

Exhibit 1



1875 Eye Street NW, Suite 800, Washington, DC 20006

August 10, 2016

VIA E-MAIL

Mr. Ryan Witt
FOIA Officer
Bureau of Land Management
U.S. Department of the Interior
1849 C Street NW, Rm 2134LM
Washington, DC 20240
BLM_WO_FOIA@blm.gov

Re: Freedom of Information Act Request

Dear Mr. Witt:

I write on behalf of Cause of Action Institute (“CoA Institute”), a nonprofit strategic oversight group committed to ensuring that government decision-making is open, honest, and fair.¹ In carrying out its mission, CoA Institute uses various investigative and legal tools to educate the public about the importance of government transparency and accountability.

One of CoA Institute’s guiding principles is that Americans should have the right to know how the government spends their money. To that end, CoA Institute is interested in records related to the Bureau of Land Management’s (“BLM”) acquisition of land. Pursuant to the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), CoA Institute hereby requests access to the following records from the time period of January 1, 2009 to the present:²

1. All contracts or agreements for the acquisition of land by the BLM;

¹ See CAUSE OF ACTION INSTITUTE, *About*, www.causeofaction.org/about/.

² For purposes of this request, the term “present” should be construed as the date on which the agency begins its search for responsive records. See *Pub. Citizen v. Dep’t of State*, 276 F.3d 634 (D.C. Cir. 2002). The term “record” means the entirety of the record any portion of which contains responsive information. See *Am. Immigration Lawyers Ass’n v. Exec. Office for Immigration Review*, No. 15-5201, 2016 WL 4056405, at *7-9 (D.C. Cir. July 29, 2016) (admonishing agency for withholding information as “non-responsive” because “nothing in the statute suggests that the agency may parse a responsive record to redact specific information within it even if none of the statutory exemptions shields that information from disclosure”).

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2. All appraisals of land acquired by the BLM, including appraisals conducted by the Office of Valuation Services or by a third-party appraiser;
3. All letters of intent to purchase land, memoranda of understanding, or other agreements between the BLM and any prospective seller; and
4. All communications sent within, to, or from the BLM concerning the BLM's acquisition of land in Arizona, Nevada, or New Mexico.

Request for a Public Interest Fee Waiver

CoA Institute requests a waiver of any and all applicable fees. FOIA and applicable regulations provide that the agency shall furnish requested records without or at reduced charge 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.”³

In this case, the requested records would shed light on the “operations or activities of the government,” namely, the Bureau of Land Management's expenditure of funds to acquire additional public lands. The BLM acquires land from time to time, often in order to conserve tracts of land or to offer the public access to recreational or historical spaces. The ownership and acquisition of these properties are often of interest to the public.⁴ Moreover, disclosure would “contribute significantly” to public understanding of how, when, and from whom the BLM acquires land because the details of these transactions are not publicly available. Though general information about some purchases is announced publicly, access to the requested information would provide a much more thorough understanding of the BLM's acquisition activities.

CoA Institute has both the intent and ability to make the results of this request available to a reasonably broad public audience through various media. CoA Institute's staff has a wealth of experience and expertise in government oversight, investigative reporting, and federal public interest litigation. These professionals will analyze the information responsive to this request, use their editorial skills to turn raw materials into a distinct work, and share the resulting analysis with the public, whether through CoA Institute's regularly published online newsletter,

³ 5 U.S.C. § 552(a)(4)(A)(iii); 43 C.F.R. § 2.45(a); *see also Cause of Action v. Fed. Trade Comm'n*, 799 F.3d 1108, 1115-19 (D.C. Cir. 2015) (discussing proper application of public-interest fee waiver test).

⁴ *See, e.g., Zane Grey's Cabin Added to Historic Places Registry*, ASSOCIATED PRESS, July 28, 2016, available at <http://www.mailtribune.com/article/20160728/NEWS/160729624> (“The U.S. Bureau of Land Management, which announced the registry placement Thursday, bought the cabin in 2008 to help preserve it.”); *Feds Buy 2 Parcels to Add to Agua Fria National Monument*, ASSOCIATED PRESS, Apr. 19, 2015, available at <http://www.abc15.com/news/region-northern-az/prescott/feds-buy-2-parcels-to-add-to-agua-fria-national-monument>; Quoctrung Bui & Margot Sanger-Katz, *Why the Government Owns so Much Land in the West*, N.Y. TIMES, Jan. 5, 2016, <http://www.nytimes.com/2016/01/06/upshot/why-the-government-owns-so-much-land-in-the-west.html>.

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memoranda, reports, or press releases.⁵ In addition, as CoA Institute is a non-profit organization as defined under Section 501(c)(3) of the Internal Revenue Code, it has no commercial interest in making this request.

Request to be Classified as a Representative of the News Media

For fee status purposes, CoA Institute also qualifies as a “representative of the news media” under FOIA.⁶ As the D.C. Circuit has held, the “representative of the news media” test is properly focused on the requestor, not the specific FOIA request at issue.⁷ CoA Institute satisfies this test because it gathers information of potential interest to a segment of the public, uses its editorial skills to turn raw materials into a distinct work, and distributes that work to an audience. Although it is not required by the statute, CoA Institute gathers the news it regularly publishes from a variety of sources, including FOIA requests, whistleblowers/insiders, and scholarly works. CoA Institute does not merely make raw information available to the public, but rather distributes distinct work products, including articles, blog posts, investigative reports, newsletters, and Congressional testimony and statements for the record.⁸ These distinct works are distributed to the public through various media, including CoA Institute’s website, Twitter, and Facebook. CoA Institute also provides news updates to subscribers via e-mail.

The statutory definition of a “representative of the news media” unequivocally contemplates that organizations such as CoA Institute, which electronically disseminate information and publications via “alternative media[,] shall be considered to be news-media entities.”⁹ In light of the foregoing, numerous federal agencies – including the Department of the Interior – have appropriately recognized CoA Institute’s news media status in connection with its FOIA requests.¹⁰

⁵ See also *Cause of Action*, 799 F.3d at 1125-26 (holding that public interest advocacy organizations may partner with others to disseminate their work).

⁶ 5 U.S.C. § 552(a)(4)(A)(ii)(II); 43 C.F.R. § 2.70.

⁷ See *Cause of Action*, 799 F.3d at 1121.

⁸ See, e.g., *Cause of Action Testifies Before Congress on Questionable White House Detail Program*, CAUSE OF ACTION (May 19, 2015), available at <http://goo.gl/Byditl>; *CAUSE OF ACTION, 2015 GRADING THE GOVERNMENT REPORT CARD* (Mar. 16, 2015), available at <http://goo.gl/MqObwV>; *Cause of Action Launches Online Resource: ExecutiveBranchEarmarks.com*, CAUSE OF ACTION (Sept. 8, 2014), available at <http://goo.gl/935qAi>; *CAUSE OF ACTION, GRADING THE GOVERNMENT: HOW THE WHITE HOUSE TARGETS DOCUMENT REQUESTERS* (Mar. 18, 2014), available at <http://goo.gl/BiaEaH>; *CAUSE OF ACTION, GREENTECH AUTOMOTIVE: A VENTURE CAPITALIZED BY CRONYISM* (Sept. 23, 2013), available at <http://goo.gl/N0xSvs>; *CAUSE OF ACTION, POLITICAL PROFITEERING: HOW FOREST CITY ENTERPRISES MAKES PRIVATE PROFITS AT THE EXPENSE OF AMERICAN TAXPAYERS PART I* (Aug. 2, 2013), available at <http://goo.gl/GpP1wR>.

⁹ 5 U.S.C. § 552(a)(4)(A)(ii)(II).

¹⁰ See, e.g., FOIA Request 2015-HQFO-00691, Dep’t of Homeland Sec. (Sept. 22, 2015); FOIA Request F-2015-12930, Dept. of State (Sept. 2, 2015); FOIA Request 14-401-F, Dep’t of Educ. (Aug. 13, 2015); FOIA Request HQ-2015-01689-F, Dep’t of Energy (Aug. 7, 2015); FOIA Request 2015-OSEC-04996-F, Dep’t of Agric. (Aug. 6, 2015); FOIA Request OS-2015-00419, Dep’t of Interior (Aug. 3, 2015); FOIA Request 780831, Dep’t of Labor (Jul 23, 2015); FOIA Request 15-05002, Sec. & Exch. Comm’n (July 23, 2015); FOIA Request 145-FOI-13785, Dep’t of Justice (Jun. 16, 2015); FOIA Request 15-00326-F, Dep’t of Educ. (Apr. 08,

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Record Preservation Requirement

CoA Institute requests that the disclosure officer responsible for the processing of this request issue an immediate hold on all records responsive, or potentially responsive, to this request, so as to prevent their disposal until such time as a final determination has been issued on the request and any administrative remedies for appeal have been exhausted. It is unlawful for an agency to destroy or dispose of any record subject to a FOIA request.¹¹

Record Production and Contact Information

In an effort to facilitate document review, please provide the responsive documents in electronic form in lieu of a paper production. If a certain portion of responsive records can be produced more readily, CoA Institute requests that those records be produced first and the remaining records be produced on a rolling basis as circumstances permit.

If you have any questions about this request, please contact me by telephone at (202) 499-4232 or by e-mail at jessica.conrad@causeofaction.org. Thank you for your attention to this matter.

Sincerely,



Jessica M. Conrad
Counsel

2015); FOIA Request 2015-26, Fed. Energy Regulatory Comm'n (Feb. 13, 2015); FOIA Request HQ-2015-00248, Dep't of Energy (Nat'l Headquarters) (Dec. 15, 2014); FOIA Request F-2015-106, Fed. Commc'n Comm'n (Dec. 12, 2014); FOIA Request HQ-2015-00245-F, Dep't of Energy (Dec. 4, 2014); FOIA Request F-2014-21360, Dep't of State, (Dec. 3, 2014); FOIA Request LR-2015-0115, Nat'l Labor Relations Bd. (Dec. 1, 2014); FOIA Request 201500009F, Exp.-Imp. Bank (Nov. 21, 2014); FOIA Request 2015-OSEC-00771-F, Dep't of Agric. (OCIO) (Nov. 21, 2014); FOIA Request OS-2015-00068, Dep't of Interior (Office of Sec'y) (Nov. 20, 2014); FOIA Request CFPB-2015-049-F, Consumer Fin. Prot. Bureau (Nov. 19, 2014); FOIA Request GO-14-307, Dep't of Energy (Nat'l Renewable Energy Lab.) (Aug. 28, 2014); FOIA Request HQ-2014-01580-F, Dep't of Energy (Nat'l Headquarters) (Aug. 14, 2014); FOIA Request LR-20140441, Nat'l Labor Relations Bd. (June 4, 2014); FOIA Request 14-01095, Sec. & Exch. Comm'n (May 7, 2014); FOIA Request 2014-4QFO-00236, Dep't of Homeland Sec. (Jan. 8, 2014); FOIA Request DOC-OS-2014-000304, Dep't of Commerce (Dec. 30, 2013); FOIA Request 14F-036, Health Res. & Serv. Admin. (Dec. 6, 2013); FOIA Request 2013-073, Dep't of Homeland Sec. (Apr. 5, 2013); FOIA Request 2012-RMA-02563F, Dep't of Agric. (May 3, 2012); FOIA Request 2012-00270, Dep't of Interior (Feb. 17, 2012); FOIA Request 12-00455-F, Dep't of Educ. (Jan. 20, 2012).

¹¹ See 43 C.F.R. § 2.68(b) ("Materials that are identified as responsive to a FOIA request will not be disposed of or destroyed while the request or a related appeal or lawsuit is pending. This is true even if they would otherwise be authorized for disposition or destruction under the General Records Schedule 4.2 of NARA or another NARA-approved records schedule, such as DAA-0048-2013-0001."); 36 C.F.R. § 1230.3(b) ("Unlawful or accidental destruction (also called unauthorized destruction) means . . . disposal of a record subject to a FOIA request, litigation hold, or any other hold requirement to retain the records."); *Chambers v. Dep't of the Interior*, 568 F.3d 998, 1004-05 (D.C. Cir. 2009) ("[A]n agency is not shielded from liability if it intentionally transfers or destroys a document after it has been requested under the FOIA or the Privacy Act."); *Judicial Watch, Inc. v. Dep't of Commerce*, 34 F. Supp. 2d 28, 41-44 (D.D.C. 1998).