



917 SW Oak St.
Suite 417
Portland, OR
97205

Tel:
503.525.2724

Fax:
503 296.5454

Web:
www.crag.org

Maura C. Fahey
Associate Attorney
maura@crag.org

August 31, 2015

FOIA Appeals Officer
Department of the Interior
Office of the Solicitor
1849 C Street, NW, MS 6556
Washington, DC 20240
FOIA.Appeals@sol.doi.gov

Via Electronic Mail

RE: Freedom of Information Act Appeal — Request FWS-2015-00893

FOIA Appeals Officer:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, on May 7, 2015, this office requested records from the U.S. Fish and Wildlife Service (“FWS”) on behalf of Oregon Wild, WaterWatch of Oregon, and Audubon Society of Portland (collectively “Oregon Wild”) regarding the delivery of water to the Lower Klamath National Wildlife Refuge and the Tule Lake National Wildlife Refuge (“NWRs”).

Oregon Wild submitted a FOIA request (Exhibit A) for information regarding negotiations or discussions regarding the delivery of water to the Lower Klamath and Tule Lake NWRs pursuant to the Reclamation Act, 43 U.S.C. § 371 *et seq.*, the Warren Act, 43 U.S.C. § 523 *et seq.*, and/or the Oregon Water Resources Department’s Klamath River Basin Adjudication. In a May 8, 2015 letter, FWS acknowledged that request and assigned it the identification number “FWS-2015-00893.” (Exhibit B).

Pursuant to 43 CFR § 2.57(a)(1), Oregon Wild hereby appeals the FWS’s partial denial of FOIA request FWS-2015-00893 (hereinafter “Oregon Wild’s FOIA request”). On August 14, 2015, FWS sent a letter (Exhibit D) withholding or redacting several documents responsive to Oregon Wild’s FOIA request on the basis of 5 U.S.C. § 552(b)(5) (hereinafter “Exemption 5”) for Attorney-Client and Deliberative Process Privilege.¹ FWS has failed to adequately establish that Exemption 5 applies to the documents withheld. The specific bases for Oregon Wild’s appeal are set forth below.

FWS’s application of Exemption 5 violates the “presumption in favor of disclosure.” *Presidential Memorandum for Heads of Executive Departments and*

¹ Oregon Wild does not appeal FWS’s redaction of records pursuant to 5 U.S.C. § 552(b)(6) (“Exemption 6”) for personal privacy.

Oregon Wild FOIA Appeal – FWS-2015-00893
August 31, 2015

Agencies Concerning the Freedom of Information Act, 74 Fed. Reg. 4638 (Jan. 21, 2009). As a rule, agencies should disclose exempt records unless it is reasonably foreseeable that disclosures would 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/ag/foia-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.” *Id.* at 1. 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. 4683.

FWS’s response to Oregon Wild’s FOIA request recites the general interests protected by Exemption 5’s “deliberative process” and “attorney-client” privileges, but FWS fails to explain how each of the withheld or redacted documents fit within the exemption. FWS illegally withheld or redacted records as described in detail below.

I. Deliberative Process Privilege

The deliberative process privilege requires three elements. First, the record must document a communication between or among agency employees. 5 U.S.C. § 552(b)(5). Second, that communication must be *deliberative*; “a direct part of the deliberative process” “that makes recommendations or expresses opinions on legal or policy matters.” *Vaughn v. Rosen*, 523 F.2d 1136, 1143-44 (D.C. Cir. 1975). Third, the record must be *pre-decisional*; it must have been created while the agency was deliberating its decision. *Jordan v. U.S. Dept. of Justice*, 591 F.2d 753, 744 (D.C. Cir. 1978) (*en banc*). “Material which predates a decision chronologically, but did not contribute to that decision, is not predecisional in any meaningful sense.” *Carter v. U.S. DOC*, 307 F.3d 1084, 1089 (9th Cir. 2002). To overcome FOIA’s strong presumption in favor of disclosure and meet its burden to withhold documents under the deliberative process privilege, FWS must explain the “specific decision to which [each redacted] document is predecisional.” *Maricopa Audubon Soc’y v. U.S. Forest Service*, 108 F.3d 1089, 1094 (9th Cir. 1997). Deliberation on an actual decision or policy is a condition precedent for the application of the deliberative process privilege. *Senate of the Commonwealth of Puerto Rico v. U.S. DOJ*, 823 F.2d 574, 585 (D.C. Cir. 1987).

FWS’s response to Oregon Wild’s FOIA request indicated that three records were redacted and four records (totaling 15 pages) were withheld in full pursuant to the deliberative process privilege. Specifically, documents beginning with the date stamps 20130809_1244att; 20131121_1113; and 20131204_0843 contain redactions for deliberative process. Document “20130809_1244att” contains a summary of certain reports and documents regarding Bureau of Reclamation and FWS management of the Klamath Project’s Modoc Unit. The redacted portions appear to be summaries of factual information contained within the referenced reports; it is unclear how this document is deliberative to any specific legal or policy decision by FWS. Similarly, document 20131121_1113 contains redactions to a document providing background and factual information on Lower Klamath NWR water rights. Document 20131204_0843 is an email conversation between FWS staff discussing a meeting with the Bureau of Reclamation regarding refuge water rights. There are large block redactions to sections that are presented as discussing “recent information as background and current refuge perspective.” First, it is unclear

Oregon Wild FOIA Appeal – FWS-2015-00893
August 31, 2015

whether these documents are properly brought under the deliberative process privilege, as it does not appear that the communications are deliberative to any specific decision. Second, FWS has an obligation to segregate those portions of records that are merely factual and do not represent the recommendations or opinions of FWS staff on legal or policy matters.

For the records withheld in full, FWS has not provided any explanation of what those documents contain or how the communications fit within the deliberative process privilege of Exemption 5. Moreover, FWS must produce “any reasonably segregable portion” of the requested records. 5 U.S.C. § 552(b). “[S]uch segregation must be effected at a sentence-by-sentence level of granularity.” *Columbia Riverkeeper v. U.S. Army Corps of Eng’rs*, 38 F. Supp. 3d 1207, 1218 (D. Or. 2014). It appears that FWS has not taken any effort to segregate any non-privileged information from the 15 pages of documents withheld in full. This requirement also applies to the redacted portions of the released documents discussed above. FWS must establish how the withheld records fit within the deliberative process privilege or release those documents and portions of documents unlawfully withheld.

II. Attorney-Client Privilege

“The attorney-client privilege protects confidential disclosures made by a client to an attorney in order to obtain legal advice, as well as an attorney’s advice in response to such disclosures.” *United States v. Ruehle*, 583 F.3d 600, 607 (9th Cir. 2009) (internal ellipsis omitted) (quotation omitted). “The fact that a person is a lawyer does not make all communications with that person privileged.” *Id.* Merely including an attorney in a list of email recipients, or “cc-ing” or forwarding an email to an attorney, is insufficient to demonstrate that the communication was made for the purposes of securing legal advice. *See United States v. Chevron Texaco Corp.*, 241 F. Supp. 2d 1065, 1075 (N.D. Cal. 2002) (“The mere fact that outside counsel was copied with the e-mail will not shield communications not made for the purpose of securing legal advice * * * .”).

FWS stated in its response to Oregon Wild’s FOIA request that it had redacted one record and withheld in full seven records (totaling 31 pages) under the attorney-client privilege of Exemption 5. The single redacted record consists of a historical summary of the Klamath Project relative to irrigation on Lower Klamath NWR. Doc. 20130930_1144att. The redactions include tracked comments and edits to the document by a user identified as “TM.” Oregon Wild understands that identifier to refer to Tim Mayer, FWS Supervisory Hydrologist. Mr. Mayer is not an attorney and there is no indication that the redacted comments were made by or at the direction of an attorney. Thus, the redacted record does not appear to be properly withheld under the attorney-client privilege of Exemption 5. FWS must disclose those redacted portions of document 20130903_1144att.

As for the 31 pages of records withheld in full as attorney-client privileged FWS has not provided any description of what those documents contain or an explanation as to why they are subject to Exemption 5. FWS bears the burden of demonstrating that the withheld records meet each element of the attorney client privilege. *See Ruehle*, 583 F.3d at 607 (stating eight-part test for determining whether information is covered by attorney-client privilege). FWS must explain

Oregon Wild FOIA Appeal – FWS-2015-00893
August 31, 2015

how the withheld records fit within the attorney-client privilege of Exemption 5 and must produce those portions that are “reasonably segregable.” 5 U.S.C. § 552(b).

Conclusion

For the reasons stated above, Oregon Wild appeals FWS’s decision to withhold or redact certain responsive documents to Oregon Wild’s FOIA request. If FWS does not respond to this appeal within 20 working days, Oregon Wild will deem the appeal denied and may file suit in federal district court to compel FWS’s compliance with the FOIA. *See* 43 CFR § 2.62(c)(2).

Sincerely,



Maura C. Fahey
Crag Law Center
917 SW Oak, Ste 417
Portland, OR 97205
maura@crag.org
(503) 525-2722

Attorney for Oregon Wild, Audubon Society of Portland
and WaterWatch of Oregon

Enclosures- 4



Maura C. Fahey
Associate Attorney
maura@crag.org

May 7, 2015

VIA ELECTRONIC MAIL – david_lawand@fws.gov

David Lawand
U.S. Fish and Wildlife Service
Pacific Southwest Region
2800 Cottage Way, Room W-2605
Sacramento, CA 95825

917 SW Oak St.
Suite 417
Portland, OR
97205

Tel:
503.525.2724

Fax:
503 296.5454

Web:
www.crag.org

Re: Freedom of Information Act Request

Dear Mr. Lawand,

This is a request under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 *et seq.*, as amended, for records related to the delivery of water to the Tule Lake National Wildlife Refuge and/or Lower Klamath National Wildlife Refuges (“the NWRs”).

I am making this request on behalf of Oregon Wild, Audubon Society of Portland, and WaterWatch of Oregon (collectively “Oregon Wild”). Each of these non-profit public interest organizations are committed to protecting and preserving the lands, water, and wildlife habitat within the Klamath Basin, including the Klamath National Wildlife Refuge Complex. Pursuant to FOIA, please send me copies of all requested records related to any negotiations, discussion, or planning regarding the delivery of water to the NWRs from March 7, 2013 through the date of your response.

Specifically, this letter requests information relating to any discussion among and between the U.S Fish and Wildlife Service (“FWS”) and the Bureau of Reclamation (“BOR”) regarding the delivery of water to the NWRs pursuant to the Reclamation Act, 43 U.S.C. § 371 *et seq.*, the Warren Act, 43 U.S.C. § 523 *et seq.*, and/or the Oregon Water Resources Department’s Klamath River Basin Adjudication. This request seeks the following: (1) internal FWS correspondence regarding water delivery or denial of water delivery to the NWRs; (2) internal correspondence regarding any contracts with the BOR for delivery of water to the NWRs; (3) any draft documents or contracts relating to the delivery of water to the NWRs; (4) any notes, minutes, agendas, or other documents relating to negotiations or discussions between FWS and BOR regarding a contract for the delivery of water to the NWRs; and (5) any and all documents relied upon by FWS in negotiating with BOR for a contract to deliver water to the NWRs; and (6) any and all documents relied upon by BOR and/or FWS to justify delivery of water to leaseland program lands located on the NWRs.

Scope

If FWS believes that the responsive documents are readily available online, please list the document title in your response so that Oregon Wild can confirm that it does in fact have, or have access to, the document. In the event that FWS denied access to any of the records, please note that FOIA provides that if only portions of a file are exempted from release, the remainder of the file must still be released. Oregon Wild therefore requests that FWS provide it with all non-exempt portions of its request that are reasonably segregated from exempt portions. Oregon Wild further requests that you describe any deleted material in detail and specify the basis and justification for the denial.

Timing

Under FOIA, the agency must make a determination on this request within 20 working days. 5 U.S.C. § 552(a)(6)(A)(i). A determination is a statement of whether the agency will comply with the request, its reasons for complying or not complying with the request, and the requester's right to appeal an adverse decision.

Format

Oregon Wild requests that FWS provide copies of the requested records pursuant to 5 U.S.C. § 552(a)(2)(D). Where appropriate and possible, please provide electronic documents in .pdf, .txt, .doc, .docx, .rtf, .xls, or .xlsx form.

Fees

Oregon Wild requests that you waive any applicable fees related to this request including document search and duplication costs. The requested material is in the "public interest" and will contribute to "public understanding of the operations or activities of the government." 5 U.S.C. § 552(a)(4)(A)(iii). Oregon Wild, Audubon Society of Portland, and WaterWatch of Oregon are non-profit organizations, and they do not have a commercial interest in the requested information. *Id.* In the event that you decide not to waive fees, please contact me BEFORE incurring any costs in response to this FOIA request.

The requested documents are related to the management of the Klamath Basin National Wildlife Refuge Complex and the availability and delivery of water to Tule Lake NWR and Lower Klamath NWR. The requested information will allow Oregon Wild to better understand the status of the water rights FWS holds for the Tule Lake NWR and Lower Klamath NWR and any plans to make that water available for refuge use. This information will help the organizations understand the process for FWS to secure water delivery to the refuge lands and any current efforts to do so. The release of the requested information will benefit the public, which is concerned with the viability of the Klamath NRW Complex and the water shortages faced by the Tule Lake and Lower Klamath refuges in years past and in the coming years. Oregon Wild, Audubon Society of Portland, and WaterWatch have been following the management of the Klamath NWR Complex and water rights and water shortage issues in the

Klamath Basin generally for many years and will disseminate the information in the response to other public interest organizations and conservation groups that have an interest in the Klamath NWR Complex. The organizations' interest in requesting these documents is to further their respective missions of preserving and protecting Oregon's land, water and wildlife habitat, and to educate their members, other stakeholder organizations, and the general public.

If you have any questions regarding this request, please do not hesitate to contact me at the email address or phone number listed below. Thank you for your time and consideration.

Sincerely,



Maura C. Fahey
Crag Law Center
917 SW Oak Street, Suite 417
Portland, OR 97205
maura@crag.org
Tel: (503) 525-2722

Attorney for Oregon Wild, Audubon Society
of Portland, and WaterWatch of Oregon



United States Department of the Interior



FISH AND WILDLIFE SERVICE

911 NE 11th Avenue
Portland, Oregon 97232-4181

In Reply Refer to:
ABA-CGS-FOIA
FWS-2015-00893

May 8, 2015

Sent by Email

Ms. Maura C. Fahey
Crag Law Center
917 SW Oak Street, Suite 417
Portland, Oregon 97205

Dear Ms. Fahey:

This letter acknowledges receipt of your Freedom of Information Act (FOIA) request dated May 7, 2015, regarding the following:

“Specifically, this letter requests information relating to any discussion among and between the U.S Fish and Wildlife Service (“FWS”) and the Bureau of Reclamation (“BOR”) regarding the delivery of water to the NWRs pursuant to the Reclamation Act, 43 U.S.C. § 371 *et seq.*, the Warren Act, 43 U.S.C. § 523 *et seq.*, and/or the Oregon Water Resources Department’s Klamath River Basin Adjudication. This request seeks the following: (1) internal FWS correspondence regarding water delivery or denial of water delivery to the NWRs; (2) internal correspondence regarding any contracts with the BOR for delivery of water to the NWRs; (3) any draft documents or contracts relating to the delivery of water to the NWRs; (4) any notes, minutes, agendas, or other documents relating to negotiations or discussions between FWS and BOR regarding a contract for the delivery of water to the NWRs; and (5) any and all documents relied upon by FWS in negotiating with BOR for a contract to deliver water to the NWRs; and (6) any and all documents relied upon by BOR and/or FWS to justify delivery of water to leaseland program lands located on the NWRs.”

Your FOIA request was received by me from our Ecological Services field office in Sacramento, California, on May 8, 2015, and was placed in the Department of the Interior (DOI) FOIA Tracking System under reference number FWS-2015-00893. Please refer to this number in your communications regarding your request.

It is understood that you submitted this request on behalf of Oregon Wild, Audubon Society of Portland, and WaterWatch of Oregon. Your fee category is understood to be “other,” based upon the information you have provided. You requested a fee waiver. Your request contained sufficient information for granting of the fee waiver (43 CFR 2.45).

This request has been placed in the “Complex” track, for which up to 60 work days may be



Ms. Maura C. Fahey

Page 2

May 8, 2015

required for processing, consistent with Department of the Interior FOIA regulations (43 CFR 2.15). This incorporates a 10 work day extension from the statutory 20 work days, due to the need to search for and collect requested records from field facilities or other establishments that are separate from the office processing the request, consistent with DOI FOIA regulations (43 CFR 2.19). Your request could be placed in a faster processing track with a narrower scope. The FOIA Liaison for the U.S. Fish and Wildlife Service is Ms. Melissa Allen in our Headquarters Office. She may be a resource to you in reducing the scope of your request, and may be contacted via email at melissa_allen@fws.gov. Alternatively, subject matter experts may assist you, and may be contacted through me.

If you have any questions on your FOIA request, please contact me at larry_buklis@fws.gov or by telephone at 503-231-2072.

Sincerely,

Larry Buklis

Digitally signed by Larry Buklis
DN: cn=Larry Buklis, o=Department of the
Interior, ou=U.S. Fish and Wildlife Service,
email=larry_buklis@fws.gov, c=US
Date: 2015.05.08 14:01:47 -0700

Larry Buklis
Pacific Regions FOIA Coordinator

From: Buklis, Larry larry_buklis@fws.gov
Subject: Re: Acknowledgement of Your FOIA Request (FWS-2015-00893)
Date: August 11, 2015 at 3:33 PM
To: Maura Fahey maura@crag.org

Hi Ms. Fahey,

We are in the final review stage on FOIA request FWS-2015-00893. I anticipate final response with records within a matter of a few days. Thank you for your patience.

Larry

Larry Buklis
Pacific Regions FOIA Coordinator
U.S. Fish and Wildlife Service
911 NE 11th Avenue
Portland, Oregon 97232
Phone (503) 231-2072

On Tue, Aug 11, 2015 at 2:49 PM, Maura Fahey <maura@crag.org> wrote:

Good Afternoon Mr. Buklis,

I am writing to check on the status of my FOIA request (FWS-2015-00893). My understanding is that the 60 workday timeline for a response ended on August 4th. Please let me know whether, and when, I can expect a response to my request.

Regards,
Maura

--

Maura Fahey
Associate Attorney
[Crag Law Center](#)
917 SW Oak, Suite 417
Portland, OR 97205
Office: 503.525.2722
Fax: 503.296.5454
Email: maura@crag.org

Protecting and sustaining the Pacific Northwest's natural legacy.

On May 8, 2015, at 2:08 PM, Buklis, Larry <larry_buklis@fws.gov> wrote:

Hi Ms. Fahey,

Attached is our acknowledgement letter for your FOIA request (FWS-2015-00893) concerning Klamath NWR water issues. Thank you!

Larry

Larry Buklis
Pacific Regions FOIA Coordinator
U.S. Fish and Wildlife Service
911 NE 11th Avenue
Portland, Oregon 97232
Phone (503) 231-2072
<050815 Fahey Acknowledge.pdf>



United States Department of the Interior

FISH AND WILDLIFE SERVICE

911 NE 11th Avenue

Portland, Oregon 97232-4181



In Reply Refer to:
ABA-CGS-FOIA
FWS-2015-00893

August 14, 2015

Ms. Maura C. Fahey
Crag Law Center
917 SW Oak Street, Suite 417
Portland, Oregon 97205

Dear Ms. Fahey:

This letter completes our response to your Freedom of Information Act (FOIA) request dated May 7, 2015, regarding the following:

“Specifically, this letter requests information relating to any discussion among and between the U.S Fish and Wildlife Service (“FWS”) and the Bureau of Reclamation (“BOR”) regarding the delivery of water to the NWRs pursuant to the Reclamation Act, 43 U.S.C. § 371 *et seq*, the Warren Act, 43 U.S.C. § 523 *et seq*, and/or the Oregon Water Resources Department’s Klamath River Basin Adjudication. This request seeks the following: (1) internal FWS correspondence regarding water delivery or denial of water delivery to the NWRs; (2) internal correspondence regarding any contracts with the BOR for delivery of water to the NWRs; (3) any draft documents or contracts relating to the delivery of water to the NWRs; (4) any notes, minutes, agendas, or other documents relating to negotiations or discussions between FWS and BOR regarding a contract for the delivery of water to the NWRs; and (5) any and all documents relied upon by FWS in negotiating with BOR for a contract to deliver water to the NWRs; and (6) any and all documents relied upon by BOR and/or FWS to justify delivery of water to leaseland program lands located on the NWRs.”

Your FOIA request was received by me from our Ecological Services field office in Sacramento, California, on May 8, 2015, and was placed in the Department of the Interior (DOI) FOIA Tracking System under reference number FWS-2015-00893. Please refer to this number in your communications regarding your request.

It is understood that you submitted this request on behalf of Oregon Wild, Audubon Society of Portland, and WaterWatch of Oregon. Your fee category is understood to be “other,” based upon the information you have provided. You requested a fee waiver. In my letter to you dated May 8, 2015, I had informed you that your request contained sufficient information for granting of the fee waiver (43 CFR 2.45).

A thorough record search was conducted and 48 records responsive to your request were located. Some email messages retain embedded attachment files, and those were not counted separately in this accounting of records. Of the 48 responsive records, 14 records are being released to you in full on the enclosed CD; no portions of those records have been withheld. Twelve (12) records are being released to you on the enclosed CD with redactions due to FOIA Exemption 5 Attorney-Client Communication (1 record), Exemption 5 Deliberative Process (2 records), Exemption 6 Personal Privacy (8 records), or both Exemption 5 Deliberative Process and Exemption 6 Personal Privacy (1 record). The applicable exemptions are noted in the records at the points of redaction. It should also be noted that two of the records accounted for above as redacted due to Exemption 6 Personal Privacy also include redactions for referral to the U.S. Bureau of Reclamation. Thirteen (13) records are being referred to the U.S. Department of the Interior, Bureau of Reclamation, in accordance with Department of the Interior FOIA regulations (43 CFR 2.13), for release determination and direct response to you, as those records include aspects originating with or involving that agency. This includes the two records noted as released to you with redaction due to referral. Contact information, should you want to inquire about the status of this referral, is as follows: Mr. Christopher S. Miller, Regional FOIA Officer, Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825; Telephone (916)-978-5554. Eleven (11) records totaling 46 pages are being withheld in full due to FOIA Exemption 5 Attorney-Client Communication (7 records totaling 31 pages consisting of four email communications and three attachment files) or FOIA Exemption 5 Deliberative Process (4 records totaling 15 pages consisting of two email communications and two attachment files).

FOIA Exemption 5, Attorney-Client Communication privilege, is intended to protect communication of confidential legal advice between an agency attorney and their client, relating to a legal matter for which the client has sought professional advice. The client agency's solicitation of this legal advice is also protected. Releasing the material would harm the confidentiality required for attorney-client consultation.

FOIA Exemption 5, Deliberative Process privilege, is intended to protect the quality of the agency's decision-making process, that is, to encourage candid and frank discussions among agency officials, to protect against premature disclosure of proposed policies before they are finally adopted, and to avoid public confusion that might be caused by disclosing reasons and rationales that were not ultimately the basis for an agency's action. Release could cause agency decision makers and their attorneys to be less candid about conducting frank and open reviews of deliberative material.

FOIA Exemption 6, Personal Privacy protects the personal email address of an individual. Exemption 6 under the FOIA requires a balancing of the public interest in information with the individual's right to privacy. We find that in this circumstance the withheld material was exempted from disclosure.

We reviewed candidate documents line by line to determine the appropriate exempt information.

The exemption decisions were made in consultation with Ms. Veronica Rowan, Assistant Regional Solicitor, Office of the Solicitor, Pacific Southwest Region, Department of the Interior, in Sacramento, California. You have a right to treat this as a denial of your request, and may

appeal this matter to the FOIA Appeals Officer. The FOIA Appeals Officer must receive your FOIA appeal no later than 30 workdays from the date of this final letter responding to your FOIA request. Appeals arriving or delivered after 5 p.m. E.T., Monday through Friday, will be deemed received on the next workday. Your appeal must be in writing and addressed to:

Freedom of Information Act Appeals Officer
Department of the Interior
Office of the Solicitor
1849 C Street, NW, MS 6556
Washington, DC 20240

Or may be filed by email to: FOIA.Appeals@sol.doi.gov

You must include with your appeal copies of all correspondence between you and the bureau concerning your FOIA request, including a copy of your original FOIA request and this final response letter. Failure to include this documentation with your appeal will result in the Department's rejection of your appeal. The appeal should be marked, both on the envelope and the face of the letter, with the legend, "FREEDOM OF INFORMATION APPEAL." Your letter should include in as much detail as possible any reason(s) why you believe the bureau's response is in error.

As part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. You may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
Room 2510
8601 Adelphi Road
College Park, MD 20740-6001
E-mail: ogis@nara.gov
Telephone: 301-837-1996
Facsimile: 301-837-0348
Toll-free: 1-877-684-6448

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. § 552(c) (2006 & Supp. IV (2010)). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

Ms. Maura C. Fahey

Page 4

August 14, 2015

If you have any questions on your FOIA request, please contact me at larry_buklis@fws.gov or by telephone at 503-231-2072.

Sincerely,

A handwritten signature in blue ink that reads "Larry Buklis". The signature is written in a cursive style with a large initial "L" and "B".

Larry Buklis
Pacific Regions FOIA Coordinator

Enclosure (1 CD)