



March 12, 2002

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

Jock Whitworth
Superintendent
Padre Island National Seashore
P. O. Box 181300
Corpus Christi, TX 78480

**RE: Freedom of Information Act Request Re BNP Permits for Padre Island
National Seashore**

Dear Mr. Whitworth:

On behalf of the Sierra Club, its Lone Star Chapter and its Rio Grande Valley Group, I am writing to request copies of all records referencing or relating to the BNP Petroleum Corporation permit granted in early February for exploration and drilling at Dunn-Murdock Well #1 in the Padre Island National Seashore. I am also requesting copies of all records referencing or relating to any other permit applications for BNP Petroleum for exploration and drilling in the Padre Island National Seashore.

This request encompasses any and all records relating to BNP permits or applications, including but not limited to records relating to technical review, environmental assessment, compliance with Title 36 of the Code of Federal Regulations, public notice and participation and consultation with other agencies. This request also encompasses any and all records located at any level of the National Park Service or Department of Interior, whether local, regional or national.

I submit the Sierra Club's request pursuant to the Freedom of Information Act, 5 U.S.C. § 552 *et seq.* By the term "records," this request adopts the definition of the Federal Records Act, 44 U.S.C. § 3101 *et seq.*, which includes any writing, and "all papers, maps, photographs,

NPS DOCUMENT# 512

machine readable materials or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business....” Id. at §3301. This definition includes paper documents, electronic mail, memoranda, notes, guidelines, internal policy documents and inter-agency communications without exception.

All of the information referencing or relating to your agency’s determination should be a matter of public record. If you believe that any portions of the records requested are exempt from disclosure under FOIA, you are required by law to segregate those portions and provide the remainder of the information.

If you wish to withhold any records referred to in this request, please send us an administrative Vaughn Index pursuant to 5 U.S.C. § 552(b) and *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), *cert. denied* 415 U.S. 977 (1974). The index should specify the following information about each document withheld:

- The title, author, and date of each record withheld.
- A description of each record withheld, including the subject and conclusions of the record.
- A legal citation to the exemption for each record withheld and an explanation of how the exemption applies to each record.
- A list of all records, including memoranda, electronic mail, and other communications which are referenced in the withheld document, or are referenced by the withheld record.

Pursuant to 5 § 552(a)(4)(A)(iii), we hereby request a fee waiver for all copying costs, mailing costs, and other costs related to locating and tendering the records. Their release is not for commercial use and is in the public interest because it will primarily benefit the general public and will contribute to public understanding of government operations.

The Sierra Club is a non-profit organization dedicated to the preservation and protection of the environment. One of the Sierra Club’s priorities is to educate the public on the need for protection of our National Parks. The Sierra Club publishes several monthly periodicals, as well as daily action alerts, which serve to inform its membership on this issue. The Sierra Club is one of the largest environmental organizations in the country, with approximately 700,000 members nationwide. Obtaining information on the process by which the decision was made to open the Padre Island National Seashore to natural gas drilling will serve to help educate the public.

FOIA provides 20 working days for a reply. If we do not hear from you within 20 days of your receipt of this letter, we will deem this request denied. If you claim a need for more time to process a FOIA request due to "unusual circumstances," you must provide us with an opportunity to limit the request. Note that the definition of "unusual circumstances" is very limited.

Please also describe the adequacy of the search for records that was undertaken in response to this request, including a detailed description of the files searched and the search procedures used, pursuant to *Citizens Com'n on Human Rights v. Food and Drug Administration*, 45 F.3d 1325 (9th Cir. 1995)

If you have any questions, please feel free to call me at 415.977.5709. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Pat Gallagher", followed by a forward slash and the initials "km".

Patrick Gallagher
Legal Director