

THE CONCLUSION OF THE NASA LAWSUIT Concerning the Kecksburg, PA UFO case of 1965

By Leslie Kean

INTRODUCTION

On December 9, 1965, an object landed near the small town of Kecksburg, PA. Moments earlier, a fireball was observed in the sky across several U.S. states and Canada.

Four witnesses provided independent, corroborated descriptions of the object and its location in the Kecksburg woods. Dozens of others – including fire fighters, newspaper reporters, and a radio news director at WHJB (who was on the scene taping interviews) – describe the large military presence at the crash site and the cordoning off of the area. Some observed the retrieval of an object that was transported by an army truck. Many witnesses signed statements for investigator Stan Gordon of Greensburg, PA, who has been working on the case since it began.

At the scene, officials told residents a meteor crashed. But the next day, both local authorities and the U.S. government declared nothing fell that night and nothing was found. Project Blue Book - the official Air Force investigation into UFOs terminated in 1970 - says that no space debris entered our atmosphere that day. Data from the U.S. Space Command and the Russian Space Agency indicates that whatever came down that day was not a Russian satellite or space probe.

In 2002, I was asked to spearhead a Freedom of Information Act (FOIA) initiative sponsored by SCI FI Channel, which attempted to acquire government documents on the Kecksburg case. The next year, I ended up as the plaintiff in a federal, FOIA lawsuit filed against NASA in Washington, DC. After previously promising to conduct an expedited search for files related to the 1965 Kecksburg UFO crash case, NASA had stonewalled and was withholding documents, leaving no recourse but this one. A settlement four years later, in October, 2007, required NASA to provide hundreds of new documents and pay my attorney's legal fees. NASA's resulting search, monitored by the court, was completed in August, 2009.

For a more detailed article - including background on the 1965 Kecksburg UFO case; why we focused on NASA during this FOIA initiative; and the interesting twists and turns of the lawsuit - please see my MUFON paper of July, 2008 "The Struggle for Government Openness" at http://www.freedomofinfo.org/foi/mufon_4.pdf. That paper was written before any of the documents were received after the settlement (others had been released previously at various stages), and it covers events up to the arrival of these NASA documents in the summer of 2008.

This paper completes the story, describing what we received (and didn't receive) and offering final comments on the whole process.

I. THE SEARCH THROUGH NASA'S INVENTORY TO SELECT DOCUMENTS

Nov. '07 – Jan. '08

Two notebooks totaling 689 pages of SF-135 forms (inventory lists of files) were sent to me in late Nov. 2007. NASA marked the files it intended to locate and send, asking me to note any additional files I wanted, pertaining to the terms of the settlement agreement. I studied these detailed lists carefully and made numerous additional selections which were responsive to the search terms but had been overlooked by NASA. In late January I sent a five- page list to NASA specifying these additional requested files, covering a broad range of relevant topics.

I also asked for a new search for the files in form 68A2062 – “NASA Fragology Files” – which, as we were previously told, had been missing since 1987. The SF 135 for these files should have been included in the notebooks but was not. The two boxes of fragology files from 1962 to 1967 are described as “reports of space objects’ recovery, [and] analysis of fragments to determine national ownership and vehicle origin.” They would therefore be of special interest to the Kecksburg case (see MUFON paper for more details).

Other SF 135s that should have been included in the notebooks were not. (We knew this because we had previously worked with a professional archival research firm which had acquired some that should have been included.) For example, the form for two boxes "pertaining to NASA/DOD Liason, 1966-74" were not included. Box 1 included Orbital Debris; Policies & Procedures; Box 2 included DOD Army, DOD Air Force. Both of these were of interest to us.

II. NASA'S SEARCH

Feb. '08 – July '08

NASA received my list in January, 2008 and began searching for the documents initially selected by the agency and the additional ones selected by me.

In May, 2008, NASA informed me that three new searches had been conducted for the two missing boxes of fragology files, which were unsuccessful. In addition, NASA Headquarters was searched, but that too failed to locate anything.

In June, NASA informed me that 291 boxes had been searched so far, but no files were found pertinent to the 1965 event. Most of the documents so far were related to "fragments," "debris," and some correspondence.

In mid June, NASA sent a few hundred pages of responsive files to me after searching 297 boxes. All documents requested from other agencies for evaluation and processing were released subsequently in July 18, 2008.

After reviewing the documents, I noted the following:

1. There was nothing at all related to Kecksburg here or in the many hundreds of pages released by NASA at earlier stages.
2. The documents included news stories and reports about other fireball meteors around the same time, but none on Kecksburg.
3. There were no policy or procedure manuals included, which were requested, related to rules or laws governing the collection of space debris from private property.
4. There were 20 boxes missing which we had requested, including four pertaining to NASA/DOD relationships and agreements.
5. Also missing were many attachments, appendices and photos, which were referred to in the files as being enclosed or attached, but weren't.
6. Missing also were a lengthy series of letters written to NASA from citizens about UFO sightings and questions, some occurring in 1965. NASA sent form-letter replies to each person then forwarded copies of these letters to the Air Force's Project Blue Book. NASA sent me copies of both its reply to the citizen and each cover letter sent by the agency to Blue Book saying that the enclosed letter was being forwarded. However, none of these letters from citizens, referenced as enclosed, were in the files. It is quite possible that interested citizens could have written NASA about the fireball seen widely that night, or the landing of something in Kecksburg.

To illustrate the complexity and detail of my attempts to acquire missing documents, and to address other issues, here is one email which I wrote to my NASA contact for the search, Judi Hollingsworth, in July 7, 2008:

You wrote re Accession number 67A1866 that 7 boxes were checked out by Paul Willis, a NASA employee now retired, on 12/4/96, and that they are now missing, apparently never returned. I am particularly interested in two files from these missing boxes: Agreements: NASA/DOD from Box 1; and DOD-NASA Relationships from Box 3. This group of files covers the time period June '65 - May '66, which is very relevant to my search about the Dec. '65 incident in Kecksburg.

It is interesting to note that Paul Willis was the recipient of the letter from the National Records Center stating that the fragology files (68A2062) have been missing since 1987. The letter to him is dated 3/28/96, in response to his inquiry requesting the files. His middle initial is M. (Paul M. Willis), and he was Headquarters Records/Forms Manager for NASA. His phone at the time was 358-0621.

Would it be possible to conduct a further search for these missing boxes, retrieved by Mr. Willis and not returned, by tracking down Mr. Willis? It would also be interesting to find out if he conducted a further search for the fragology files at the time, or if he may know anything more about their whereabouts.

I was told that since Mr. Willis was no longer a government employee, it was beyond what is required by the FOIA or the settlement agreement to try to find him and see what he may or may not know.

III. FURTHER SEARCH

Sept. '08 – June '09

The settlement stipulation allowed me to request a further search for more documents, possibly in new locations, under certain requirements and conditions (see the settlement at http://www.freedomofinfo.org/foi/show_case_doc.pdf). In September, 2008, I requested a further search for additional responsive documents, all for very specific reasons which arose during my study of the documents already received.

I requested the following, covering the period 1965-1967, and included detailed explanations as to why these requests were made and what I was seeking:

A. Specific agencies and referencing methods:

Goddard Space Flight Center
Smithsonian Astrophysical Observatory's (SAO) Project Moonwatch
National Aeronautics and Space Council (NASC)
General Dynamics/Astronautics (GD/A)
Space Tracking and Data Acquisition Network
Bureau of the Budget
"Space Fragment Disposal Act of 1963"

B. Documents on State Dept. liaisons, such as to the State Dept. Office of Outer Space Affairs

C. A search of SF 135 accession #90-0663, which had been missing from the original notebooks, containing:

NASA/DOD documents, 1966-74.

Box 1 includes Orbital Debris; Policies and Procedures

Box 2 includes DOD files, including DOD Airforce (sic).

D. A new search for six key boxes that were missing, of particular interest and greatest relevance to our search:

67A1866 Box 1: Agreements: NASA/DOD

Box 3: DOD-NASA Relationships

Box 4: International Contacts

International Space Cooperation

68A 2878 - Box 2 and 3, Jan. 65-Dec. 65

70A 4099 - Box 7, NASA - DOD 1964-66

74-637 - Box 1, NASA/DOD Relationships

This final search was completed in June, 2009, taking almost nine months. I received four more files, which, like all the others, were irrelevant to the Kecksburg incident. None of the missing boxes were located. I was informed that Box 7 – NASA-DOD 1964-66 had been destroyed.

To put this in perspective, however, over 300 boxes *were* searched, plus hundreds of pages released along with more from State Department. More had been released during the court process before the settlement. So the missing files constituted only a tiny fraction of the total. The fragology files stand out as potentially the most important missing boxes, which we had been told were missing before we began.

The documents I received concerned, by and large, the recovery and analysis of fragments and space debris here and abroad; orbital debris; policy formulations for above; discussions of hazards and liability due to falling space debris; clarification of NASA's role in relation to other government agencies and its role overseas; some Project Moon Dust documents; Gemini and Apollo missions; correspondence and meeting files. Files from the State Department included UFO cases and reports of sightings. These documents shed light on the history of the time, but overall, that's as far as they went.

In August, 2009, we filed the joint motion for dismissal in federal court, as there was nothing more we could do; the search was completed. The post-settlement phase had lasted almost two years.

IV. FINAL CONSIDERATIONS: THE STILL UNANSWERED QUESTIONS

The lengthy process of the NASA lawsuit highlights the problems inherent to the Freedom of Information Act for the average citizen, and shows that much of our history is not available to public researchers. When we sent our first FOIA request to NASA with a list of five specific search items, the agency replied that it had no documents responsive to our request. This simply wasn't true, as was shown later. It was only through the pressure of our appeal and then a federal lawsuit that hundreds of documents – responsive to our initial request and therefore rightfully ours under the law – were provided.

Judge Emmet Sullivan's admonishing of NASA in federal court in 2007 highlights this problem and is well worth reading (see my paper at http://www.freedomofinfo.org/foi/mufon_4.pdf for excerpts). It was very clear he sympathized with our side, and at various points he wondered out loud if he would be forced to implement the last resort: a FOIA trial, something which has never occurred before. Exasperated, he repeatedly asked the attorneys on both sides what they thought he should do. He declared at one point that "heads should role" at NASA, and he called NASA's case a "ball of yarn," stating that he sensed my frustration, because he felt it too.

Even though we did receive documents eventually, we discovered that NASA's historical records have been inventoried in a cursory, seemingly arbitrary way. In general, FOIA offices are overwhelmed, understaffed and unable to responsibly and accurately respond to requests. And, of course, we had no way of monitoring any of the searches NASA told us it conducted for us – whether all files were actually searched and all relevant documents pulled. We were simply required to accept what we were told, as is anyone who makes a FOIA request. And, not being allowed access to the boxes NASA was searching, we also have to recognize that someone not familiar with all the complex details of the Kecksburg incident might overlook a file that has something very relevant in it, but which we may not have thought to include in our list of search terms. Historical archival research needs to be conducted by those who know the minutiae of the subject being investigated, but in this case, that wasn't possible.

That being said, I want to be clear that I am in no way blaming any of the NASA search team for the problems we faced - problems stemming from haphazard filing in the 1960's, or misplaced files later on. Judi Hollingsworth, my contact at NASA during the search, was consistently professional and cooperative, and I believe she conducted the best search she could. In fact, Ms. Hollingsworth told me she would have been delighted if she had been able to find something on Kecksburg, and I have no reason not to believe her (she had nothing to do with the legal process). She too was operating within the limits of the system, and the restrictions inherent to it.

While highlighting the need for reform of FOIA procedures, this effort also accomplished something unprecedented on the positive side. Even though we did not solve the Kecksburg mystery, a FOIA lawsuit concerning a UFO case was settled in federal court in favor of the

plaintiff - an historic development. (see CFI press release “Landmark court settlement requires NASA to release documents on mysterious UFO case” <http://www.freedomofinfo.org/news/NASA-release.pdf>). Judge Sullivan was continuously supportive of the public’s right to information; the fact that this involved an unidentified object was not at the forefront, nor did it seem to prejudice him in any way. After our settlement, John Podesta commented: “Leslie Kean's victory is a triumph for open government and the spirit of inquiry.” Our attorney Lee Helfrich pointed out that “It is unprecedented to have achieved success at forcing an agency to do this kind of extensive historical search under the FOIA without Congressional intervention.” Actually, this was Helfrich’s victory, not mine, since she was responsible for all the remarkably complex legal work which is what swayed the court.

The fact that no Kecksburg documents were released from NASA could mean many things. They could be accessible, but filed under some obscure search term or code name, that we didn’t include or couldn’t have known. Maybe some additional SF 135 Forms listing an inventory of relevant files were not included in the initial notebooks, so we never pointed NASA to the right place. Or, files related to the Kecksburg incident could be stored somewhere else in NASA’s massive bureaucracy beyond the offices we approached. They could be classified, or otherwise inaccessible to the employees conducting this search. They could have been destroyed, or even lost; maybe checked out by someone, such as NASA employee Paul Willis, and never returned. Without additional, very extensive work, we’ll never know the answers, and even *with* the work, we still might never know.

However, there are still many stones left unturned for future research. Since NASA was responsible for collecting and analyzing space debris at this time, and also had a great interest in fireball meteors, it seems highly unlikely that the agency has absolutely nothing in its files about the Kecksburg incident (for more background on this and the role of other agencies see *IUR*, <http://www.freedomofinfo.org/foi/kecksburg2.pdf> and <http://www.freedomofinfo.org/foi/kecksburgletters.pdf>).

It’s worth noting that NASA sent no news articles or clippings about this fireball that was seen over at least four states; was noted by astronomers; and was considered to be a spectacular meteor when it occurred. Seen by thousands, it was covered in major papers all over North America - in Boston, Toronto, Ohio, San Jose, for example - and of course throughout Pennsylvania. NASA *did* send newspaper stories about *other* meteors and fireballs and related events around this time, but not this one. Yet, I suspect this was a bigger, more widely reported story than the ones I was sent. The story of the brilliant orange fireball was widely distributed through UPI and the Associated Press – even picked up by the *New York Times* – and also made it into the *Times of London*. Why were none of these news stories in NASA’s files, even though clippings of much lesser, but similar, events were?

We also now know for sure that the missing fragology files will never be found, since four new searches were conducted on our behalf. We have to accept that they were destroyed in 1987, as NASA says, despite the handwritten notation on one SF 135, previously released through the FOIA, that the files were still at the Federal Records Center in 1994. Other files we requested remain missing or destroyed as well. We learned for the first time that important files were checked out by a NASA employee – one who wanted also to get the fragology files and was perhaps the first to learn they were missing - and when he didn't return them, no one followed up to request that he bring them back. Why were these files not returned, and what happened to them? Despite our concern about this, NASA was unwilling to attempt to answer this question by finding this former employee and inquiring about the files.

In summary, we'll never know whether any documents in the missing or destroyed boxes might have shed light on the Kecksburg incident, even if only by providing a small lead that could open doors for researchers. It only takes one page to change everything.

However, some documents *did* reveal interesting bits of information, even if not about Kecksburg. For example, a one page “memo for record” was prepared by Richard Schullherr, a NASA engineer whose responsibilities included fragology (he was custodian of the fragology files) and who was a liaison to Project Moon Dust, the federal program involving the retrieval of space debris and objects of unknown origin. Dated January 18, 1969, the memo records a visit Schullherr made to the Foreign Technology Division (FTD) of the Air Force Systems Command at Wright Patterson AFB. The purpose was to identify some space debris which had been sent to NASA, and to “re-establish personal liaison with newly assigned FTD Moondust personnel” headed by Lt. Robert McGill.

Schullherr also met with Col. Richard Bagnard of Project Blue Book. Since both Project Moondust and Blue Book were FTD projects based at Wright Patterson, this memo confirms the fact that were *two* Air Force projects that had some responsibility for the collection and/or analysis of objects fallen from space.

Schullherr states that Bagnard “was particularly interested in the potential of decaying space objects being reported as UFO's.” His notes on his continuing conversation with Bagnard are fascinating. “I advised him that all UFO reports to NASA were referred to the AF. The observable phenomena of reentry were easily recognized and our response in general was to identify the particular decay. When a particular decay could not be identified with an observation, we stated that it was a meteorite or a satellite which was not of sufficient importance to warrant tracking by NASA or NORAD.”

This practice of conveniently stating that the phenomenon was a meteorite or satellite, when in fact it was unidentified, relates back to one of the Project Blue Book files, dated December 10, 1965, written the day after the Kecksburg incident. This “memo for the record” states that Major

Howard from the Pentagon called Major Quintanilla, the head of Blue Book, to ask what he could tell the public about the “meteor” seen over Pennsylvania. Quintanilla replied that a team had been out to search for a fallen object, but had been unsuccessful. “Major Quintanilla said that it was Ok to call it a meteor that entered the atmosphere. He said that investigation is still under way. There was no space debris which entered the atmosphere on 9 December 1965.” It seemed to be an unwritten government policy that objects would be publicly explained as meteors or whatever worked best, even before it was actually determined what they were, and before investigations were complete.

Another document sent by NASA lays out the four “international commitments” of NASA in 1964; one of them is “investigation of extra-terrestrial life.” It’s a little curious that “investigation of” is used here instead of “search for,” as if we know there is something there to investigate. This is probably simply a semantic oddity that was later changed. NASA’s disinterest in studying physical evidence related to UFO sightings and landings – to explore whether these objects could possibly be probes from outer space – would suggest that this goal did not last very long.

So many questions remain unanswered about the Kecksburg incident, many of them not involving NASA, but still important, as discussed in my referenced 2005/2006 papers in *IUR*, and as have been highlighted by Stan Gordon for many years. I attempted to locate the still unfound report on the event, written and filed at the 662nd radar squadron headquarters in Oakdale, PA after its team returned from a search for the object. This should have been with the Project Blue Book files, but wasn’t; its author provided us with a detailed affidavit to assist our efforts to find it. I also received contradictory reports from members of the 662nd radar squadron who were on the scene that night, when I interviewed them by telephone.

I am still convinced that something came down in Kecksburg and that the object was not Cosmos 96, or any other Russian object. It also seems highly unlikely that it was a secret American capsule of some sort, as stated by NASA’s chief scientist for orbital debris Nicholas Johnson (see <http://www.freedomofinfo.org/news/cosmos-96.pdf>). Extensive research has been conducted for decades, and Gordon has followed numerous leads towards determining what this object may have been. So far, no conclusive determination has been made.

In one instance, NASA came out with an unexpected statement that momentarily turned the lawsuit on its head. In 2005, a NASA staffer – this time, not an expert scientist like Johnson, but a media spokesman - contradicted the statement of the renowned Johnson through bizarre comments provided to the press which was covering the 40th anniversary of the incident. NASA spokesperson David Steitz told an AP reporter that “the ‘UFO’ [Kecksburg object] was a Russian satellite, but government records documenting it have been lost” (“NASA under pressure over UFO,” Dec. 9, 2005, <http://www.freedomofinfo.org/campaign.html>).

Steitz said that NASA experts studied fragments from the object, but records of what they found were lost in the 1990s. "As a rule, we don't track UFOs. What we could do, and what we apparently did as experts in spacecraft in the 1960s, was to take a look at whatever it was and give our expert opinion," he said. "We did that. We boxed (the case) up, and that was the end of it. Unfortunately, the documents supporting those findings were misplaced."

Naturally, our team was stunned by this announcement. We had a lawsuit in federal court because NASA had never given any answers to questions about the Kecksburg object, and now, suddenly, the agency was saying it was a Russian satellite - even when NASA's own leading expert checked the records and said it couldn't possibly be any satellite from any country! Steitz was never willing to reply to my many requests for further information about this statement, such as where the information came from, since he said the documents about it were lost. Without the documents, how would he know? (This contradiction with Johnson and the lack of a source for Steitz's claim has not been followed up by any other journalist, and could be an interesting story.)

In another vein, we were also hoping to learn what authorization government agencies such as NASA had at the time to enter private property for the purpose of seizing or investigating a fallen object, but we did not receive answers to this question either. No policy directives or procedures were provided, yet NASA must have its own policies on this issue, and somewhere they must have been spelled out in 1965.

Through the historical documents we *did* receive, the Kecksburg lawsuit added to our general body of knowledge of that time period even while raising new questions and unresolved contradictions about the Kecksburg case. Most importantly, it illustrates what we're up against as citizens advocating for greater government openness, and justifies a re-examination of what access we as a people within a democracy actually have under the FOIA.

Special thanks to Larry Landsman, then an executive at SCI FI Channel, for launching this FOIA initiative and pulling the team together; attorney Lee Helfrich for brilliantly handling all the many rounds of litigation and extensive legal briefs, way beyond the call of duty; and researcher Stan Gordon for spending over forty years investigating the case and providing me with extensive information, assisting every step of the way.

Leslie Kean
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