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Defending the West www.westernlaw.org

Western Environmental Law Center

Via email: bryon_holt@fws.gov

October 22, 2014

Bryon Holt
U.S. Fish & Wildlife Service
11103 East Montgomery
Spokane, Washington 99206

Dear Bryon,

Thank you for your time on the phone on Wednesday. I very much appreciate your work related to Canada lynx, and your insights into lynx habitat in Idaho. To follow up, this is a request under the Freedom of Information Act (FOIA), 5 U.S.C. § 552 et seq. I respectfully request the following documents on behalf of WildEarth Guardians (“Guardians”):

1. Records of lynx occurrences or presence of Canada lynx (*Lynx canadensis*) in the State of Idaho from 2005 to the present. By “occurrences” or “presence” I mean records of both regular or recurring occurrences, sightings, or presence of Canada lynx, and records of episodic or transient occurrences, sightings, or presence of Canada lynx.
2. Records of correspondence from the State of Idaho (including any of its agencies) to the U.S. Fish and Wildlife Service related to Canada lynx, including specifically any comments or emails, formal or informal, and meeting notes related to the listing of Canada lynx under the Endangered Species Act (ESA), and the designation of critical habitat under the ESA.
3. Records of correspondence from the U.S. Fish and Wildlife Service to the State of Idaho (including any of its agencies), or from the State of Idaho to the U.S. Fish and Wildlife Service, related to Canada lynx, including specifically any comments or email, formal or informal, and meeting notes related to effects on Canada lynx of wildlife trapping activities in the State of Idaho.

It would be great if I could receive these documents in a digital format.

Further, I respectfully request that the Service waive any search or copying fees. To establish Guardians’ eligibility for a waiver, I address the Department of the Interior’s FOIA fee waiver criteria. See <http://www.doi.gov/foia/fees-waivers.cfm>

First, the release of records responsive to Guardians’ request will likely contribute significantly to public understanding of the operation or activities of the Fish and Wildlife Service, which has as its statutory mandate achieving the recovery of ESA-listed terrestrial

species such as Canada lynx. As you are aware, some Canada lynx have been trapped and therefore harmed in Idaho during the conduct of state-authorized trapping for furbearers. It is important that the public know the extent to which this has occurred, where it has occurred, how it has occurred, and any steps the State of Idaho has or may undertake to prevent recurrence of the same or similar incidents. To Guardians' knowledge, none of this information is readily available in the public domain, in either the same or a similar form.

Second, Guardians has no commercial, trade, or profit interest that would be furthered by the requested disclosure. 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 interests. The requested records will be used to further Guardians' mission as an education and advocacy group to protect the wildlife, wild rivers, wild places, and climate in the West. In fact, Guardians is a leader in wildlife protection and its staff has significant expertise regarding wildlife issues. For example, in December 2011, Guardians' general counsel Jay Tutchton testified before Congress to support the Endangered Species Act and its continued implementation by agencies such as the Fish and Wildlife Service. Guardians has an active Wildlife Program, and is an important advocate for wildlife and plants, ESA-listed and not.

Third, the subjects of Guardians' request concern identifiable operations or activities of the Fish and Wildlife Service, with a direct and clear connection that is not remote or attenuated.

Fourth, as noted, the disclosure will contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to just Guardians. Guardians does a good job publicizing important wildlife issues such as conserving and restoring Canada lynx, through its website, newsletter, conferences, speaking engagements, mailings, and other fora. Guardians can reach up to 35,000 people directly through email and mailings. Guardians has had good success disseminating responsive FOIA information through mainstream news coverage and press releases, which it made available to the public through its website. *See, e.g.,* Press Release, WildEarth Guardians, Iconic Rio Grande Diminished to Isolated Pools (Jun. 5, 2013);¹ April Reese, *Endangered Species: Drying Rio Grande forces emergency measures to keep silvery minnow afloat*, ENVIRONMENT & ENERGY PUBLISHING (July 2, 2013).²

I'm hopeful that this information is sufficient to justify a waiver, but if you need any more information to do so, please contact me. Regardless, please contact me before incurring search or copying costs in excess of \$50 that you intend to charge Guardians for.

¹ Available at: http://www.wildearthguardians.org/site/News2?page=NewsArticle&id=8591&news_iv_ctrl=1194#.Ub9g2fm1GSo; Susan Montoya Bryan, *Endangered fish salvaged along drying Rio Grande*, LAS CRUCES SUN-NEWS (July 9, 2013 9:18 PM); http://www.lcsun-news.com/las_cruces-news/ci_23630432/bc-nm-drought-saving-fish-1st-ld-writethru.

² Available at: http://www.eenews.net/greenwire/2013/07/02/stories/1059983810;http://wg.convio.net/site/DocServer/Greenwire_Silvery_Minnow_Story_7_2_13.pdf?docID=9603&AddInterest=1103.

Again, thank you for your good work, and for your time and consideration.

Sincerely,

/s/ Peter M.K. Frost

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