

January 9, 2015

U.S. Economic Development Administration

Stephen Kong, Bureau Counsel

14th & Constitution Avenue NW

Mail Stop 5875 HCHB

Washington, D.C. 20230

Email : skong@EDA.gov

Via Email

RE: Freedom of Information Act Request

Dear Mr. Kong:

This is a follow up FOIA request. Michelle Branigan responded to the first 2 requests; we are in receipt of the documents. We are grateful for the former fee waiver and trust that this will again be approved. *I have used italics to address some of the information requested.* Thank you for reviewing the following:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, as amended, the Mount Shasta Bioregional Ecology Center hereby requests the records described herein maintained by, or within the control of, the U.S. Economic Development Administration (EDA). See Item 3 under Request for Government Records for updated request for all information not previously sent in FOIA packet last month.

The Mount Shasta Bioregional Ecology Center (MSBEC) is a nonprofit organization dedicated to protecting and restoring the outstanding natural environment and cultural values of Mount Shasta, California. The Mount Shasta bioregion is of great importance locally, nationally and internationally as it provides water to millions of Californians locally and downstream, millions of acres of forested public lands, habitat for plant and wildlife, remarkable recreational opportunities, and sacred areas of high significance to Native American and other cultures near and far.

Based in Mount Shasta, California, approximately 60 miles south of the Oregon border at the headwaters of the Sacramento River, the Mount Shasta Bioregional Ecology Center (MSBEC) was founded in 1988 and formally incorporated in 1990 as a 501(c)(3) nonprofit grassroots

citizens' organization to which donations are fully tax-deductible to the extent permitted by law. To achieve this objective, MSBEC conducts scientific, educational, and advocacy programs aimed at protecting the water quality, habitat, and quality of life in the our Mount Shasta bioregion as well as the environmental experience, tourism and recreation enjoyed by hundreds of thousands of tourists from around the world every year.

MSBEC submits the following FOIA request to advance its mission of protecting the Mount Shasta bioregion from air and water pollution, as well as protecting the water quality and quantity delivered to people and wildlife locally and downstream via the Sacramento River:

Request for Government Records:

MSBEC seeks information regarding a \$3 million **federal Economic Development Administration (EDA)** grant that was awarded to the City of Mount Shasta in September of 2013 that is to be matched with another \$3 million by Crystal Geyser “to help the city upgrade its wastewater treatment operation.” See the attached *Mount Shasta Herald* news article or click to the online story for specifics of the grant:

<http://www.mtshastanews.com/article/20131009/NEWS/131009712/?Start=2>

The EDA awarded this grant on 9/25/13. The City of Mount Shasta published and circulated the Notice of Preparation assessing the impacts of the proposal on 10/29/14 and will be taking public comment about the proposal after a scoping meeting scheduled on 11/12/14 with all comments due 12/1/14.

Under the National Environmental Policy Act and other federal laws, environmental values should be integrated into the decision-making processes of federal agencies by considering the environmental impact of proposed actions, and reasonable alternatives to those actions.

Therefore the Mount Shasta Bioregional Ecology Center requests the following information under the Freedom of Information Act:

1. Any subsequent amendments or updates to the application submitted to the EDA by or on behalf of the City of Mount Shasta and Crystal Geyser (listed as primary beneficiary) for funding to carry out the improvement of a sewer pipeline and to provide new jobs to the community.

The stated purpose of the Project is to:

- **expand its capacity for current and future growth in the community**
- **to prevent storm water from leaking into the existing sewer pipe**
- **to eliminate manhole leaking**
- **to accommodate Crystal Geyser's wastewater**
- **to add 2 new wastewater treatment ponds**
- **to add 150 new jobs to the community**

2. All the documents, including legal documents, maintained in the EDA's project file for the above-mentioned grant not already sent in early December 2014.

3. *All communications from December 7, 2014 through present (and additionally including items italicized in #4. below).* among the City of Mount Shasta, or its employees, officers, or contractors, Crystal Geyser, CGWA or Otsuka Pharmaceuticals or its employees, officers, contractors or attorneys, all emails, correspondence, and handwritten

notes referencing phone conversations regarding communication among EDA (Seattle, Washington and Sacramento branches), California Department of Fish & Wildlife representatives, Siskiyou County Planning Director Greg Pluckett or Richard Tinsman, Siskiyou Economic Development Council representatives, NorthState Resources, PACE Engineering, letters of support and all communications from Senator Diane Feinstein, Senator Barbara Boxer, former Congressman Wally Herger, Congressman Doug LaMalfa and any other communications from other agencies regarding the EDA grant.

4. All internal communications among employees and/or officials of the EDA regarding the grant. This request also applies to any non-identical duplicates of records that, by reason of notation, attachment, or other alteration or supplement, include any information not contained in the original record. *Apparently according to a recent conversation with Shannon Fitzgerald she recalled that there may be additional records of emails pertaining to the grant that were not previously sent since laptop computers were used by staff prior to the October 2013 operation systems upgrade post malware infection. I am told these are in storage but accessible by your IT staff and would date from 2012 through October 2013.*

If FOIA exemptions may appear to apply to documents that are responsive to

MSBEC's request, the EDA's presumption should still be "in favor of disclosure."

Presidential Memorandum for Heads of Executive Departments and Agencies

Concerning the Freedom of Information Act, T4Fed. Reg.4,683 (Jan.21, 2009). An agency should disclose exempt records unless it is reasonably foreseeable that the disclosure would actually harm an interest protected by an exemption. Attorney General

Holder's Memorandum for Heads of Executive Departments and Agencies Concerning the Freedom of Information Act, 1-2 (Mar. 19, 2009) available online at: <http://www.usdoj.gov/aelfbia-memo-march2009.pdf>). "An agency should not withhold records merely because it can demonstrate, as a technical matter, that the records fall within the scope of a FOIA exemption."

Withholding records simply because those records fall within the ambit of an exemption is inappropriate in President Obama's new era of open Government." See 74 Fed. Reg. 4,683. If the EDA does withhold or redact any

responsive documents, MSBEC requests that that the EDA: (i) identify each document or record with particularity (including title, subject, date, author, recipient, and parties copied), (ii) fully and specifically explain the legal justification for withholding or redacting each document or record, and (iii) provide any segregable portions of the documents or records.

FOIA Request to EDA re: Mount Shasta/ Crystal Geyser Grant 9/25/13.

MSBEC requests electronic copies where available.

Request for Fee Waiver:

MSBEC seeks a fee waiver pursuant to 5 U.S.C. § 552(a)(a)(A)(iii). A fee waiver is appropriate because MSBEC will use the information obtained through this

FOIA request to inform the public about the proposed "Draft Environmental Impact Report for the Mount Shasta Sewer Line Improvements Project," the proposed Crystal Geyser beverage bottling proposal, and the effects of increased groundwater pumping on neighborhood wells,

increased effluent to the leach fields, and the wastewater treatment plant and Sacramento River, the potential effects on Big Springs and the Mount Shasta City Park Headwaters of the Sacramento River and Sisson Fish Hatchery, evaluation of traffic and noise pollution, air quality issues surrounding plastics production, and the carbon footprint associated with fossil fuels shipping of plastic bottles.

FOIA's fee waiver provision states: "[d]ocuments shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." Disclosure of the requested documents will significantly contribute to the public understanding of the EDA's, the City of Mount Shasta, Siskiyou County, California state agencies, and Crystal Geyser's operations and of the potential impact of this proposed project and the development it may facilitate. This request is not in the commercial interest of MSBEC, a non-profit organization.

Specifically, the disclosed documents may illuminate the kinds of activities that the City of Mount Shasta and Crystal Geyser are contemplating -- activities that EDA

funding would facilitate. Presenting information gained through MSBEC's FOIA request is in the public interest because it will expand the public's understanding of industrial development proposals affecting the Mount Shasta sphere of influence and how the EDA decides to provide financial assistance to those proposals. MSBEC closely monitors water and air quality and works to improve habitat in the Mount Shasta bioregion. In turn, MSBEC is requesting these documents from the EDA to expand public awareness of activities that impact the Mount Shasta area and to encourage public awareness of government operations.

MSBEC has expertise in reviewing and disseminating information obtained through FOIA and PRA requests. Presenting such information to the public is a central focus of our organization. MSBEC presents information to the public through our website, newsletters, e-newsletters, public action alerts, public reports, media, and public presentations. For example, MSBEC regularly presents information on local environmental issues at public meetings, at MSBEC public events, and in front of government bodies. Accordingly, waiving MSBEC's FOIA fees will benefit the general public by leading to an increased awareness of the impacts of development projects in the Mount Shasta bioregion.

Again, the disclosed material will be disseminated solely for the purpose of informing and educating the public and will not be used for commercial gain. MSBEC intends to disseminate the information gathered from the requested documents through an array of effective channels.

If our request is denied in whole or part, I ask that you justify all deletions by reference to specific exemptions of the act. I will also expect you to release all segregable portions of otherwise exempt material. MSBEC reserves the right to appeal your decision to withhold any information or to deny a waiver of fees.

If a fee waiver is not granted, MSBEC asks that the EDA provide a cost estimate prior to completing this request. Please contact us at 530-926-5655 or via email if you have any questions about this FOIA request.

Sincerely,

Richard Lucas, President of the Board,
<mailto:richard@shastavisions.com>

Jennifer Witherspoon, Interim Executive Director,
Jennifer@mountshastaecology.org

Cc: Vicki Gold, MSBEC advisor and former board
member, mailto:Vicki@mountshastaecology.org