

Freedom of Information Appeal

FOIA-80-222

906 South Van Ness Avenue
San Francisco, CA 94110

June 3, 1980

Chairman
Nuclear Regulatory Commission
Washington, DC 20555

APPEAL OF INITIAL FOIA DECISION

80-A-17E (80-222)

rec'd 6-9-80

Dear Sir:

Pursuant to the Freedom of Information Act, I wrote to Mr. J.M. Felton April 14, 1980 requesting certain items pertaining to the Abalone Alliance, an organization located in California. Mr. Felton's letter of May 5, 1980 constituted a partial denial of my request. I am appealing that denial.

I. The Request

My request of April 14 sought the following:

- 1) All records, documents, materials or other information in the possession of the NRC concerning the Abalone Alliance;
- 2) All items concerning the Abalone Alliance originated by any other government agency and possessed by the NRC;
- 3) All items concerning the Abalone Alliance maintained in the NRC's files--even if not contained in a file or files headed "Abalone Alliance."

Shortly after my request was received, I spoke by telephone to Ms. Mary Jean Raphael, administrative assistant in the FOIA Branch. She asked me to elaborate upon my request.

I specifically asked Ms. Raphael to make a search for any information in the NRC's possession concerning an August 4, 1977 memorandum from Director, FBI (via teletype) SUBJECT: Proposed Demonstrations by Clamshell Alliance and Abalone Alliance at San Onofre Nuclear Generating Station. (A photocopy of this memorandum is enclosed.) I made it clear that I wanted this and all such memoranda the NRC had received from other government agencies concerning the Abalone Alliance.

Secondly, I asked Ms. Raphael to determine how and where such items concerning the Abalone Alliance might be filed. (She had stated, as Mr. Felton had, that the NRC does not maintain files on organizations.)

Thirdly, I asked Ms. Raphael to check with the NRC's Information Assessment Team and to send me all items possessed by the Team concerning the Abalone Alliance.

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II. NRC Response

Along with his response of May 5, 1980, Mr. Felton sent me a letter sent by the Abalone Alliance members to the NRC Chairman, as well as a list of public document rooms in California.

Regarding the August 4, 1977 FBI memorandum, Mr. Felton wrote: "...the NRC has no records pertaining to this..."

Mr. Felton made no mention of other memoranda (or other communications) originating in other government agencies.

Mr. Felton did not confirm that the Information Assessment Team had been checked.

III. Grounds for Appeal

A. FBI Memorandum

On the enclosed photocopy of the August 4, 1977 FBI memorandum I have circled in red the notation that a copy was being sent to the NRC.

Mr. Felton states the NRC has no records pertaining to this memorandum. However, he does not indicate that a thorough search was made for it. Was any effort made to determine how such a memo would have been filed?

B. Other Items Originated by Other Agencies

There is no indication that any attempt was made to locate such items. It is my belief that such items do exist in NRC files; however, since I am unfamiliar with your filing and indexing system, I am unable to know specifically how to ask for them.

The courts state that it is a violation of the FOIA to force me to rely upon your system of classification when that system is within your sole control. Welford v. Hardin, (D.C. D.C. 1970) 315 F. Supp. 768.

C. Information Assessment Team

My oral request to Ms. Raphael for a search of the Information Assessment Team does not appear to have been pursued.


IV. Remedies Sought

This appeal seeks the following: (a) a determination of how the August 4, 1977 FBI memo was or would have been filed, and

if necessary, a subsequent search for that memo and information pertaining to it; (b) a bona fide search for memoranda and other items concerning the Abalone Alliance originated by other government agencies; and (c) a search for any records, documents, materials, or other information concerning the Abalone Alliance or any of its members possessed by the Information Assessment Team.

I will expect your reply within twenty working days, as required by the Act.

Sincerely,


Charles Varon

Enclosures: 8/4/77 FBI memorandum

LA0026 2170205Z

RR HQ SD SF SC

DE LA

R 050205Z AUG 77

FM LOS ANGELES (100-87356) (6)

TO DIRECTOR (ROUTINE)

SAN DIEGO (157-5300) (ROUTINE)

SAN FRANCISCO (ROUTINE)

SACRAMENTO (ROUTINE)

BT

AUG 4 10 20 PM '77
RECEIVED
FEDERAL BUREAU OF INVESTIGATION
U.S. DEPARTMENT OF JUSTICE

~~CONFIDENTIAL~~

PROPOSED DEMONSTRATION BY CLAMSHELL ALLIANCE AND ABALONE

ALLIANCE AT SAN ONOFRE NUCLEAR GENERATING STATION,
UNITS ONE, TWO AND THREE, SAN ONOFRE, CALIFORNIA, AUGUST 6,
1977, CIVIL UNREST; ATOMIC ENERGY ACT; CRG, OO: SAN-
DIEGO. (U)

RE SAN DIEGO TELETYPE DATED AUGUST 4, 1977, INDICATING
ATTORNEY GENERAL WOULD HOLD CONFERENCE THAT DATE TO DECIDE
WHETHER UNITED STATES MARINE CORPS OR UNITED STATES
MARSHAL'S SERVICE WOULD PHYSICALLY GUARD SAN ONOFRE NUCLEAR
STATION ON AUGUST 6, 1977; AND LOS ANGELES LETTER TO BUREAU
DATED AUGUST 2, 1977. (U)

EX FBI LOS ANGELES ON AUGUST 4, 1977, ADVISED AS FOLLOWS:

APPROPRIATE
AND F...
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DATE...
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DECLASSIFIED BY 1259 JSP/df
ON 8-23-78

PAGE TWO (LA 100-87356) ~~CONFIDENTIAL~~

LOCAL RADIO AND TELEVISION STATIONS HAVE BEEN FEATURING SPOKESPERSON FOR COALITION WHICH IS PLANNING DEMONSTRATIONS AT SAN ONOFRE ON AUGUST SIXTH AND DIABLO CANYON NUCLEAR FACILITY (NEAR SAN LOUIS OBISPO) ON AUGUST SEVENTH. DURING THE EVENING OF AUGUST THIRD, COALITION SPOKESWOMAN APPEARED ON CHANNEL LL (LOS ANGELES) TELEVISION AND STATED, "THE FIRST WEST COAST OCCUPATION" OF A NUCLEAR SITE WOULD TAKE PLACE AT SAN LUIS OBISPO ON AUGUST SEVENTH. SHE ALSO SAID CIVIL DISOBEDIENCE WAS BEING PLANNED FOR THAT LOCATION. (U)

AN ASSOCIATED PRESS ARTICLE THIS WEEK QUOTED A SPOKESMAN FOR A GROUP CALLING THEMSELVES (X) "PEOPLE GENERATING ENERGY" (X) AS HAVING SAID, "WE WILL HAVE FIFTY HARDCORE OCCUPIERS, THOSE WILLING TO CROSS ONTO PG AND E PROPERTY AND GO TO JAIL." PG AND E REFERS TO THE PACIFIC GAS AND ELECTRIC NUCLEAR SITE AT DIABLO CANYON. (U)

LOS ANGELES INDICES CONTAIN NO INFORMATION IDENTIFIABLE WITH GROUP KNOWN AS "PEOPLE GENERATING ENERGY." (U)

ALTHOUGH NO ACTIVE INVESTIGATION INTO THIS MATTER HAS BEEN CONDUCTED BY THIS OFFICE, A SOURCE WHO HAS FURNISHED RELIABLE INFORMATION IN PAST, REPORTED TODAY THAT MINIMUM

PAGE THREE (LA 100-87356) ~~CONFIDENTIAL~~

OF AT LEAST SEVEN BUS LOADS OF DEMONSTRATORS FROM THREE LOCATIONS IN CITY OF LOS ANGELES WILL TRAVEL TO SAN ONOFRE FOR AUGUST SIXTH ACTION. DEMONSTRATION MONITORS HELD LENGTHY MEETING AUGUST THIRD TO FORMULATE PLANS FOR SAN ONOFRE ACTION. u/s

ANOTHER LOCAL SOURCE HAS INDICATED ATTEMPTS ARE BEING MADE TO RECRUIT DEMONSTRATIONS STATEWIDE FOR THESE AUGUST SIXTH AND SEVENTH ACTIONS. -FOR THIS REASON - INFORMATION COPIES OF THIS TELETYPE ARE BEING FURNISHED - SACRAMENTO AND SAN FRANCISCO IN ADDITION TO SAN DIEGO. u/s

THIRD SOURCE, WHO HAS FURNISHED RELIABLE INFORMATION IN PAST, ADVISED THAT (X) [REDACTED] (X), CURRENT MEMBER OF COMMUNIST PARTY, USA (CPUSA), IS COORDINATING EFFORTS OF THE SOUTHERN CALIFORNIA DISTRICT, CPUSA TO INFLUENCE THEIR MEMBERS TO PARTICIPATE IN THE AUGUST SIXTH AND SEVENTH ACTIONS IN CALIFORNIA. u/s

PERTINENT INFORMATION FROM ABOVE HAS BEEN FURNISHED SAN LUIS OBISPO SHERIFF'S OFFICE. -SAN DIEGO ADVISE -PROPER AUTHORITIES. (U)

b7c

MESSAGE RELAY VIA TELETYPE

8/4/77

Date

PRECEDENCE: IMMEDIATE
 PRIORITY
 ROUTINE

FEDERAL GOVERNMENT

CLASSIFICATION: TOP SECRET
 SECRET
 CONFIDENTIAL
 UNCLASSIFIED

R

FIELD AND LEGAT MESSAGES ONLY CLEAR EFTO

FM: DIRECTOR
TO:

2 2

- Attorney General
- Deputy Attorney General
- Assistant Attorney General, Civil Rights Div.
- Assistant Attorney General, Criminal Div.
- Attn: Internal Security Section
- Attn: General Crimes Section
- Immigration and Naturalization Service
- U. S. Marshal's Service
- U. S. Secret Service (PID)
- Director, CIA
- Secretary of State
- Department of Treasury
- Attn: U. S. Customs
- Department of Treasury
- Attn: Bureau of Alcohol Tobacco & Firearms

- Drug Enforcement Administration
- Energy Research and Development Administration
- U. S. Postal Service
- National Aeronautics & Space Adm.
- Department of Transportation
- Attn: Director of Security
- Federal Aviation Administration
- Department of the Air Force (AFOSI)
- Department of the Army
- Naval Investigative Service
- National Security Agency (DIRNSA/NSOC (Attn: SOO))
- Commandant, U. S. Coast Guard
- Director, Defense Intelligence Agency

- The President
- White House Situation Room
- Attn:
- The Vice President
- Attn:
- Nuclear Regulatory Commission
-

REC-1110

157-35072-6X

(SUBJECT (TEXT BEGINS NEXT PAGE):

SEE ATTACHED.

Foreign Liaison Unit

Route through 23 AUG 10 1977

Cleared telephonically

with _____

AUG 05 1977

- Asst. Dir.:
- Dep. AD Adm.
- Dep. AD Inv.
- Asst. Dir.:
- Adm. Serv.
- Crim. Inv.
- Fin. & Pers.
- Ident.
- Intell.
- Laboratory
- Legal Coun.
- Plan. & Insp.
- Rec. Mgnt.
- Spec. Inv.
- Tech. Serv.
- Training
- Public Affs. Off.
- Telephone Rm.
- Director's Sec'y

ORIGINATOR

KMR 5027

RM

EXT

2805

OCT 27 1977
54 AUG 17 1977

TELETYPE UNIT

b7c