

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

SHYAM K. CHETAL,

Plaintiff,

v.

U.S. DEPARTMENT OF INTERIOR, et al.,

Defendants.

Case No. [18-cv-03731-EMC](#)

**ORDER DENYING PLAINTIFF'S  
MOTION FOR SANCTIONS**

Docket No. 57

Plaintiff Shyam K. Chetal sued the U.S. Department of Interior and the U.S. Bureau of Land Management (collectively, the “agency”), asserting a violation of the Freedom Information Act (“FOIA”). According to Mr. Chetal, the agency failed to respond to a FOIA request he made in October 2017 and further withheld documents even though no FOIA exemption applies. In March 2019, the Court granted in part and denied in part both the agency’s motion for summary judgment and Mr. Chetal’s cross-motion. The Court granted limited relief to Mr. Chetal – requiring the agency to produce information from the LR2000 database as to who owned the mining claims at issue for the 2012-2017 period – but otherwise found in favor of the agency. *See* Docket No. 53 (order). A final judgment was subsequently entered. *See* Docket No. 54 (final judgment).

Currently pending before the Court is Mr. Chetal’s motion for sanctions. According to Mr. Chetal, the agency has failed to comply with the Court’s order requiring it to produce to him information from the LR2000 database. Having considered the parties’ briefs and accompanying submissions, the Court hereby finds the matter suitable for disposition without oral argument. The motion for sanctions is **DENIED**.

1 In his motion, Mr. Chetal appears to make two arguments: (1) the information provided by  
2 the agency is incomprehensible and (2) the information should have been accompanied by a  
3 declaration from an agency representative but none was provided. Neither argument is availing.

4 As to the first argument, the Court notes that the chart the agency provided Mr. Chetal had  
5 “headers” for each column. *See* Docket No. 57, at 28 (reflecting for Column 1: Meridian township  
6 range; Column 2: Serial number; Column 3: Claimant name; Column 4: Disposition; Column 5:  
7 Disposition date; and Column 6: Disposition action). Moreover, the agency also gave Mr. Chetal  
8 an email that contained explanatory notes about the chart:

9 The report shows claim activity for the time period January 1, 2012  
10 to December 31, 2019.

11 This report shows all the claim activity in the townships and ranges  
12 associated with the legal description of the claims previously held  
13 by Marian Porter and her co-locators.

14 The report also shows that all of the claims associated with the name  
15 Marian Porter and her co-locators were closed/forfeited in 2012.  
16 (4th, 5th, and 6th columns.)

17 There were other claims that were closed in this geographical area  
18 that were also closed during that time period. Wyoben and Richard  
19 Thayer had claims that were closed 9/1/2016.

20 New claims were located by U.S. Gypsum in 2014. These are  
21 shown as active in the 4th column with location dates in September  
22 2014 (5th column).

23 Please note that the identifying number in the second column may  
24 be the same for a number of different individuals. Placer claims  
25 may be located as an association placer claim with up to 8  
26 individuals holding up to 160 acres total (20 acres each).  
27 Association claims can’t be larger than 160 acres. Any one claim  
28 will have a unique legal description that may include multiple  
sections and/or townships and/or ranges.

Docket No. 57, at 7 (email, dated April 8, 2019, from AUSA Winslow to Mr. Chetal).

As for Mr. Chetal’s second argument, the Court never required, in its summary judgment  
order, that the agency provide a declaration along with the LR2000 information. Nor has Mr.  
Chetal cited any authority to support the proposition that a FOIA response requires a declaration.  
*Cf. ACLU v. DOJ*, 681 F.3d 61, 71 (2d Cir. 2012) (“FOIA does not permit courts to compel an  
agency to produce anything other than responsive, non-exempt records. If the Government altered

1 or modified the OLC memoranda in accordance with the compromise, the Government would  
 2 effectively be ‘creating’ documents – something FOIA does not obligate agencies to do.”); *see*  
 3 *also Kissinger v. Reporters Comm. for Freedom of Press*, 445 U.S. 136, 152 (1980) (“The Act  
 4 does not obligate agencies to create or retain documents; it only obligates them to provide access  
 5 to those which it in fact has created and retained.”). Mr. Chetal’s citation to Federal Rule of Civil  
 6 Procedure 56 and Civil Local Rule 7-5 is not on point. Those rules concern motions.

7 Finally, the Court notes that the sanctions requested by Mr. Chetal are also inappropriate,  
 8 in that they would require the agency to create documents. *See* Mot. at 5 (asking for an order  
 9 requiring the agency “to specifically answer the truthfulness as to the current [ads] of Ten Sleep  
 10 Mine for 250 million as property of Marian Porter”). The sanctions requested also have no  
 11 relationship to the alleged misconduct.

12 To the extent Mr. Chetal raises a new argument in his reply brief – *i.e.*, that his appeal to  
 13 the Ninth Circuit has now divested this Court of jurisdiction to rule on his sanctions motion – the  
 14 Court does not agree. There are situations in which “a notice of appeal does not divest the district  
 15 court of jurisdiction,” for example, “where the issue before the district court is separate from, or  
 16 collateral to, the matter involved in the appeal” or “where application of the divestiture of  
 17 jurisdiction rule would wholly undermine its purpose.” *Ashker v. Cate*, No. 09-cv-05796-CW  
 18 (RMI), 2019 U.S. Dist. LEXIS 62051, at \*10 (N.D. Cal. Apr. 10, 2019). At the very least, the  
 19 sanctions motion is collateral to the appeal. *Cf. United States v. Cmty. Home & Health Care Serv.,*  
 20 *Inc.*, 550 F.3d 764, 766 (9th Cir. 2008) (noting that “a district court retains the power to award  
 21 attorney’s fees after a notice of appeal from the decision on the merits has been filed”; indicating  
 22 that issues are collateral where the “factual inquiry [is] distinct from one addressing the merits”);  
 23 *Canon Bus. Sols., Inc. v. ASAP Copy & Print*, No. CV 12-10165 ABC (PJWx), 2013 U.S. Dist.

24 ///

25 ///

26 ///

27 ///

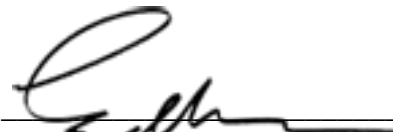
28 ///

1 LEXIS 199964, at \*5 (C.D. Cal. Apr. 24, 2013) (holding that one party’s “notice of appeal from  
2 the denial of the motion to vacate [an order] does not divest the Court of jurisdiction to hear the  
3 [other party’s Rule 11] sanctions motion”).

4 This order disposes of Docket No. 57.

5  
6 **IT IS SO ORDERED.**

7  
8 Dated: May 8, 2019

9  
10   
11 EDWARD M. CHEN  
12 United States District Judge

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
United States District Court  
Northern District of California