



U.S. Department of Justice

Washington, D.C. 20530

July 23, 1980

Mr. John Carr
Chief, FOIA Branch
Nuclear Regulatory Commission
7735 Old Georgetown Road
Bethesda, Maryland

FREEDOM OF INFORMATION
ACT REQUEST
FOIA-80-383
REC'd 7-24-80

Dear Mr. Carr:

The documents accompanying this letter originate from the files of the Nuclear Regulatory Commission. Since many may fall within the scope of the attached Freedom of Information Act request, I am sending the records back to your office so that you may process the FOIA request for these records. We will inform the requester that this portion of the request has been referred to your office. Mr. Angus Macbeth, Deputy Assistant Attorney General (633-2744) and Michael Carlton of the Pollution Control Section (633-5286) are familiar with the investigation which the request refers to.

If you have any questions, please call them or Richard Lazarus (633-1442) of my office.

Sincerely,

V. Vance Hughes
Division Control Officer
Land and Natural Resources Division

Attachments

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SCENIC SHORELINE PRESERVATION CONFERENCE, INC.

4623 More Mesa Drive
Santa Barbara, CA 93110
June 21, 1980
(805) 964-2492

Mr. James W. Moorman
Assistant Attorney General
Land and Natural Resources Division
Department of Justice
Washington, D.C. 20530

Dear Mr. Moorman,

This letter is a request under the Freedom of Information Act as amended (5 USC, Sec. 552) for access to the record specified below. It is a reapplication of an earlier letter filed March 11, 1980.

On October 25, 1977 Michael P. Carlton, Attorney, Pollution Control Section, U.S. Department of Justice, (AM : MPC 90-5-1-7-601) addressed a letter to Howard K. Shapar, Executive Legal Director, U.S. Nuclear Regulatory Commission stating that an unnamed citizen requested investigation of a possible failure of Pacific Gas and Electric Company to disclose to the NRC the existence of the Hosgri geological fault near the Diablo Canyon Nuclear Power Plant. After Department of Justice investigation, the review of this allegation was terminated without grant jury assessment of the charges.

It is our belief that new additional evidence of value to this case can be identified if the basis of your decision not to present this matter to the grand jury is released. We request the opportunity to review possible new evidence in our possession with a Justice Department attorney to determine whether the evidence has in fact been considered in your decision.

In any event, we would like to review certain documents pertinent to the Diablo investigation in order to make a determination as to what further action we can take on this matter. It would be extremely helpful to us to have information requested below in order to discuss our concerns in the context of the full record before your agency.

On behalf of Scenic Shoreline we hereby request access to any and all written reports, memoranda, studies, or other documents in the custody of the Department of Justice or Department of Justice personnel with respect to:

1. The reasons for closure of investigation without grand jury investigation or prosecution in the Diablo Canyon case.
2. The evidence on which the non-prosecution decision was made.

We ask that the records requested above be transmitted to me directly. In the event that you determine the quantity of those

Mr. James W. Moorman

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June 21, 1980

documents are so large as not to permit forwarding them, we request that they be made available for inspection at the

Land and Natural Resources Division
Department of Justice
Washington, D.C. 20530

Assuming that you are unable to mail them to me directly and once the records are made available for review, we will determine whether we will want any of the record reproduced.

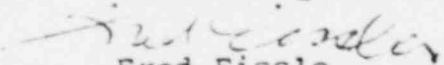
We believe this request is in the public interest because furnishing the information can be considered as primarily benefitting the public and that any applicable fees should therefore be waived as permitted under the amended Freedom of Information Act.

If you determine that some records required are exempt from release, we would appreciate your stating which exceptions cover the material you are not releasing. In this connection we advise you that we are prepared, if necessary, to execute an appropriate protective agreement with respect to any confidential or proprietary document, or, if the document required falls within the category specified in 10 C.F.R. Sec. 2.790 (1), (2), (3), to abide by such protective orders or agreements as the Department of Justice may deem appropriate. Finally, if you determine that some portions of the requested record are exempt, we ask that you make available the remainder of the record, to the extent that the record determined to be exempt is "reasonably segregable" as provided in the Amended Act.

It is our intent that this Freedom of Information Act request benefit all members of the public interested in the final ruling by the Department of Justice. The reasons and evidence for closure of investigation or prosecution is a concern to the general public especially in an issue of such national significance. Public confidence in the prosecutorial process is fostered by disclosure of the justification for dropping a matter of this importance. We urge that the documents be produced as quickly as possible as they become available.

As provided for in the amended Freedom of Information Act, we will expect to receive a reply within ten working days. If you have any questions concerning this request, we would appreciate your contacting us by telephone to expedite consideration of this matter.

Cordially yours,


Fred Eissle.
President

FE/hj

SCENIC SHORELINE PRESERVATION CONFERENCE, INC.

4623 More Mesa Drive
Santa Barbara, CA 93110
March 6, 1980
(805) 964-2492

Mr. James W. Moorman
Acting Assistant Attorney General
Land and Natural Resources Division
Department of Justice
Washington, D.C. 20530

Dear Mr. Moorman,

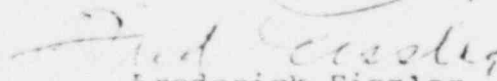
Our organization would appreciate any memoranda and file data concerning the decision of the Department of Justice to close the investigation of seismic concerns resulting from faults in the vicinity of the Diablo Canyon Nuclear Power Plant. We submit this request pursuant to the Freedom of Information Act. We also feel, apart from the Act, that the public interest requires release in this instance.

The reasons for closure of investigation without grand jury investigation or prosecution is a concern to the general public especially in an issue of such national significance. Public confidence in the prosecutorial process is fostered by disclosure of the justification for dropping a matter of this importance. In addition to the non-prosecution memorandum and associated documents, we would like to have access to the file presenting the evidence on which the decision was made.

Quite possibly additional evidence of value to this case can be identified if the basis for your decision is released. We also request the opportunity to review possible new evidence in our possession with a Justice Department attorney to determine whether the evidence has in fact been considered in your decision.

Thank you for considering this appeal.

Cordially yours,


Frederick Eissler
President

FE/hj