

Exhibit H



United States Department of the Interior

OFFICE OF THE SOLICITOR
Washington, D.C. 20240

IN REPLY REFER TO

September 5, 2013

Richard M. Walker
Lisa W. Jordan
Tulane Environmental Law Clinic
6329 Freret Street
New Orleans, LA 70118

Dear Mr. Walker & Ms. Jordan:

This concerns your May 6, 2013, Freedom of Information Act ("FOIA") appeal to the Department of the Interior ("Department"), which was received on the same date and filed on behalf of the Atchafalaya Basinkeeper, Louisiana Crawfish Producers Association – West and the Louisiana Environmental Action Network. The Department has assigned the appeal as **Appeal Number 2013-131**. Your appeal challenges the Fish and Wildlife Service's ("FWS") decision to invoke FOIA exemption (5) as a basis to withhold in full and in part certain documents that are responsive to Mr. Walker's January 18, 2013, FOIA request that sought documents relating to the "U.S. Army Corps of Engineers ('Corps') permit application number MVN-2010-1080-WLL and MVN-2010-1032-WLL..."

As I mentioned to Ms. Jordan in our telephone conversation today, there was a delay in the Department's acceptance of the appeal for processing because of the need to evaluate whether you timely filed this matter. Please be aware that the Department's FOIA regulations require that an appeal challenging a bureau's decision to withhold records or parts of records "must be received by the FOIA Appeals Officer no later than 30 workdays from the date of the final response." *See 43 C.F.R. § 2.58(a)*. In this case, the FWS sent Mr. Walker a March 20, 2013, letter that it noted represented its "final response to [his] January 18, 2013, FOIA request...", which would require the FOIA Appeals Officer to receive any appeal challenging this FWS response by no later than May 1, 2013.

However, in response to subsequent communications from Mr. Walker, the FWS determined to release an "expanded" version of an index of the documents that it withheld or redacted in response to the FOIA request, which it transmitted to him via an April 17, 2013, e-mail message--even though the FWS was under no legal obligation to provide such an index during this administrative process. Nevertheless, the FWS's decision to provide Mr. Walker with this index (a document which it entitled "Final Decision on [withheld] or Redact Docs_Expanded Index...") effectively amended its final response to the FOIA request. Since the Department received your appeal letter within 30 workdays from the date of the FWS's amended final response, the Department determined to accept this matter for processing as an appeal.

The FOIA requires an agency to make a determination on an appeal within 20 workdays after the receipt of such appeal. *5 U.S.C. § 552(a)(6)(A)(ii)*. Since the Department has not made a determination on your appeal within this time limit, you may seek judicial review under *5 U.S.C.*

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§ 552(a)(4)(B). However, we hope that you will delay filing a lawsuit so that the Department can thoroughly review the issues in your appeal and make a determination. As I mentioned to Ms. Jordan today, the Department anticipates completing its decision on the appeal within the next two to three weeks.

If you have any questions regarding this matter, please call me at (202) 208-5339.

Sincerely,



Darrell R. Strayhorn
FOIA & Privacy Act Appeals Officer
Department of the Interior