



NATURAL RESOURCES DEFENSE COUNCIL

VIA FACSIMILE/ HARD COPY TO FOLLOW FIRST-CLASS MAIL

July 24, 2003

Edward A. Boling
Deputy General Counsel
Council on Environmental Quality
722 Jackson Place, NW
Washington, DC 20503

FREEDOM OF INFORMATION ACT REQUEST

Dear Mr. Boling:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, the Natural Resources Defense Council (“NRDC”) hereby requests the records¹ identified below relating to the Energy Project Streamlining Task Force (“Task Force”). This Task Force was established on May 18, 2001, pursuant to Executive Order 13212 and is chaired by the Council on Environmental Quality (“CEQ”). NRDC requests that CEQ grant a fee waiver for all of the documents requested.

I. Records Requested

NRDC requests the following records:

(1) Any and all records to or from non-federal entities regarding the work of the Energy Project Streamlining Task Force, including, but not limited to the Rocky Mountain Energy Council.

(2) Any and all records identifying the individuals, including the organizations represented, who were invited or attended the meeting of the Rocky Mountain Energy Council on July 8-9, 2003 in Denver, Colorado.

(3) Any and all minutes or other records relating to what was discussed at the meeting of the Rocky Mountain Energy Council on July 8-9, 2003.

¹ As used throughout this letter, the terms “record” and “records” shall mean all writings (handwritten, typed, electronic or otherwise produced, reproduced or stored) in the agency’s possession, including, but not limited to, any correspondence, minutes of meetings, memoranda, notes, e-mails, calendar or daily entries, agendas, notices, and telefaxes. Regarding the relevant time period, NRDC is requesting records received by or sent from the Task Force since its creation in May 2001, through the date on which CEQ completes its search in response to this FOIA request.

(4) Any and all records related to the formation and the future activities of the Rocky Mountain Energy Council.

(5) Any and all records related to energy development on specific public lands such as the Powder River Basin and Montana's Rocky Mountain Front (including the Lewis and Clark National Forest).

Should you decide to invoke a FOIA exemption, please include in your full or partial denial letter sufficient information to appeal the denial. To comport with legal requirements this information must include, *inter alia*: (a) Basic factual material about each withheld item, including the originator, date, length, general subject matter, and location of each item; and (b) explanations and justifications for denial, including the identification of the category within the governing statutory provision under which the document (or portion thereof) was withheld and a full explanation of how each exemption fits the withheld material.

II. Fee Waiver

NRDC respectfully requests that CEQ waive all fees in connection with this request as provided by 5 U.S.C. § 552(a)(4)(A)(iii). See also, 5 C.F.R. § 2502.15. NRDC is a national, non-profit, environmental organization. NRDC has no commercial interest in obtaining the requested information. Instead, NRDC seeks the requested information in order to make it public. NRDC intends to use the requested information to increase the public's understanding of how government officials are promoting energy development on public lands. As demonstrated below, NRDC meets all the criteria for a fee waiver.²

A. The records requested concern the operations or activities of the government.

NRDC's request for information about the Energy Project Streamlining Task Force directly relates to the operations and activities of an agency of the federal government. CEQ is chairing the Task Force; the Task Force staff is made up of employees of CEQ and other federal agencies; and federal funds are being used to support its activities.

B. Disclosure of the information will contribute to public understanding of government operations and activities.

The public's current knowledge of the work of the Energy Project Streamlining Task Force and the Rocky Mountain Energy Council is limited. The information requested by NRDC will inform the public about how CEQ is implementing the National Energy Policy and how government actions will affect public lands in the West.

² If NRDC's request for a fee waiver is denied, NRDC will pay fees under protest without waiving its right to appeal the denial of a fee waiver. Consequently, please begin the search for responsive records immediately upon receipt of this request. Please inform me before you take any steps that could cause the fees to exceed \$1,000.

NRDC has a proven ability to digest and disseminate information effectively. In addition to its web site (www.nrdc.org) which is updated daily, NRDC has numerous other means to widely disseminate information to the public including numerous and varied publications, educational programs, media initiatives, and public interest litigation. For example, Nature's Voice is published and distributed five times a year by NRDC to its approximately 450,000 active members. NRDC also publishes a magazine, OnEarth, which is distributed to 140,000 subscribers and is also distributed for sale to newsstands and bookstores. OnEarth is available online free of charge at <http://www.nrdc.org/onearth/02spr/default.asp>. NRDC also regularly distributes information and alerts to its 490,000 online activists. See, e.g., Action Alert on Arctic National Wildlife Refuge, April 16, 2002 (Attachment 1); Join Me in Signing the Declaration of Energy Independence, February 11, 2002 (Attachment 2).

NRDC routinely uses FOIA to obtain information from federal agencies that NRDC legal and scientific experts analyze in order to inform the public about a variety of issues including energy policy, urban air pollution, water pollution, climate change, and nuclear weapons. Some specific examples are provided below:

- (1) In March 2002, NRDC obtained through a FOIA request documents related to the Department of Energy's participation in the Energy Task Force chaired by Vice President Cheney that developed the administration's National Energy Plan. NRDC analyzed this information and its relevance to the debate regarding the nation's energy future. NRDC made the approximately 15,000 pages of records received directly available to and searchable by the public on NRDC's web page. See www.nrdc.org/air/energy/taskforce/tfinx.asp.
- (2) NRDC obtained through a FOIA request a memorandum by ExxonMobil advocating the replacement of a highly respected atmospheric scientist, Dr. Robert Watson, as the head of the Intergovernmental Panel on Climate Change. NRDC used this memorandum to help inform the public about what may have been behind the decision by the Bush Administration to replace Dr. Watson. See NRDC Press Release, "Confidential Papers Show Exxon Hand in White House Move to Oust Top Scientist from International Global Warming Panel," April 3, 2002. (Attachment 3); Elizabeth Shogren, "Charges Fly Over Science Panel Pick," Los Angeles Times, April 4, 2002, at A19. (Attachment 4)
- (3) In the summer of 2000, NRDC obtained information through FOIA regarding the levels of arsenic in drinking water supplies across the country. NRDC made much of the information available on the NRDC web site and provided analysis describing its significance and guiding interested members of the public on how to learn more about arsenic in their own drinking water supplies. See Steve LaRue, "EPA Aims to Cut Levels of Arsenic in Well Water," San Diego Union-Tribune, June 5, 2000, at B1. (Attachment 5)

- (4) NRDC used information obtained through FOIA requests to produce and distribute a report analyzing the impacts of manure pollution from large livestock feedlots on fish and wildlife, as well as human health. Spills & Kills (August 2000). (Attachment 6)
- (5) NRDC used information obtained from numerous FOIA requests to publish five databooks between 1984 and 1994 describing the history of nuclear weapons programs in the United States, Soviet Union, Britain, France and China. (Attachment 7)
- (6) NRDC obtained through a FOIA request a Defense Department document, the History of the Custody and Deployment of Nuclear Weapons: July 1945 through September 1977. The document attracted significant press attention once it was disclosed. See, e.g., Walter Pincus, "Study Says U.S. Secretly Placed Bombs; Cold War Deployments Affected Mostly Allies," Washington Post, Oct. 20, 1999, at A3. (Attachment 8) One of NRDC's nuclear scientists, Robert Norris, published a detailed analysis of this document explaining its significance to the public. Robert S. Norris, William M. Arkin, and William Burr, "Where They Were," Bulletin of Atomic Scientists (Nov/Dec 1999). (Attachment 9)
- (7) NRDC regularly publishes a Nuclear Notebook, often using information obtained through FOIA requests. The Nuclear Notebook provides current information about the nuclear weapons programs of the United States and other nations. It is published in each issue of the Bulletin of Atomic Scientists. See, e.g., "U.S. Nuclear Forces, 2002," Bulletin of Atomic Scientists, May/June 2002 (Attachment 10).
- (8) In 1996, NRDC obtained through a FOIA request test results regarding lead levels in the District of Columbia's drinking water supplies. NRDC made the test results public as well as analysis explaining the significance of the results. See, D'Vera Cohn, "Tap Water Safeguards Still Stalled; City Failed to Tell Some Residents of Excess Lead Contamination," Washington Post, April 18, 1996, at J1. (Attachment 11)
- (9) In 1989, NRDC obtained through a FOIA request testimony by federal experts who opposed oil drilling off the coasts of California and Florida. The Bush Administration had previously suppressed the testimony. See Larry Liebert, "Oil Testimony Reportedly Quashed; Environmentalists Say Federal Experts Pressured by Bush," San Francisco Chronicle, Oct. 5, 1989, at A6. (Attachment 12)
- (10) In 1988, NRDC obtained through a FOIA request a report by the U.S. Fish and Wildlife service that declared that the government's review of offshore oil drilling in Northern California was incomplete and overly optimistic. Reagan

Administration officials had tried to keep the report secret and then repudiated it upon its release. See Eric Lichtblau, "Federal Report Blasts Offshore Oil Studies," Los Angeles Times, June 4, 1988, at A32. (Attachment 13)

- (11) In 1982, NRDC obtained through a FOIA request a memorandum by the U.S. Environmental Protection Agency stating that most air pollution monitors have repeatedly underestimated levels of toxic lead in the air. NRDC used the memorandum to inform the public about the consequences of EPA's proposal to relax restrictions on lead in gasoline. See, Sandra Sugawara, "Lead in Air is Undermeasured, EPA Section Chief's Memo Says," Washington Post, July 11, 1982, at A6. (Attachment 14)

C. Release of the requested records will contribute significantly to public understanding.

As discussed in the preceding section, the public currently has little information about the work of the Energy Project Streamlining Task Force and the Rocky Mountain Energy Council. Information about whom has contacted the Energy Project Streamlining Task Force and what they have said will provide extremely valuable information to the public in understanding how Task Force decisions are being made. Records related to opening specific public lands to energy exploration and production will be useful to the public in understanding why and how these agency decisions are being made. The limited information that the Task Force has provided on its web site does not provide this information.

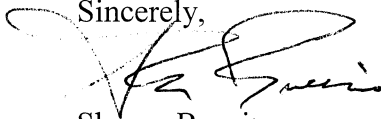
D. NRDC has no commercial interest that would be furthered by disclosure of the requested records.

As a non-profit, membership organization, NRDC has no commercial interest in the information requested.

CONCLUSION

NRDC appreciates your help in obtaining the requested information as soon as possible. The public has an immediate right to the requested information so that interested members of the public can have a meaningful role in shaping this nation's energy future and the public lands that they treasure. Please call if you have any questions regarding this request.

Sincerely,



Sharon Buccino
Senior Attorney

Enclosures:
Attachments, 1-14

Cc: Robert Middleton, Director, CEQ Energy Project Streamlining Task Force