

Exhibit 3

September 24, 2018

Larry Lee
Information Specialist
U.S. Fish and Wildlife Service, Region 4
1875 Century Boulevard
Atlanta, GA 30345
larry_lee@fws.gov
foiar4@fws.gov

By e-mail

**Re: Clarification of FWS Verification Memorandum dated September 10, 2018
FOIA-FWS-2018-01131**

Dear Mr. Lee:

Thank you for circulating the verification memorandum signed by Assistant Regional Director Miranda and dated September 10, which attempts to capture the results of our phone call of August 23. After reviewing the verification memorandum, the listed categories for production/release do not appear to include some of the records we requested or discussed. Accordingly, we offer a few further clarifications.

With respect to request categories 1 and 2, we continue to seek all records in the custody of FWS Region 4 or its field offices containing instructions, guidance, or memoranda about the goals, criteria, or processes for listing decisions. This would include the work plans listed in the verification memorandum, but we were not comfortable excluding other responsive records before a search is made. We did agree to exclude emails related to work planning in this request, instead favoring a phased approach that would allow us to submit follow-up requests for emails if needed. We also agreed that these categories do not include records directly related to the Center for Biological Diversity's listing petition and the resulting settlement agreement.

In addition, we briefly discussed the option (but ultimately did not agree) to limit these categories to records received from the individuals listed in request category 6(b). On the call, FWS staff explained that there would be few, if any, such records. Furthermore, limiting the request to the individuals listed in category 6(b) would exclude records we are specifically requesting, such as instructions, guidance, or memoranda from the Headquarters office, or from regional leadership to regional and field staff. Such a limitation would also exclude instructions, guidance, or memoranda received through Greg Sheehan, who was described on our call as a possible "conduit" for instructions from political appointees. Therefore, as mentioned on the call,

an adequate search should include records in the custody of field staff, regional staff who coordinate the work planning process, and regional leadership with responsibility for status assessments, recovery work, and listing activities.

We continue to specifically request work plans created on or after January 20, 2017. The verification memorandum states only that work plans prior to January 20, 2017 will be provided. To the extent that earlier work plans are needed to show continuity or change in work flow, we are grateful that you are willing to provide them, but we continue to seek the more recent work plans as well. Thank you for your willingness to provide the Congressional budget language relevant to changes in work planning.

With respect to category 3, the verification memorandum incorrectly omits this category. We discussed this category, but we did not agree to amend or exclude it from the request. Instead, our recollection of the discussion is that the request as originally drafted was clear on its face and did not need to be modified.

With respect to category 4, the verification memorandum correctly includes our request for these records.

With respect to category 5, the verification memorandum incorrectly omits this category. On our call, we did not discuss eliminating or amending this category. As with the other categories, an adequate search for records in this category should extend to both field staff who might have received such requests and regional leadership who might have made such requests of them or through whom such requests might have been passed.

With respect to category 6(a), the verification memorandum incorrectly omits this category. As confirmed on the call, we are not seeking records of coordination between peers across geographical boundaries, but we are still seeking records forwarded to or reviewed by other persons outside of Region 4, such as in the Headquarters Office.

With respect to category 6(b), the verification memorandum's rewording of our request is likely to cause confusion. We are not seeking records "from" the listed individuals. If there are relevant instructions, guidance, or memoranda "from" those individuals, those records would be included in the broader request categories 1 and 2. In category 6, we are seeking records "forwarded to or reviewed by" those individuals, along with any responses or annotations from them.

Finally, with respect to the timeline for providing responsive records, we understand that FWS may toll the response up to 10 days in order to clarify a request. Given the number of people involved in clarifying this particular request, however, the actual time required here has been somewhat longer (from August 23rd to September 24th). We are amenable to tolling the response deadline for that entire period, and we will therefore anticipate production of responsive records by October 15, 2019.

Thank you again for your assistance with this request. Please contact me if you have further questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Sam Evans". The signature is fluid and cursive, with the first name "Sam" being more prominent than the last name "Evans".

Sam Evans
National Forests and Parks Program Leader
Southern Environmental Law Center
48 Patton Avenue, Suite 304
Asheville, NC 28801
(828) 258-2023
sevans@selcnc.org