



Reply to
Attention of:

DEPARTMENT OF THE ARMY
SOUTHWESTERN DIVISION, CORPS OF ENGINEERS
1100 COMMERCE STREET
DALLAS, TEXAS 75242-0216
February 19, 2009

Office of Counsel

SUBJECT: Freedom of Information Act Request/Appeal, Southern Border Fence, Texas/Mexico Border

Ms. Denise Gilman, Clinical Professor
The University of Texas
School of Law
727 E. Dean Keeton Street
Austin, TX 78705-3299

Dear Professor Gilman:

This response replies to the real estate, plat and property owner information portion of Item 2 of your amended Freedom of Information Act (FOIA) request dated May 12, 2008, addressed to the Fort Worth District. To summarize the actions related to your amended FOIA request: You had initially received a no records response from the Fort Worth District dated June 25, 2008. In that same response, you were also given contact information for the Department of Homeland Security FOIA Office. On August 13, 2008, you timely submitted your FOIA appeal to the Fort Worth District. The Fort Worth District forwarded your appeal to our Headquarters office in Washington, DC, on August 29, 2008. By memorandum dated November 25, 2008, the Headquarters office returned your appeal to the Fort Worth District for further processing regarding Item 2 of your amended request. The Fort Worth District by letter dated January 29, 2009, forwarded documents to you related to Items 1 and 3 of your amended request. As indicated in the January letter, the records for Item 3 related to awarded task orders did not exist at the time of your amended request. The records were being provided even though under the provisions of the FOIA, the Fort Worth District was not obligated to provide these records. As further explained in the January 2009 response, maps that would be responsive to Item 2 of your amended request were forwarded to the Department of Homeland Security for response. For Item 4 of your amended request, there are no records as indicated in the Fort Worth District response to you dated June 25, 2008. Additionally, as explained in the Fort Worth District June 25, 2008 response, any records that may exist for Item 5 would be located at the Department of Homeland Security.

After you have made your review of the determination which follows and the enclosed records, if you believe an appeal is still necessary, you may file it per the instructions contained in the last paragraph of this letter.

The policy of the Department of the Army is to release the maximum amount of information under the FOIA unless the information is exempt from release and a significant reason exists for non-disclosure. I have reviewed the documents which the Fort Worth District forwarded along with your FOIA requests and have determined to withhold a portion of these documents pursuant to Exemption 6 of the FOIA, 5 United States Code, Section 552(b)(6) and the Privacy Act, 5 United States Code, Section 552(a). Redacted copies of the documents are enclosed.

Exemption 6 provides for the exemption of "personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Exemption 6 is applied broadly to "information, which applies to a particular individual." The Supreme Court issued a 1989 decision that contains 5 principles to apply when determining the release of records under Exemptions 6 and 7(c). United States Department of Justice v. Reporters Committee for Freedom of the Press, 109 S.Ct. 1468 (1989). These five (5) are:

1. substantial privacy interests can exist even though the information has been made available to the general public at some other place and time,
2. the identity of a requester under FOIA cannot be used in the determination to make a release,
3. whether any public interest will be served by the release and not the purpose of the request,
4. a narrower scope of public interest limited to the true intention of FOIA which is to allow the public to see how the Government conducts its business,
5. a determination that there are certain types of information that is always protectible without regard to individual circumstances.

Per the Reporters Committee decision, the analysis for release must consider the document and its relationship to the purpose of the FOIA. My review of the documents brings me to the conclusion that releasing this information related to individual property owners has no bearing on how the Government conducts business. The following language from Reporters Committee, 109 S.Ct. at 1485, is particularly persuasive in my determination that this information should not be released:

The privacy interest in maintaining the practical obscurity of rap-sheet information will always be high. When the subject of such a rap sheet is a private citizen and when the information is in the Government's control as a compilation, rather than as a record of "what the Government is up to," the privacy interest protected by Exemption 7(c) is in fact at its apex while the FOIA-based public interest in disclosure is at its nadir.

...

Accordingly, we hold as a categorical matter that a third party's request for law enforcement records or information about a private citizen can reasonably be expected to invade that citizen's privacy, and that when the request seeks no "official information" about a Government agency, but merely records that the Government happens to be storing, the invasion of privacy is "unwarranted."

Even though the above quotes references Exemption 7(c) records specifically, the principle has been applied by the courts to both Exemptions 6 and 7(c).

Applying this court ruling and the provisions of Exemption 6 of the FOIA, I find that no public interest as to the agency's performance would be gained by the release of the identity of the property owners, real estate, or plat information. Making such a release would constitute a clearly unwarranted invasion of the privacy rights of those citizens.

I trust that you will appreciate the consideration upon which this determination is based. However, because a portion of your request has been denied, you are advised of your right to appeal this determination through this office and we will forward it to our Washington Office for processing to the Secretary of the Army (Attn: General Counsel). An appeal must be received within 30 days of the date of this letter. The envelope containing the appeal should bear the notation, "Freedom of Information Act Appeal," and should be mailed to: U.S. Army Corps of Engineers, Southwestern Division, Attn: CECC-SWD, 1100 Commerce Street, Room 824, Dallas, Texas 75242.

Sincerely,



Eugene Kastanek
Assistant Division Counsel

Enclosure

Copy furnished (without enclosure):

Fort Worth District FOIA Officer

county	TRACTS	tr1	tr2	tr3	LAND OWNER	OBP SEG
Cameron	RGV	BRP	1000		Barreda Park LP (Reinaldo Santiso)	O-17
Cameron	RGV	BRP	1002		Rio Grande Palms Water District	O-17
Cameron	RGV	BRP	1003		ANCLA Design & Construction Inc.	O-17
Cameron	RGV	BRP	1003	E	ANCLA Design & Construction Inc.	O-17

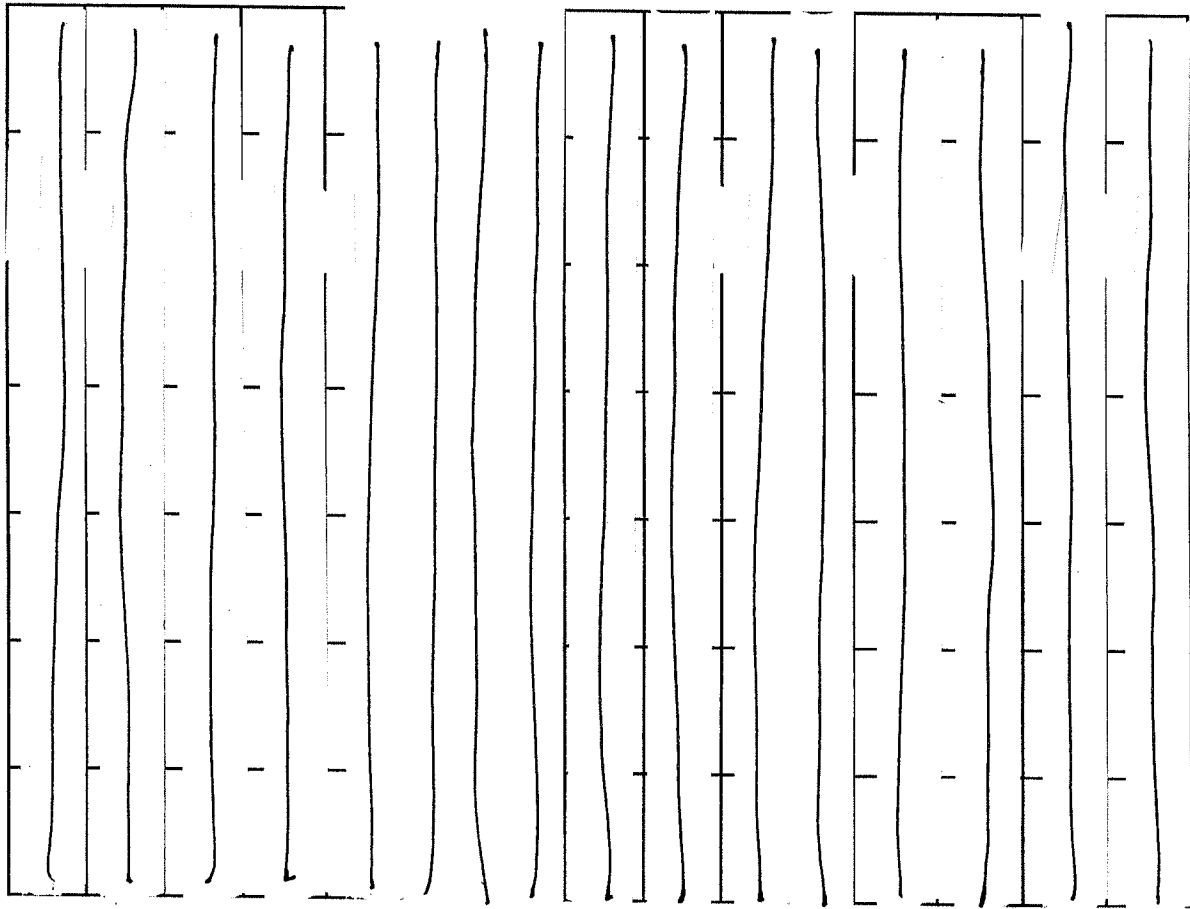
All exemption to reductions.

All exemption 6 redactions.

Cameron	RGV	BRP	2026	USFWS	O-18

Cameron	RGV	BRP	2034	Cameron County Water Control and Improvement District No. 6	O-18
Cameron	RGV	BRP	2034	Cameron County Water Control and Improvement District No. 6	O-18

All exemption 6 redactions



All exemption 6 redactions

Cameron	RGV	BRP	3001		Brownsville & Matamoros Bridge Co.	O-19
Cameron	RGV	BRP	3001	E-1	Brownsville & Matamoros Bridge Co.	O-19
Cameron	RGV	BRP	3001	E-2	Brownsville & Matamoros Bridge Co.	O-19
Cameron	RGV	BRP	3001	E-3	Brownsville & Matamoros Bridge Co.	O-19
Cameron	RGV	BRP	3001	E-4	Brownsville & Matamoros Bridge Co.	O-19
Cameron	RGV	BRP	3002		GSA	O-19

Cameron	RGV	BRP	3004		Jones & Jones Properties, Inc.	O-19
Cameron	RGV	BRP	3004	E	Jones & Jones Properties, Inc.	O-19

All exemption 6 redactions

Cameron	RGV	BRP	3007		Sabalo River Development LTD	O-19
Cameron	RGV	BRP	3008		Ruby River Investment	O-19
Cameron	RGV	BRP	3009		City of Brownsville	O-19
Cameron	RGV	BRP	3011		United States of America	O-19
Cameron	RGV	BRP	3011	E	United States of America	O-19
Cameron	RGV	BRP	3012		International Boundary and Water Commission - IBWC	O-19
Cameron	RGV	BRP	3012	E	International Boundary and Water Commission - IBWC	O-19
Cameron	RGV	BRP	3019	E-1	El Sabino, Inc.	O-19

All exemption 6 reductions

Cameron	RGV	BRP	3019	E-2	El Sabino, Inc.	O-19
Cameron	RGV	BRP	3019	E-3	El Sabino, Inc.	O-19
Cameron	RGV	BRP	3019	E-4	El Sabino, Inc.	O-19

Cameron	RGV	BRP	3020	E-2	Brownsville & Matamoros Bridge Co.	O-19
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Cameron	RGV	BRP	4000		Texas Southmost College / UTB	O-20
Cameron	RGV	BRP	4001		City of Brownsville	O-20
Cameron	RGV	BRP	4001	E-1	City of Brownsville	O-20
Cameron	RGV	BRP	4001	E-2	City of Brownsville	O-20
Cameron	RGV	BRP	4002		Cameron County	O-20
Cameron	RGV	FTB	1001		City of Brownsville	O-21
Cameron	RGV	FTB	1004		USFWS	O-21

All exemption 6 redactions

Cameron	RGV	FTB	1010		Brownsville Irrigation District	O-21
Cameron	RGV	FTB	1010	2	Brownsville Irrigation District	O-21
Cameron	RGV	FTB	1011	1	City of Brownsville	O-21
Cameron	RGV	FTB	1011	2	City of Brownsville	O-21
Cameron	RGV	FTB	1011	E	City of Brownsville	O-21

All exemption 6 redactions

Cameron	RGV	FTB	1018	USFWS	O-21
Cameron	RGV	FTB	1019	Palm Grove, Inc.	O-21

Cameron	RGV	FTB	1024	The Nature Conservancy c/o Najera, Sonja	O-21
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Cameron	RGV	FTB	1038	Cameron County	O-21
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All exemption 6 redactions

Cameron	RGV	FTB	1040	South Loop Growers LP	O-21
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All exemption to reductions

Cameron	RGV	FTB	1057	Cameron County Water Control and Improvement District No. 5	O-21
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Cameron	RGV	FTB	1059	City of Brownsville	O-21
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Cameron	RGV	HRL	1000	USFWS	O-11
Cameron	RGV	HRL	1001	Texas Parks and Wildlife Dept	O-11
Cameron	RGV	HRL	1002	Cameron County	O-11
Cameron	RGV	HRL	1003	Shimotsu Real Estate Partnership, LTD	O-11
Cameron	RGV	HRL	1004	La Feria Water Control & Improvement District Cameron CO No. 3	O-11

All exemption 6 reductions

Cameron	RGV	HRL	2010		Cameron County Water Irrigation District No. 1	O-12
Cameron	RGV	HRL	2010	E-1	Cameron County Water Irrigation District No. 1	O-12
Cameron	RGV	HRL	2010	E-2	Cameron County Water Irrigation District No. 1	O-12
Cameron	RGV	HRL	2010	E-3	Cameron County Water Irrigation District No. 1	O-12

Cameron	RGV	HRL	2012		Cameron County Water Irrigation District No. 1	O-12
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All exemption 6 reductions

Cameron	RGV	HRL	2020		Haringen Irrigation District #1 (Cameron County #1)	O-12
Cameron	RGV	HRL	2020	E-3	Haringen Irrigation District #1 (Cameron County #1)	O-12
Cameron	RGV	HRL	2025		Haringen Irrigation District #1 (Cameron County #1)	O-12
Cameron	RGV	HRL	2026		Cameron County Water Irrigation District No. 1	O-12
Cameron	RGV	HRL	2029		GMR Builders LLC	O-12
Cameron	RGV	HRL	3000		Cameron County Water Irrigation District No. 2	O-13

All exemption 6 reductions

Cameron	RGV	HRL	3003	Har-Vest Texas General Partnership	O-13
Cameron	RGV	HRL	3007	Cameron County	O-13
Cameron	RGV	HRL	3012	South Texas Materials, LTD	O-13
Cameron	RGV	HRL	3012	South Texas Materials, LTD	O-13
Cameron	RGV	HRL	4000	Cameron County	O-13A
Cameron		HRL	4000	-2	O-13A

All exemption 6 reductions

Cameron	RGV	HRL	4001		Har-Vest Texas General Partnership	O-13A
Cameron	RGV	HRL	4001	E-1	Har-Vest Texas General Partnership	O-13A
Cameron	RGV	HRL	4001	E-2	Har-Vest Texas General Partnership	O-13A
Cameron	RGV	HRL	4001	E-3	Har-Vest Texas General Partnership	O-13A
Cameron	RGV	HRL	4004		Tres D's Tierras, LLC	O-14
Cameron	RGV	HRL	4004	E-4	Tres D's Tierras, LLC	O-14
Cameron	RGV	HRL	4006		City of Brownsville	O-14
Cameron	RGV	HRL	4011		First Oro Management	O-14

All exemption 6 redactions

Cameron	RGV	HRL	4018		First Oro Management	O-14
Cameron	RGV	HRL	4019		Electric Gin of San Benito Texas	O-14
Cameron	RGV	HRL	4019	E-1	Electric Gin of San Benito Texas	O-14
Cameron	RGV	HRL	4019	E-2	Electric Gin of San Benito Texas	O-14
Cameron	RGV	HRL	4019	E-3	Electric Gin of San Benito Texas	O-14
Cameron	RGV	HRL	4020	E-1	Electric Gin of San Benito Texas	O-14
Cameron	RGV	HRL	4020	E-2	Electric Gin of San Benito Texas	O-14
Cameron	RGV	HRL	4020	E-3	Electric Gin of San Benito Texas	O-14
Cameron	RGV	HRL	4020	E-4	Electric Gin of San Benito Texas	O-14
Cameron	RGV	HRL	4028		First Oro Management	O-14

All exemption 6 redactions

Cameron	RGV	HRL	4029	Electric Gin of San Benito Texas	O-14
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Cameron	RGV	HRL	4032	Garco Construction, c/o Benito Joaquin Garcia	O-14
Cameron	RGV	HRL	4032	Cameron County Water Irrigation District No. 2	O-14

Cameron	RGV	HRL	4038	JL Landrum Estates	O-14
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All exemption 6 redactions

Cameron	RGV	HRL	5002			El Valle Investments LTD., A Texas LP	O-15
Cameron	RGV	HRL	5003			Hanawa Land Company LLC	O-15
Cameron	RGV	HRL	5003	E-1		Hanawa Land Company LLC	O-15
Cameron	RGV	HRL	5003	E-2		Hanawa Land Company LLC	O-15
Cameron	RGV	HRL	5003	E-3		Hanawa Land Company LLC	O-15

All exemption 6 redactions

The image shows a large rectangular area containing multiple rows of redacted text. The redactions are represented by vertical bars and horizontal lines, indicating that the content has been obscured. The redactions are organized into several columns, with each column containing multiple rows of redacted text. The overall structure is a grid-like pattern of redacted content.

All exemption 6 reductions

Cameron	RGV	HRL	5032	Cameron County / South Land Life Insurance Co.	O-15				

Cameron	RGV	HRL	6002	Cameron County Water Irrigation District No. 16	O-15				
Cameron	RGV	HRL	6002	Cameron County Water Irrigation District No. 16	O-15	E-1			
Cameron	RGV	HRL	6002	Cameron County Water Irrigation District No. 16	O-15	E-2			

All exemption & reductions

The image shows a large grid with 10 columns and 10 rows. The grid is mostly empty, but several rows contain horizontal lines. Specifically, the first, second, and third rows have a single horizontal line in each of the first three columns. The fourth, fifth, and sixth rows have a single horizontal line in each of the first three columns. The seventh, eighth, and ninth rows have a single horizontal line in each of the first three columns. The tenth row has a single horizontal line in each of the first three columns. The lines are drawn in a way that they appear to be part of a larger structure, possibly representing a table or a diagram.

Hidalgo	RGV	MCS	2005	E-1	Hidalgo County Water Control & Improvement District No. 1	O-04
Hidalgo	RGV	MCS	2005	E-2	Hidalgo County Water Control & Improvement District No. 1	O-04
Hidalgo	RGV	MCS	2005	E-3	Hidalgo County Water Control & Improvement District No. 1	O-04
Hidalgo	RGV	MCS	2005	E-4	Hidalgo County Water Control & Improvement District No. 1	O-04
Hidalgo	RGV	MCS	2005	E-5	Hidalgo County Water Control & Improvement District No. 1	O-04
Hidalgo	RGV	MCS	2005	E-6	Hidalgo County Water Control & Improvement District No. 1	O-04

All exemption to redactions

The image shows a large rectangular area that has been redacted. It consists of approximately 15 vertical lines of varying lengths and positions, creating a series of narrow columns. These lines are drawn in black ink on a white background, effectively obscuring any text or data that might have been present in this section of the document.

All exemption to redactions

Hidalgo	RGV	MER	4011	E-1	Hidalgo & Camerson Counties Irrigation District No. 9	O-10
Hidalgo	RGV	MER	4011	E-2	Hidalgo & Camerson Counties Irrigation District No. 9	O-10
Hidalgo	RGV	MER	4011	E-3	Hidalgo & Camerson Counties Irrigation District No. 9	O-10
Hidalgo	RGV	MER	4012	E	B & P Bridge Co.	O-10

All exemption & redactions

Starr	RGV	RGC	1042	1	Legacy Advance Development Partners, Ltd.	O-01
Starr	RGV	RGC	1042	E-1	Legacy Advance Development Partners, Ltd.	O-01
Starr	RGV	RGC	1042	E-2	Legacy Advance Development Partners, Ltd.	O-01

All exemption 6 redactions

Starr	RGV	RGC	1042	E-3	Legacy Advance Development Partners, Ltd.	O-01
Starr	RGV	RGC	1042	E-5	Legacy Advance Development Partners, Ltd.	O-01
Starr	RGV	RGC	1066		City of Roma	O-01
Starr	RGV	RGC	1067		Starr County	O-01

All exemption 6 redactions

The image shows a large rectangular area containing multiple rows of redacted text. The redactions are represented by vertical lines and horizontal bars, indicating that the content has been obscured for public release. The redactions are organized into several columns, with each column containing multiple rows of redacted text. The redactions are consistent across all columns, suggesting a uniform redaction policy was applied to the entire document.

All exemption 6 reductions

Starr	RGV	RGC	1090		City of Roma Historical Plaza	O-01			
Starr	RGV	RGC	1091		Ramirez, JC / City of Roma	O-01			
Starr	RGV	RGC	1092		Ramirez, JC / Guerra, Ronaldo E / City of Roma	O-01			

Starr	RGV	RGC	1095		City of Roma	O-01
Starr	RGV	RGC	1096		City of Roma	O-01
Starr	RGV	RGC	1096	E	City of Roma	O-01

Starr	RGV	RGV	2017	RGV	USFWS	O-02
Starr	RGV	RGV	2017	E-2	USFWS	O-02
Starr	RGV	RGV	2017	E-6	USFWS	O-02
Starr	RGV	RGV	2019	USFWS		O-02

All exemption 6 redactions

Starr	RGV	RGV	2022	Wal Mart		O-02
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Starr	RGV	RGV	2027	E-4	Trophey Plex Properties, Ltd.	O-02
Starr	RGV	RGV	2027	E-5	Trophey Plex Properties, Ltd.	O-02

[Redacted text]

All exemption to redactions

