mobile, AL 36604

Re: Freedom of Information Act (FOIA) Request  
FOIA-2011-00096

Dear Mr. Cain:

This acknowledges receipt of your FOIA request of January 05, 2011, concerning an aviation accident that occurred on February 17, 2007, in Fountain, Florida.

Your request will be processed in accordance with your inquiry. Please refer to the FOIA number listed above to inquire about the status of your request.

NTSB, FOIA Requester Service Center  
490 L'Enfant Plaza East, S.W.  
Washington, D.C. 20594  
(202) 314-6540





**National Transportation Safety Board**  
Washington, D.C. 20594

January 21, 2011

Ms. Melissa Fitzpatrick  
The Danko Law Firm  
247 North San Mateo Drive

San Mateo, CA 94401

Re: National Transportation Safety Board (NTSB)  
Freedom of Information Act (FOIA) FOIA-2011-00103  
LAX06FA211 6/24/2006Upland,CA United States

Dear Melissa Fitzpatrick:

This letter is in response to your FOIA request for records from the above NTSB Investigation. The Safety Board is continuing to investigate certain aspects of this accident; as such, the Board considers this investigation to be currently ongoing. However, the Board has made a discretionary release of certain records from Investigation No. in a public docket. **[Enclosed is a computer disk containing electronic copies of these records].**

With regard to the other records that you seek that are not included in the enclosed disk, the Safety Board will not release these records until it has concluded this investigation. For your information, the Safety Board does not release records from a pending investigation, because such release would impede the progress of the investigation and deter uninhibited deliberations and discussions regarding certain aspects of the investigation. As such, the Safety Board denies requests for records from pending investigations in accordance with Exemptions 2, 5, and 7(A) of the FOIA, as explained below.

First, please be advised that preliminary disclosure of records from an ongoing investigation would cause circumvention of the Safety Board's statutory purpose and implementing regulations; as such, under Exemption 2 of the FOIA, records from an ongoing Safety Board investigation are exempt from disclosure. 5 U.S.C. § 552(b)(2). Specifically, Congress has charged the Safety Board with the responsibility of investigating civilian transportation occurrences in an independent fashion. See 49 U.S.C. § 1111; 49 C.F.R. §§ 800.2, 800.3(a) (listing the Board's general functions and responsibilities); see also S. Rep. No. 103-150, at 231 (1993) (stating that the Board was established as an independent agency, and that the Board's "effectiveness depends on its reputation for

impartial and accurate accident reports"). Disclosure of records from a pending investigation would undermine the Safety Board's independence, objectivity, and effectiveness, which are critical to the Board's ability to investigate transportation accidents. Such a compelling risk of circumvention of the Safety Board's statutory purpose and regulations allows for the application of Exemption 2 of the FOIA to your request. See, e.g., Schiller v. Nat'l Labor Relations Bd., 964 F.2d 1205, 1208 (D.C. Cir. 1992); National Treasury Employees Union v. United States Customs, 802 F.2d 525, 529-31 (D.C. Cir. 1986); Crooker v. Bureau of Alcohol, Tobacco, and Firearms, 670 F.2d 1051, 1066, 1074 (D.C. Cir. 1981).

Likewise, records that reflect the Board's deliberative process are exempt from disclosure pursuant to Exemption 5 of the FOIA. 5 U.S.C. § 552(b)(5). Exemption 5 exempts from disclosure agency records that are preliminary or deliberative. See, e.g., Jowett, Inc. v. Dep't of the Navy, 729 F. Supp. 871, 877 (D.D.C. 1989); National Wildlife Fed'n v. Forest Serv., 861 F.2d 1114, 1119 (9th Cir. 1988); Russell v. Dep't of the Air Force, 682 F.2d 1045, 1047-48 (D.C. Cir. 1982). The Safety Board cannot guarantee that preliminary materials, such as records from a pending investigation, would be accurate or complete; therefore, release of such information would result in confusion and compromise the Board's work. Similarly, material reflecting the Safety Board's deliberative process is exempted from disclosure in order to ensure the free flow of information during the course of the Board's investigations. Mead Data Cent., Inc. v. Dep't of the Air Force, 566 F.2d 242, 256 (D.C. Cir. 1977).

In addition, the FOIA does not require the Safety Board to release records that could interfere with the progress of an ongoing investigation. 5 U.S.C. § 552(b)(7)(A). At times, the Safety Board's investigations lead to other agencies' regulatory enforcement actions. Congress has directed the Safety Board to investigate civil transportation accidents, determine the causes of the accidents, and issue safety recommendations in order to prevent future accidents. 49 U.S.C. §§ 1131 (investigations) and 1135 (safety recommendations). The Safety Board's release of information from a pending investigation would significantly hinder the Board's enforcement of these statutory mandates. As such, Exemption (7)(A) of the FOIA exempts such information from disclosure, because courts have long recognized that the provisions of Exemption 7 apply to regulatory civil enforcement, not simply the enforcement of criminal statutes. See, e.g., Rugiero v. United States Dep't of Justice, 257 F.3d 534, 550 (6th Cir. 2001) (explaining that the "Court has adopted a per se rule" that applies not only to criminal enforcement actions, but to "records compiled for civil enforcement purposes as well"), cert. denied, 534 U.S. 1134 (2002); Rural Hous. Alliance v. United States Dep't of Agriculture, 498 F.2d 73, 81 & n.46 (D.C. Cir. 1974) (stating that "law enforcement purposes ... include both civil and criminal purposes"). Overall, within this statutory framework, records from a transportation investigation that the Safety Board is still conducting are exempt from disclosure under Exemption 7(A) of the FOIA.

In general, at the conclusion of each investigation, the Safety Board makes investigative information available to the public in the form of "public dockets." These public dockets of information are voluminous and include all information that the investigators have deemed as pertinent to the investigation. Given that the Board is still

investigating certain aspects of Investigation No. DAC08MP001, and that the Board therefore has not concluded this investigation, the Board may update the public docket by posting additional records within it. Should you wish to receive an updated copy of this public docket, you may contact the Safety Board's records facility, General Microfilm, Inc. (GMI). Staff at GMI will record your name and contact information and, once the public docket is complete and becomes available, GMI will send you all records from the public docket you seek for a fee. The contact information for General Microfilm, Inc. is as follows: 800 East Moler Avenue, Martinsburg, West Virginia 25401, (304) 267-5830, <http://www.general-microfilm.com>.

Please note that, in addition to placing your name on the list to receive the complete public docket of records from this investigation, you may also receive notification of when the Safety Board has concluded this investigation and issued a probable cause determination by adding your e-mail address to the Board's e-mail subscription list for press releases. You may add your e-mail address by visiting <http://www.nts.gov/registration/registration.htm> and selecting "Pipeline/Hazmat." The Board typically issues press releases when it has concluded an investigation and issued a probable cause determination; as such, this e-mail subscription service will allow you to stay abreast of the status of the investigation.

In addition, for your future reference, when requesters seek all information from a specific investigation, the Safety Board's FOIA Office, in accordance with applicable case law, places such requests on a specific "track," and answers them on a first-in, first-out basis. Open Am. v. Watergate Special Prosecution Force, 547 F.2d 605, 614-616 (D.C. Cir. 1976). Therefore, the most efficient and timely way that requesters can receive information from an investigation is to place their names on a waiting list for receiving all information on the public docket for the particular investigation. I strongly recommend that you place your name on this list, and you will receive the information on the public docket once it becomes available.

In summary, submitting a FOIA request is not the most expeditious way that you can receive the information you seek. Therefore, I recommend that you contact GMI and utilize the Safety Board's e-mail subscription service for press releases concerning pipeline investigations, as described above. To the extent that I have denied your FOIA request, you may appeal my decision by writing to the Safety Board's Managing Director:

Mr. David L. Mayer  
Managing Director  
National Transportation Safety Board  
490 L'Enfant Plaza East, SW  
Washington, DC 20594

Sincerely,

Melba D. Moya  
FOIA Officer

Enclosure



**National Transportation Safety Board**  
Washington, D.C. 20594

January 20, 2011

Ms. Melissa Fitzpatrick  
The Danko Law Firm  
247 North San Mateo Drive  
San Mateo, California 94401

Re: National Transportation Safety Board (NTSB)  
Freedom of Information Act (FOIA) No. 2011-00103  
June 24, 2006. Upland, California (LAX06FA211)

Dear Ms. Fitzpatrick:

This letter responds to your FOIA request for information regarding the above accident. In your request you seek entire flight data recordings, tapes and records. Many of the documents responsive to your request under the FOIA involve documents and records that are included in what is known as our public docket. The public docket contains Board reports and supporting documents and it is available for purchase through General Microfilm Incorporated (GMI). Enclosed is a copy of the table of contents for the public docket to assist you in deciding which materials you wish to purchase. You may contact GMI at:

GMI  
632 Files Cross Road  
Martinsburg, West Virginia 25404  
(304) 267-5830  
(304) 264-0862 (Fax)  
E-mail address: [genmicrofm@aol.com](mailto:genmicrofm@aol.com)  
Web address: <http://www.general-microfilm.com>

Also, our dockets are available on-line at [www.nts.gov](http://www.nts.gov).

The Safety Board has located a number of photographs that were not placed in the public docket. The approximately 150++ photos are enclosed on CD-ROM.

However, personal information, notably pilot certificate numbers and agency personnel numbers, is withheld pursuant to 5 U.S.C. 552(b)(6), which exempts from disclosure "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." We have redacted pages that include personal addresses, phone numbers, etc.

The NTSB has concluded processing your FOIA request. The fees associated with this request are \$17.60.

You may submit your payment by using Pay.gov. Pay.gov is a web based application allowing you to fill out and submit forms and payments online for Government agencies by credit card or by debit from your checking or savings account. Pay.gov accepts the following credit cards: Visa, Master Card, American Express, Discover, and Diner's Club. You may access pay.gov by visiting <https://www.nts.gov/foiapayment>. You may also submit a check, payable to the NTSB, by mailing it to the following address:

NTSB  
Attention: FOIA Requester Service Center, CIO-40  
490 L'Enfant Plaza, S.W.  
Washington, D.C. 20594

Please include your FOIA request number (listed in the subject line of this letter, above) in the memo line of your check.

To the extent I have denied your FOIA request, you may appeal my decision by writing to: Mr. David L. Mayer, Managing Director, NTSB, Washington, DC 20594.

Sincerely,

Melba D. Moyer  
FOIA Officer

Enclosure

1 TONY WEST  
 2 Assistant Attorney General  
 3 ANDRÉ BIROTTE, JR.  
 3 United States Attorney  
 4 ELIZABETH J. SHAPIRO, DC Bar 418925  
 5 DAVID M. GLASS, DC Bar 544549  
 5 Attorneys, Department of Justice  
 6 20 Mass. Ave., N.W., Room 7200  
 7 Washington, D.C. 20530  
 7 Tel: (202) 514-4469/Fax: (202) 616-8470  
 8 E-Mail: david.glass@usdoj.gov  
 9 Attorneys for Defendants

10 UNITED STATES DISTRICT COURT  
 11  
 12 CENTRAL DISTRICT OF CALIFORNIA  
 13  
 14 WESTERN DIVISION

	)	No. 2:03-cv-08023-AHM-RZ
<b>H. RAY LAHR,</b>	)	
	)	<b>CONSENT JUDGMENT</b>
<b>Plaintiff,</b>	)	
	)	
v.	)	
	)	
<b>NATIONAL TRANSPORTATION</b>	)	
<b>SAFETY BOARD, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	
	)	

23 Subject to the approval of the Court, it is hereby stipulated and agreed as  
 24 follows by and between the undersigned:

25  
 26 1. Defendants shall pay plaintiff, H. Ray Lahr, the sum of \$84,484.00 in  
 27 full settlement of plaintiff's claim for attorney's fees and litigation costs.  
 28

1           2. Payment of the sum referred to in ¶ 1 shall be accomplished as follows:  
2  
3 provided that defendants' undersigned counsel receives actual notice not later than  
4 August 15, 2010, of the Court's approval of this consent judgment, defendant  
5 National Transportation Safety Board shall make an electronic funds transfer of  
6  
7 \$42,242.00 to John H. Clarke not later than September 30, 2010, and defendant  
8 Central Intelligence Agency shall certify to the Department of the Treasury not  
9  
10 later than September 30, 2010, the sum of \$42,242.00 for payment to John H.  
11 Clarke.

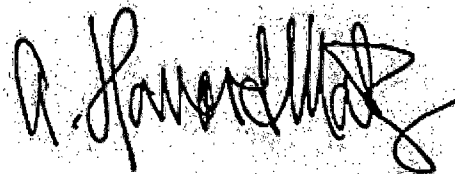
12           3. Compliance with all applicable federal, state, and local tax requirements  
13  
14 shall be the sole responsibility of plaintiff and Mr. Clarke. Plaintiff and Mr. Clarke  
15 shall have sole responsibility for the payment of all taxes, penalties, and interest on  
16  
17 the sum paid pursuant to ¶ 1.

18           4. This action is hereby dismissed with prejudice and, except as provided in  
19  
20 ¶ 1, without fees or costs.

21           5. This consent judgment constitutes the entire agreement between the  
22  
23 parties. No other understandings, statements, promises, or inducements exist.

24 APPROVED AND SO ORDERED.

25 Dated: July 19, 2010



26  
27 **JS-6** \_\_\_\_\_  
28 A. HOWARD MATZ  
UNITED STATES DISTRICT JUDGE



1 Dated: July 16, 2010

s/ John H. Clarke (per e-mail authorization)

2 JOHN H. CLARKE  
3 1629 K Street, N.W., Suite 300  
4 Washington, D.C. 20006  
5 Tel: (202) 344-0776  
6 E-mail: johnhclarke@earthlink.net  
7 Attorney for Plaintiff

8 Dated: July 16, 2010

9 TONY WEST  
10 Assistant Attorney General  
11 ANDRÉ BIROTTE, JR.  
12 United States Attorney

s/ David M. Glass

13 ELIZABETH J. SHAPIRO, DC Bar 418925  
14 DAVID M. GLASS, DC Bar 544549  
15 Attorneys, Department of Justice  
16 20 Mass. Ave., N.W., Room 7200  
17 Washington, D.C. 20530  
18 Tel: (202) 514-4469/Fax: (202) 616-8470  
19 E-mail: david.glass@usdoj.gov  
20 Attorneys for Defendants  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

I hereby certify that on July 16, 2010, I filed the within consent judgment with the Court by means of its ECF system, thereby serving all counsel who are served via that system, and that I served John H. Clarke by e-mail at johnhclarke@earthlink.net.

s/ David M. Glass