



United States  
Department of  
Agriculture

Forest  
Service

Pacific  
Southwest  
Region

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File Code: 6270-1

FOIA Nos.: CNF-009-012  
WO-09-3992-R

Date: AUG 04 2009

Ms. Jessica Gomez, Congressman's Staff  
Congressman Bob Filner, Member of Congress  
51<sup>st</sup> District, California  
333 F Street, Suite A  
Chula Vista, CA 91948

Dear Ms. Gomez:

This letter responds to Congressman Bob Filner, Member of Congress, 51<sup>st</sup> District, California letter dated July 7, 2009, addressed to Ms. Ruby Boyd, Regional FOIA Coordinator, received July 15, 2009.

Reference: Letter USDA Forest Service sent to Protect Our Communities Foundation (POC) on May 27, 2009, regarding POC Foundation Freedom of Information (FOIA) Request of May 11, 2009. *POC Foundation requested documentation showing communication among the United States Department of Agriculture's (USDA) Forest Service, other federal agencies, San Diego Gas and Electric (SDG&E) and Sempra Energy regarding the Sunrise Powerlink transmission line project.*

POC Foundation requested a fee waiver. It was requested that the POC Foundation provide specific information in response to Factor #3 that a final determination will be made regarding a fee waiver by July 31, 2009. Neither the Regional FOIA Office nor the Cleveland National Forest staffs have received a reply to the agency letter of June 11, 2009 from the POC Foundation as of the date of this letter.

With respect to the POC Foundation's request of May 11, 2009, we will need to continue to work with the POC Foundation representative, Mr. David Hogan, Consultant, Protect Our Communities Foundation to resolve the fee waiver issue of Factor #3. Requesters cannot satisfy the standard merely by representing that they will make the information available to others. Requesters have the burden of demonstrating that the information will be communicated to the public. Case law supports that merely stating "the information obtained will be published" is not enough to satisfy the standard in Factor #3.

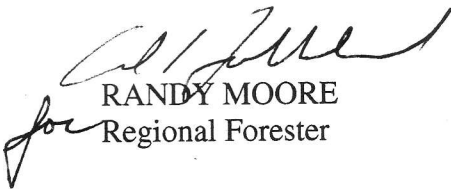
Without further information from the POC Foundation in response to Factor #3 criteria, we cannot grant a fee waiver request at this time. A waiver of fees involves the expenditure of public funds; the USDA Forest Service is required to evaluate each FOIA request individually to determine the appropriateness of charging fees or granting a fee waiver. Procedurally, under the



FOIA, until a fee waiver determination has been made and/or the requester has agreed to pay all the assessable fees, the request is not "perfected" for processing because there has been no compliance with the fee requirements of the FOIA.

In the interim, please feel free to contact Ms. Ruby Boyd, Regional FOIA Office, (707) 562-8768, or e-mail: [rubyboyd@fs.fed.us](mailto:rubyboyd@fs.fed.us), if you have any questions or wish to inquire of the status of The POC Foundation's request.

Sincerely,



RANDY MOORE  
Regional Forester

cc: William Metz, Forest Supervisor – Cleveland National Forest

Mr. David Hogan  
Consultant  
Protect Our Communities Foundation  
P.O. Box 141  
Mount Laguna, CA 91948

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