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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
AKRON

GREGORY D. COLERIDGE  
The American Friends Service Cmte  
Northeast Ohio Office  
513 W. Exchange St.  
Akron, OH 44302

Plaintiff,

vs.

DEPARTMENT OF THE ARMY  
7798 Cissna Rd., Suite 205  
Springfield, VA 22150-3166

and,

U.S. ENVIRONMENTAL PROTECTION  
AGENCY  
401 M Street S.W.  
Washington, D.C. 20460

and

U.S. DEPARTMENT OF ENERGY  
1000 Independence Ave, S.W.  
Washington, D.C. 20585-0107

Defendants.

CASE NUMBER:

**5:02CV 112**

JUDGE

**JUDGE DOWD**

COMPLAINT FOR DECLARATORY AND  
INJUNCTIVE RELIEF

1. This is an action under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, to order the production of agency records which defendants have improperly withheld from plaintiff. This court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B). This appeal concerns a series of related FOIA requests made to the above captioned Defendants

seeking information regarding the presence of radioactive waste at the Industrial Excess Landfill Superfund Site ("IEL") in Uniontown, Ohio.

2. Plaintiff, Gregory D. Coleridge, is the Director of the American Friends Service Committee's ("AFSC") Northeast Ohio Office, a not for profit social action organization, and is the requestor of the records which defendant is now withholding. Plaintiff has requested this information pursuant to his advocacy and support for the local environmental group known as the Concerned Citizens of Lake Township ("CCLT"). CCLT has worked for almost 20 years to achieve effective remediation of the Superfund site known as the Industrial Excess Landfill ("IEL"). Coleridge and AFSC have actively supported CCLT's efforts since the mid-1990s.

3. Prompt release of the information is essential because, ten years after the EPA issued its Record of Decision under CERCLA to contain the effluence of hazardous waste dumped in the IEL, the measures selected by the EPA have not been implemented. These included placing a clay cap over the landfill, ground water extraction and treatment, and continual groundwater pumping. Presently before the EPA is a proposal to forego these measures and allow natural attenuation to remedy the hazardous waste.

4. Significantly, in response to public comments it had received, the EPA refused to analyze the full range of wastes in the IEL, stating that hazardous waste substances are distributed throughout the landfill making waste characterization expensive and futile. With this decision, the EPA precluded further discovery of radioactive material in the IEL.

5. Meanwhile, evidence has arisen that radioactive material was dumped in the IEL. Reference to eyewitness accounts of trucks with radioactive symbols repeatedly entering the site at night in the late 1960s and early 1970s is found in a document produced by the DOE pursuant to the FOIA. Witnesses have submitted sworn accounts to an EPA ombudsman stating that they saw U.S. Army trucks bearing radioactive symbols entering the IEL during these years.

6. The former owner/operator of the IEL has recently testified that he was told that three four-ton eggs, delivered by the military to the IEL, were radioactive.

7. Documents produced by the DOE pursuant to FOIA reveal anonymous allegations that radioactive run-off from the Mound Facility at Miamisburg, Ohio were taken to a landfill.

8. In private litigation over the harmful effects of the IEL, an environmental medicine expert laid the cause of death to "an osteogenic sarcoma caused by radiation exposure through groundwater contamination." Further, after analyzing area cancer death certificates from 1970 to the present, this expert reported to the Agency for Toxic Substance and Disease Registry evidentiary findings that radiation and chemicals may be causing cancer around the IEL.

9. Groundwater samples taken from the IEL site have demonstrated levels of radioactivity above normal ground levels.

10. Needless to say, if radioactive material is present at the IEL, the health and safety of the surrounding community are endangered. Natural attenuation, as well as the more aggressive measures chosen by the EPA ten years ago to deal with the IEL Superfund Site, would be woefully inadequate. Prompt release of the information is essential given the need to evaluate the public health risk of radioactive contamination and to give local residents the tools they need to evaluate the EPA's clean-up plans.

#### **COUNT I**

11. By letter dated January 7, 2000, Gregory D. Coleridge, through counsel, appealed the Department of Army's failure to search and failure to conduct adequate searches in response to his FOIA request.

12. The Department of Army partly granted and partly denied the appeal. Plaintiff Coleridge appeals the denial of records.

#### **COUNT II**

13. By letter dated November 21, 2000 Gregory D. Coleridge, through counsel, appealed the EPA's withholding of documents and its failure to respond to his requests.

14. Over 20 days have passed since the agency received the appeal and Plaintiff has received no determination of his appeal pursuant to 5 U.S.C. § 552(a)(6)(A)(ii).

#### **COUNT III**

15. By letter dated December 7, 1999 Gregory D. Coleridge, through counsel, appealed the Department of Energy's improper withholding of material in Document 39.

16. The agency partly granted and partly denied his appeal. Plaintiff Coleridge hereby appeals the agency's denial of the appeal to produce the information in Document 39.

#### **COUNT IV**

17. By letter dated June 26, 2001 Gregory D. Coleridge, through counsel, appealed the Department of Energy's failure to conduct adequate searches for requested documents.

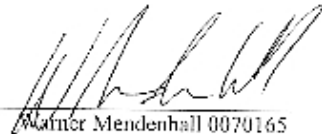
18. The agency flatly denied his appeal. Plaintiff Coleridge hereby appeals the agency's denial of the FOIA appeal.

17. Plaintiff has a right of access to the requested information under 5 U.S.C. § 552(a)(3). No legal basis exists for Defendants' denial of the appeals, denial of portions thereof, or the EPA's utter failure to respond to Greg Coleridge's FOIA appeal.

WHEREFORE, plaintiff requests this Court:

- (1) Order defendants to provide access to the requested documents and information;
- (2) Expedite this proceeding as provided for in 28 U.S.C. § 1657;
- (3) Award plaintiff costs and reasonable attorneys fees in this action, as provided in 5 U.S.C. § 552(a)(4)(B); and
- (4) Grant such other and further relief as it may deem just and proper.

Respectfully submitted,



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