



United States Department of the Interior  
BUREAU OF LAND MANAGEMENT  
Idaho State Office  
1387 South Vinnell Way  
Boise, Idaho 83709-1657



In Reply Refer To:  
1278 (FOIA No. WO-ID-2014-06)  
EFTS BLM-2014-00633

JUL 23 2014

Ms. Christina J. Munro, FOIA Officer  
Mail Stop DK-7  
Bonneville Power Administration  
Post Office Box 3621  
Portland, Oregon 97208-3621

RECEIVED BY BPA FOIA OFFICE THIS DATE: 7-28-14
DUE DATE:  8-25-14
LOG #  BPA-2014-01504-F

Dear FOIA Officer:

The Bureau of Land Management (BLM) Idaho State Office received a Freedom of Information Act (FOIA) request Ms. Sarah A. Peters, Program Attorney for WildEarth Guardians. In her request, she asks for all site-specific projects the BLM has approved within bull trout designated critical habitat and all associated decision documents, to include any that implement Inland Native Fish Strategy management direction. She also asks for bull trout specific biological opinions and assessments for the time period January 1, 2011, to June 13, 2014.

Among the records collected in response to this subject FOIA request, we have located one revised draft document (86 pages) that was prepared for Bonneville Power Administration as the lead agency. We are requesting that you review this document for release determination and respond directly to the requester. For your convenience, we have enclosed a compact disc (CD) containing the following:

1. Ms. Peters' FOIA request.
2. BLM's final response letter to Ms. Peters for FOIA WO-ID-2014-06.
3. A copy of *Kootenai River Habitat Restoration Project Phase 1, Braided Reach 1 Implementation – Draft Biological Assessment*, dated October 2010.

We have advised Ms. Peters that you will respond to her directly and have given her your contact information in the event she does not receive a release determination from you within 20 workdays. We also request that you provide the BLM with a copy of your response to Ms. Peters for our records. Our address is as follows:

Bureau of Land Management  
Idaho State Office FOIA Program Office  
Attention: Ms. Yadyra Esparza  
1387 South Vinnell Way  
Boise, Idaho 83709

REC'D JUL 28 2014

BPA, 906 NE 11<sup>th</sup> Ave.  
Portland, OR 97232

If you have questions concerning this letter, please contact me at (208) 373-3947 or by e-mail to [yesparza@blm.gov](mailto:yesparza@blm.gov).

Sincerely,

A handwritten signature in black ink that reads "Yadyra P. Esparza". The signature is written in a cursive style with a large initial "Y" and a long, sweeping underline.

Yadyra P. Esparza  
Bureau of Land Management  
Acting State FOIA Coordinator

Enclosure




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FREEDOM OF INFORMATION ACT REQUEST

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June 6, 2014

RECEIVED

BLM Idaho State Office  
 Gloria Van Noy  
[BLM\\_ID\\_FOIA@blm.gov](mailto:BLM_ID_FOIA@blm.gov)  
 1387 S. Vinnell Way  
 Boise, Idaho 83709

JUN 06 2014  
 BLM ISO  
 FOIA OFFICE

BLM Oregon State Office  
 Elizabeth Walls and Tamara Yingling  
[BLM\\_OR\\_SO\\_FOIA@blm.gov](mailto:BLM_OR_SO_FOIA@blm.gov)  
 P.O. Box 2965  
 Portland, OR 97208

BLM Montana State Office  
 Debbie DeBock  
[BLM\\_MT\\_FOIA@blm.gov](mailto:BLM_MT_FOIA@blm.gov)  
 5001 Southgate Drive  
 Billings, MT 59101

**RE: FOIA REQUEST for information on all projects approved in Bull Trout Critical Habitat since 2011**

Dear FOIA Officer:

This request is made pursuant to the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), and 7 C.F.R. § 1.5, on behalf of WildEarth Guardians (“Guardians”). Guardians is a non-profit, public interest, education, and conservation organization whose mission is to protect and restore wildlife, wild rivers, and wild places in the American West. Consistent with its mission, Guardians hereby requests copies of the following records<sup>1</sup> and documents<sup>2</sup> from the Bureau of Land Management (“BLM”):

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<sup>1</sup> As used herein, this request adopts the definition of “records” from the Federal Records Act, which includes “all books, papers, maps, photographs, machine readable materials, or other

- A list of all site-specific projects the Bureau of Land Management has approved within Bull Trout Critical designated critical habitat since 2011 and all associated decision documents for these projects (EA and Decision Notices and ROD and Environmental Impact Statements), including any that implement INFISH Management Direction (Interim Management Strategy for Anadromous Fish Producing Watersheds).
- All bull trout specific Biological Opinions and Assessments as produced for the BLM in the areas of Oregon, Idaho, Washington, and Montana since 2011.

Please tender responsive records in digital format whenever possible.

\* \* \*

Please identify and inform us of all responsive or potentially responsive records within the 20 working days as required by FOIA, 5 U.S.C. § 552(a)(6)(A)(i), and the basis of any claimed exemptions or privilege, including the specific responsive or potentially responsive records(s) to which such exemption or privilege may apply. *See Citizens for Responsibility and Ethics in Washington v. Federal Election Com'n*, 711 F.3d 180, 182-183 (D.C. Cir. 2013) (holding that the agency must identify the exemptions it will claim with respect to any withheld documents within the time frame prescribed by FOIA). The Supreme Court has stated that FOIA establishes a “strong presumption in favor of disclosure” of requested information, and that the burden is on the government to substantiate why information may not be released under FOIA’s limited exemptions. *Department of State v. Ray*, 502 U.S. 164, 173 (1991). Congress affirmed these tenets of FOIA in legislation as recently as December 2007, stating that government remains accessible to the American people and “is always based not upon the ‘need to know’ but upon the fundamental ‘right to know.’” Public Law 110-175, 121 Stat. 2524, 2525 (Dec. 31, 2007).

If your office takes the position that any portion of the requested records is exempt from disclosure, we request that you provide us with an index of those records as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), with sufficient specificity “to permit a reasoned judgment as to whether the material is actually exempt under FOIA.” *Founding Church of Scientology v. Bell*, 603 F.2d 945, 959 (D.C. Cir. 1979). A *Vaughn* index must (1) identify each document or portion of document withheld; (2) state the statutory exemption claimed; and (3) explain how disclosure of the document or portion of document would damage the interests protected by the claimed exemption. *See Citizens Comm’n on Human Rights v. FDA*, 45 F.3d 1325, 1326 n.1 (9th Cir. 1995). “The description and explanation the agency offers should

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documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business . . .” 44 U.S.C. § 3301.

<sup>2</sup> As used herein, “documents” refers to paper documents and/or electronically stored information, including writings, correspondence, emails, records of phone conversations, meeting minutes, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations, stored in any medium.

reveal as much detail as possible as to the nature of the document,” in order to provide “the requestor with a realistic opportunity to challenge the agency’s decision.” *Oglesby v. U.S. Dept. of Army*, 79 F.3d 1172, 1176 (D.C. Cir. 1996). Such explanation will be helpful in deciding whether to appeal a decision to withhold documents and may help to avoid unnecessary litigation.

In the event that some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable, non-exempt portions of the requested records. See 5 U.S.C. §552(b). If it is your position that a document contains non-exempt segments and that those non-exempt segments are so dispersed throughout the documents as to make segregation impossible, please state what portion of the document is non-exempt and how the material is dispersed through the document. See *Mead Data Central v. U.S. Department of the Air Force*, 455 F.2d 242, 261 (D.C. Cir. 1977). Claims of non-segregability must be made with the same detail as required for claims of exemption in a *Vaughn* index. If a request is denied in whole, please state specifically that it is not reasonable to segregate portions of the record for release.

FOIA requires federal agencies to make their records “promptly available” to any person who makes a proper request for them. 5 U.S.C. § 552(a)(3)(A) (as amended by OPEN Government Act of 2007, Pub. L. No. 110-175, 121 Stat. 2524).

#### **Presumption of Openness and “Foreseeable Harm” Standard**

On his first full day in office President Obama demonstrated his commitment to the ideals of transparency and openness by issuing a Memorandum to the heads of all Executive Branch Departments and agencies by calling on them to “renew their commitment to the principles embodied in FOIA.” See Presidential Memorandum for Heads of Executive Departments and Agencies Concerning the FOIA, 74 Fed. Reg. 4683 (Jan. 21, 2009). The President directed all agencies to administer the FOIA with a clear presumption in favor of disclosure, to resolve doubts in favor of openness, and to not withhold information based on “speculative or abstract fears.” *Id.* In addition, the President called on agencies to ensure that requests are responded to in “a spirit of cooperation,” that disclosures are made timely, and that modern technology is used to make information available to the public even before a request is made. *Id.*

In accordance with the President’s directives, on March 19, 2009, Attorney General Holder issued new FOIA guidelines, calling on all agencies to reaffirm the government’s “commitment to accountability and transparency.” Memorandum from Att’y Gen. Eric Holder for Heads of Executive Departments and Agencies (Mar. 19, 2009), *available at* <http://www.justice.gov/ag/foia-memo-march2009.pdf>. The Guidelines stress that the FOIA is to be administered with the presumption of openness called for by the President.

The Attorney General encouraged agencies to make discretionary disclosures of information. He specifically directed agencies not to withhold information simply because they may do so legally and to consider making partial disclosures when full disclosures are not possible. He also comprehensively addressed the need for each agency to establish effective systems for improving transparency. In doing so he emphasized that “[e]ach agency must be fully accountable for its administration of the FOIA.” *Id.*

In issuing these new guidelines, Attorney General Holder established a new “foreseeable Harm” standard for defending agency decisions to withhold information. Under this new standard, the U.S. Department of Justice will defend an agency’s denial of a FOIA request “only if (1) the agency reasonably foresees that disclosure would harm an interest protected by one of the statutory exemptions, or (2) disclosure is prohibited by law.” As a result, “agencies must now include the ‘foreseeable harm’ standard as part of the FOIA analysis at the initial request stage and the administrative appeal stage.” Department of Justice Guide to the FOIA (2009), p. 25, available at [http://www.justice.gov/oip/foia\\_guide09.htm](http://www.justice.gov/oip/foia_guide09.htm).

### Request for Fee Waiver

FOIA was designed to grant a broad right of access to government information, with a focus on the public’s “right to be informed about what their government is up to,” thereby “open[ing] agency action to the light of public scrutiny.” *U.S. Dep’t of Justice v. Reporters Comm. for Freedom of Press*, 489 U.S. 749, 773-74 (1989) (internal quotation and citations omitted). A key component of providing public access to those records is FOIA’s fee waiver provision, 5 U.S.C. § 552(a)(4)(A)(iii), which provides that “[d]ocuments shall be furnished without any charge or at a [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.”

FOIA’s fee waiver requirement is to be “liberally construed.” *Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1310 (D.C. Cir. 2003); *Forest Guardians v. U.S. Dept. of Interior*, 416 F.3d 1173, 1178 (10th Cir. 2005). The fee waiver amendments of 1986 were designed specifically to provide organizations such as Guardians access to government documents without the payment of fees. As one Senator stated, “[a]gencies should not be allowed to use fees as an offensive weapon against requesters seeking access to Government information . . .” 132 Cong. Rec. S. 14298 (statement of Senator Leahy). Indeed, FOIA’s waiver provision was intended “to prevent government agencies from using high fees to discourage certain types of requesters and requests, in clear reference to requests from journalists, scholars, and . . . non-profit public interest groups.” *Better Gov’t Ass’n v. Dep’t of State*, 780 F.2d 86, 93-94 (D.C. Cir. 1986) (quoting *Ettlinger v. FBI*, 596 F. Supp. 867, 876 (D. Mass. 1984)).

Guardians, a non-commercial and public-interest requester, hereby requests a waiver of all fees associated with this request because disclosure “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.” 5 U.S.C. § 552(a)(4)(A)(iii). This request satisfies both statutory and regulatory requirements for granting a fee waiver, including fees for search, review, and duplication. Below, stated first in bold, are the criteria BLM considers in assessing requests for fee waivers, followed by an explanation of Guardian’s satisfaction of those requirements. See 7 C.F.R. pt. 1, subpt. A, app. A § 6(a)(i)-(vi).<sup>3</sup> Fee waiver requests must be evaluated based

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<sup>3</sup> See also Department of Justice Fee Waiver Guidance to Agency Heads From Stephan Markman, Assistant Att’y Gen. (Apr. 2, 1987) (advising agencies of factors to consider when

on the face of the request. See *Citizens for Responsibility & Ethics in Washington v. U.S. Dep't of Justice*, 602 F. Supp. 2d 121, 125 (D.D.C. 2009).

- (1) **The subject of the request, i.e., whether the subject of the requested records concerns “the operations or activities of the government.”**

The subject matter of the requested records directly and specifically concerns identifiable operations or activities of the federal government, with a connection that is direct and clear, not remote. Guardians is requesting information pertaining to management actions that occur within Bull Trout critical habitat and, in addition, any actions that implement management direction from INFISH.

The Department of Justice Freedom of Information Act Guide expressly concedes that “in most cases records possessed by federal agency will meet this threshold” of identifiable operations or activities of the government. See Department of Justice Guide to the FOIA (2009), p. 25. This requirement is clearly met in this case.

- (2) **The informative value of the information to be disclosed, i.e., whether the disclosure is “likely to contribute” to an understanding of government operations or activities.**

The requested records are meaningfully informative about government operations or activities and are “likely to contribute” to an increased public understanding of those operations or activities. As such, their release will significantly contribute to public understanding of the planning process and the operations or activities of the Government regarding bull trout management. There is a logical connection between the content of the records we have requested and the Government’s operations and activities related to the management of bull trout.

The records requested will provide us with the ability to communicate to the public about how BLM manages an endangered species within its designated critical habitat. The actions of the BLM regarding this issue are of concern to the public. Disclosure of the requested records will enhance the public’s knowledge of this issue and support public oversight of federal agency operations.

These records will illuminate in a clear and direct way the operations and activities of the BLM to fulfill important Congressional mandates under the Federal Land Policy and Management Act. The release of the documents requested above will contribute significantly to public understanding and oversight of the operations and activities of the Government regarding the use of a specific management system. There is a logical connection between the content of the records we have requested and the Government’s operations and activities related to the management of our national forests.

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construing fee waivers), available at [http://www.justice.gov/oip/foia\\_updates/Vol\\_VIII\\_1/viii1page2.htm](http://www.justice.gov/oip/foia_updates/Vol_VIII_1/viii1page2.htm).

- (3) **The contribution to an understanding of the subject by the general public likely to result from disclosure, i.e., whether disclosure of the requested information will contribute to “public understanding.”**

Disclosure of these records will contribute to the understanding of a reasonably broad audience of persons interested in the subject because we will disseminate the information we receive to a large audience of interested persons.<sup>4</sup> Guardians has the ability and intention to disseminate the information requested to the public and our more than 35,000 members and supporters.

Our organization has a long history of acquiring, analyzing, and disseminating information and data regarding federal actions and policy. For example, Guardians received extensive records from multiple federal agencies, regarding federal fire and fuels management in New Mexico and Arizona. The purpose of FOIA requests for federal fire and fuels management in New Mexico and Arizona was to improve our understanding of this issue and assist the larger public in understanding its complexities and results. We digested and analyzed the materials we received from the United States Forest Service and other federal agencies regarding federal fire and fuels management in New Mexico and Arizona and, using these and other materials, we developed a report for the public and media called *Born of Fire*.<sup>5</sup> In addition, we disseminated this report to our members, via our on-line and paper newsletters, and to the public, via our website, and publicized the issue via the media.

Guardians disseminates the information it obtains, including information obtained pursuant to FOIA, in various effective ways, including through our website, newsletters, press releases, and public participation. Once the requested information is obtained, we will analyze the data presented. Our staff of experts will then review and digest the documents. Finally, the information will be disseminated to our members and supporters, members of other conservation organizations, as well as other interested members of the public.

Guardians maintains a website, [www.wildearthguardians.org](http://www.wildearthguardians.org), dedicated to providing information to the general public with access to past press releases, publications, television and video interview and audio clips. Guardians may also feature the information we receive from FOIA requests in monthly updates posted to our email listserve. Our listserve details Guardians' efforts, through litigation and other means, to protect air quality, climate, water, and endangered ecosystems. Since these efforts rely almost exclusively on information we obtain through FOIA, a synopsis of this information is disseminated on a regular basis to over 23,000 recipients on our listserve and all visitors to our website. Our quarterly newsletter, *Wild at Heart*, is also distributed at newsstands throughout the West.

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<sup>4</sup> See *Carney v. U.S. Dept. of Justice*, 19 F.3d 807, 815 (2nd Cir. 1994) (observing that relevant inquiry is “whether the requester will disseminate the disclosed records to a reasonably broad audience of persons interested in the subject”).

<sup>5</sup> For full report see [http://www.wildearthguardians.org/site/DocServer/report\\_born-of-fire\\_10-07.pdf?docID=2502](http://www.wildearthguardians.org/site/DocServer/report_born-of-fire_10-07.pdf?docID=2502)

Guardians also regularly issues press releases on agency activities and is consistently interviewed in newspaper articles. We have had great success in disseminating responsive FOIA information through mainstream news coverage and press releases, which we make available to the public through our website. For example, information we received from prior FOIA requests to USFS was used by our Wild Places program director to inform the public regarding fire management issues in an op-ed to the Denver Post. See "Forest Policy is Effective," 5/10/13, [http://www.wildearthguardians.org/site/DocServer/Forest\\_policy\\_is\\_effective\\_opinion.pdf?docID=8982&AddInterest=1105](http://www.wildearthguardians.org/site/DocServer/Forest_policy_is_effective_opinion.pdf?docID=8982&AddInterest=1105).

These mechanisms for publicizing and distributing information received through FOIA requests demonstrate Guardians' intention to disseminate the information to the public with the goal of disclosing material that will inform, or has the potential to inform, the public. See also *Forest Guardians v. U.S. Dep't of the Interior*, 416 F.3d 1173, 1180 (10th Cir. 2005) (finding an online newsletter and maintenance of a website sufficient to show how the requester will disseminate information); *Federal CURE v. Lappin*, 602 F. Supp. 2d 197, 203-04 (D.D.C. 2009) (finding public interest organization's "website [and] newsletter . . . are an adequate means of disseminating information," and noting the organization's "stature as [an] advocacy group . . . len[t] credence" to its dissemination argument). Guardians will use the information obtained through this FOIA request in the methods described herein, therefore it will contribute to "public understanding."

- (4) **The significance of the contribution to public understanding, i.e., whether the disclosure is likely to contribute "significantly" to public understanding of government operations or activities.**

Guardians has a proven track record of significantly contributing to public understanding of issues surrounding species management through the extensive media coverage we have received on administrative and legal initiatives we have undertaken. These initiatives were based, in part, on materials received from the Government and processed by Guardians. Guardians has on staff or available for consultation biologists, environmental lawyers, and policy analysts with experience in conservation issues and data analysis. As explained above, Guardians has the ability and intention to disseminate the information requested to a broad public audience, such that the disclosure of the requested information is likely to significantly enhance public understanding of these issues.

Furthermore, the information being requested is new.<sup>6</sup> Although the full contents of the information requested are currently unknown to us, Guardians does not request any documents previously provided to us by the Government. The information Guardians is requesting is not, to our knowledge, publicly available. The Government may omit sending us requested records that are available in publicly accessible forums such as on the internet or in published materials that are routinely available at public or university libraries so long as the Government provides us

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<sup>6</sup> See *Cnty. Legal Servs., Inc. v. U.S. Dep't of Hous. & Urban Dev.*, 405 F. Supp. 2d 553, 558-59 (E.D. Pa. 2005) (finding the extent to which information is currently available and the "newness" of the information were proper considerations in applying "significance factor" where an agency's regulations did not define the term).

with adequate references and/or website links so that we may obtain these materials on our own. However, the requested materials will otherwise not be available unless we receive them from the Government in response to this FOIA request.

The public currently does not have the ability to evaluate the actions or inaction of the USFS. Once the information is made available, it may be analyzed and presented to the public in a manner that will meaningfully enhance the public's understanding of this issue. We plan to use all of the above information dissemination strategies to significantly contribute to public understanding of the way BLM manages Bull Trout. Therefore, disclosure of these documents will significantly contribute to the understanding of a broad audience.

- (5) **The existence and magnitude of a commercial interest, i.e., whether the requester has a commercial interest that would be furthered by the requested disclosure.**

Guardians has no commercial interest in the information sought. Nor does Guardians have any intention to use these records in any manner that furthers a commercial, trade, or profit interest. Guardians is incorporated as a New Mexico nonprofit corporation under Certificate NM 1587757 and is a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code. As such, Guardians has no commercial or profit interests. The requested records will be used in the furtherance of Guardians' mission as an education and advocacy group to protect the wildlife, wild rivers, wild places, and climate in the American West.

- (6) **The primary interest in disclosure, i.e., whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is "primarily in the commercial interest of the requester."**

Guardians, a non-profit organization, has no commercial interest and will realize no commercial benefit from the release of the requested information.

### Conclusion

Guardians' well-orchestrated and demonstrably successful efforts at educating the public on land management issues, and the fact that our education program has significantly contributed to an understanding of Government operations and activities, it is clear that Guardians is entitled to a fee waiver. *See* 7 C.F.R. pt. 1, subpt. A, app. A § 6. In the event that your agency denies Guardians a fee waiver, please send a written explanation for the denial along with a cost estimate. Please contact us for authorization before incurring any costs in excess of \$25.

I look forward to your determination on this FOIA request within twenty days, as required by FOIA, 5 U.S.C. § 552(a)(6)(A)(i), and 7 C.F.R. § 1.7(a). The twenty-day statutory deadline is also applicable to Guardians' fee waiver request. *See, e.g., Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1310 (D.C. Cir. 2003) (finding where an agency "fails to answer the [fee waiver] request within twenty days," judicial review is appropriate).

*Please direct all correspondence and responsive records to:*

**[speters@wildearthguardians.org](mailto:speters@wildearthguardians.org)**

**OR**

**PO Box 50104  
Eugene, OR 97405**

Thank you for your attention to this request. If you have any questions about the requested documents or the requested fee waiver, please do not hesitate to contact me at the phone or email below.

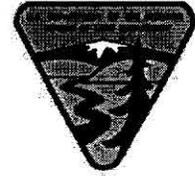
Sincerely,



**Sarah A. Peters  
Program Attorney  
WildEarth Guardians  
PO Box 50104  
Eugene, OR 97405  
Cell: (541) 345-0299  
[speters@wildearthguardians.org](mailto:speters@wildearthguardians.org)**



United States Department of the Interior  
BUREAU OF LAND MANAGEMENT  
Idaho State Office  
1387 South Vinnell Way  
Boise, Idaho 83709-1657



In Reply Refer To:  
1278 (FOIA No. WO-ID-2014-06)  
EFTS BLM-2014-00633

JUL 22 2014

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Ms. Sarah A. Peters  
Program Attorney  
WildEarth Guardians  
Post Office Box 50104  
Eugene, Oregon 97405

Dear Ms. Peters:

This letter responds to your June 6, 2014, Freedom of Information Act (FOIA) request, received at the Bureau of Land Management (BLM) Idaho State Office on the same day. In your request, you seek all site-specific projects the BLM has approved within bull trout designated critical habitat and all associated decision documents, to include any that implement Inland Native Fish Strategy (INFISH) management direction. You also ask for bull trout specific biological opinions and assessments. The time period you specify is January 1, 2011, to June 13, 2014.

With this letter, we have enclosed one digital versatile disc (DVD) containing 7,883 pages of responsive records. These documents are provided to you in their entirety and we consider this response to be a full release.

In addition to the records we provided on the enclosed DVD, we have referred one revised draft document (totaling 86 pages) to the Bonneville Power Administration (BPA) FOIA Office. This document is entitled, *Kootenai River Habitat Restoration Project Phase 1, Braided Reach 1 Implementation – Draft Biological Assessment*, dated October 2010. We have provided the BPA FOIA Officer with a copy of your FOIA request, this response letter, and the aforementioned draft document. BPA staff will review this document to make a release determination and respond to you directly. We have provided BPA's contact information below in the event you do not receive a response from them within 20 workdays.

Christina J. Munro, FOIA Officer  
Bonneville Power Administration (MS DK-7)  
Post Office Box 3621  
Portland, Oregon 97208-3621  
(503) 230-5273  
[kswinn@bpa.gov](mailto:kswinn@bpa.gov)

As stated in our letter dated July 2, 2014, we are granting WildEarth Guardians a fee waiver as your justification meets the criteria outlined in the Department of the Interior regulations. You have shown that the release of the requested records will better inform and educate the citizenry about our management of public lands and resources, particularly concerning Bull Trout Critical Habitat. See 43 CFR §§ 2.45 to 2.48.

In 2007, a number of amendments to the FOIA were enacted. As part of these 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. Their contain information is provided below:

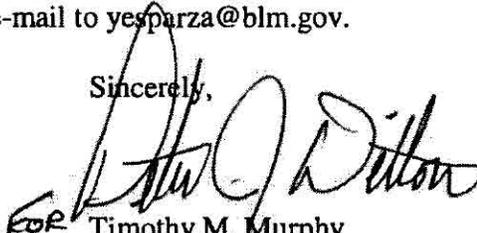
Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road, Room 2510  
College Park, Maryland 20740-6001  
ogis@nara.gov  
877-684-6448

Beginning October 1, 2012, the inclusion of the following statement is mandatory for all the BLM FOIA response letters:

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.

If you have questions concerning this response, please contact Yadyra Esparza, Acting State FOIA Coordinator, at (208) 373-3947 or by e-mail to [yesparza@blm.gov](mailto:yesparza@blm.gov).

Sincerely,

  
FOR Timothy M. Murphy  
Acting State Director

Enclosure

- Responsive Records (1 DVD/7,883 pp)

cc: BLM – Montana State Office  
BLM – Oregon State Office