



February 24, 2025

VIA FOIA ONLINE

FOIA Officer

U.S. Fish and Wildlife Service Headquarters

Freedom of Information Act Office

5275 Leesburg Pike

Falls Church, VA 22041

<https://www.foiaonline.gov/>

Re: FOIA Request for Funding Halt for International Conservation Grants

Dear FOIA Officer:

This is a request under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, *as amended*, for information regarding the U.S. Fish and Wildlife Service’s current disbursements and implementation of its international conservation funding program. This request is made on behalf of the Center for Biological Diversity (“the Center”), a non-profit organization that works to secure a future for all species hovering on the brink of extinction through science, law, and creative media, and to fulfill the continuing educational goals of our membership and the general public in the process. The requested records are critical to the Center’s work to ensure that species at risk of extinction, including species abroad, recover and thrive.

I. REQUESTED RECORDS

The Center requests:

- (1) Any directives, orders, or commands issued after January 20, 2025 from the U.S. Fish and Wildlife Service or the Department of the Interior to temporarily or permanently halt disbursement of foreign conservation funding or grants;
- (2) Any directives, orders, or commands issued after January 20, 2025 from the U.S. Fish and Wildlife Service or the Department of the Interior to temporarily or permanently direct recipients of foreign conservation funding or grants to stop work under any U.S. funding or grants;
- (3) Any directives, orders, or commands issued after January 20, 2025 from the U.S. Fish and Wildlife Service or the Department of the Interior rescinding any halt on disbursement of foreign conservation funding or grants; and
- (4) Any directives, orders, or commands issued after January 20, 2025 from the U.S. Fish and Wildlife Service or the Department of the Interior rescinding any direction to

recipients of conservation funding or grants to stop work under those U.S funding or grants.

For purposes of this request, “records” is consistent with the meaning of the term under FOIA. This includes, but is not limited to, documents of any kind, including electronic as well as paper documents; e-mails; writings (handwritten, typed, electronic or otherwise produced, reproduced or stored); correspondence; letters; memoranda; reports; consultations; papers; studies; notes; field notes; recordings; telephone conversation recordings; voice mails; telephone logs; messages; instant messages; G-chats; text messages; chats; telefaxes; data; databases; drawings; surveys; graphs; charts; photographs; videos; meeting notes and minutes; electronic and magnetic recordings of meetings; maps; GIS layers; GPS; UTM; LiDAR; CDs; and any other compilations of data from which information can be obtained. All the foregoing is included in this request if it is in FWS’s possession and control. If such records are no longer under the control of FWS but were at any time, please refer this request to the relevant federal agency or agencies. This request is being sent to the FWS headquarters with the understanding that it will be forwarded to any other agency offices where responsive records may be located.

This request is not meant to be exclusive of any other records that have a reasonable relationship to the subject matter of this request. If you or your office have destroyed or determine to withhold any records that could be reasonably construed to be responsive to this request, we ask that you indicate this fact and the reasons therefore in your response.

If you determine that portions of the records requested are exempt from disclosure, we request that you (1) identify each such record with specificity (including date, author, recipient, and parties copied); (2) explain in full the basis for withholding responsive material; and (3) segregate the exempt portions and provide the remaining records within the statutory time limit. 5 U.S.C. § 552(b).

II. RECORD DELIVERY

We appreciate your help in expeditiously obtaining a determination on the requested records. As mandated in FOIA, we anticipate a reply within 20 working days. 5 U.S.C. § 552(a)(6)(A)(i); 5 C.F.R. § 1303.10(c). Failure to comply within the statutory timeframe may result in the Center taking additional steps to ensure timely receipt of the requested materials. Please provide a complete reply as expeditiously as possible. We request to receive the requested records by email at the address below, but if necessary, you may mail copies of the requested records:

Sarah Uhlemann
suhlemann@biologicaldiversity.org

Center for Biological Diversity
120 State Avenue NE #268
Olympia, WA 98501

If you find that this request is unclear, or if the responsive records are voluminous, please contact Ms. Uhlemann at (206) 327-2344 immediately to discuss the scope of this request.

REQUEST FOR FEE WAIVER

FOIA was designed to provide citizens with a broad right to access government records. FOIA's basic purpose is to "open agency action to the light of public scrutiny," with a focus on the public's "right to be informed about what their government is up to." *U.S. Dep't of Justice v. Reporters Comm. for Freedom of Press*, 489 U.S. 749, 772–74 (1989) (citation and internal quotation marks omitted). To provide public access to this information, FOIA's fee waiver provision requires that "[d]ocuments shall be furnished without any charge or at a [reduced] charge" if the request satisfies the standard. 5 U.S.C. § 552(a)(4)(A)(iii). FOIA's fee waiver requirement is "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) (citation omitted).

The 1986 fee waiver amendments were designed specifically to provide non-profit organizations such as the Center access to government records without the payment of fees. Indeed, FOIA's fee waiver provision was intended "to prevent government agencies from using high fees to discourage certain types of requesters and requests," which are "consistently associated with requests from journalists, scholars, and *non-profit public interest groups*." *Ettlinger v. FBI*, 596 F.Supp. 867, 872 (D. Mass. 1984) (emphasis added) (citations omitted). 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. S14,298 (daily ed. Sept. 30, 1986) (statement of Sen. Leahy).

III. THE CENTER QUALIFIES FOR A FEE WAIVER.

Under FOIA, a party is entitled to a fee waiver when "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 [Federal] government and is not primarily in the commercial interest of the requester." 5 U.S.C. § 552(a)(4)(A)(iii); *see* 43 C.F.R. § 2.45.

Two main criteria are used to determine if a request is in the public interest: (1) whether the requested records "concern the operations or activities of the Federal government," and (2) whether the "disclosure is likely to contribute significantly to public understanding of those operations or activities." 43 C.F.R. § 2.48(a)(1)–(2). The second criterion considers seven factors:

- a. the informational value of the requested records;
- b. the logical connection between the requested records and operations or activities of the federal government;
- c. how disclosure will contribute to an understanding of a reasonably broad audience of interested persons;

- d. the requester's expertise in the subject area, as well as its ability to disclose the information in an informative way to a reasonably broad, interested audience;
- e. the requester's ability and intent to disseminate the information to a reasonably broad, interested audience;
- f. whether the records would confirm or clarify data that has been previously released; and
- g. the extent to which the public's understanding will be enhanced by the disclosure.

Id. § 2.48(a)(2).

As demonstrated below, the Center's request meets each of these criteria, and moreover, the Center has no commercial interests in obtaining the requested records; thus a fee waiver is appropriate for this request.

A. This Request Concerns "Operations or Activities of the Government."

The requested records directly concern operations or activities of the government, which in this case involves an executive branch agency, the FWS. Release of the records would contribute significantly to the public's understanding of FWS's operations and activities, as discussed in more detail in section B(2) below, thus the Center meets this factor of FOIA's fee waiver requirements. 5 U.S.C. § 552(a)(4)(A)(iii); 43 C.F.R. §§ 2.45(a)–(b), 2.48(a)(1).

B. Disclosure of the Requested Records Is "Likely to Contribute Significantly" to Public Understanding of Government Operations or Activities.

1. The Requested Data Are Meaningfully Informative.

The requested records contain meaningful information about government operations and activities that fund conservation work around the world, and the release of this information would significantly increase the public's understanding of these operations and activities. 43 C.F.R. § 2.48(a)(2)(i). This information is not available to the public, and the contents cannot be obtained from a different source or entity. Disclosure of the requested records is crucial to assess the impacts of any halt on conservation funding on wildlife conservation projects around the globe.

2. The Content of the Requested Data Is Logically Connected to Operations and Activities of the Government.

The content of the requested information is directly tied to FWS's operations and activities. 43 C.F.R. § 2.48(a)(1), (2)(ii). FWS implements conservation funding programs that help to recover imperiled wildlife abroad. The information requested would provide details on FWS's continued operation of these critical grant programs that affect both conservation organizations and the

wildlife and habitat they seek to conserve.

3. Disclosure Will Contribute to the Understanding of a Reasonably Broad Audience of Interested Persons.

A broad range of people are interested in and concerned with international conservation funding and any pause on disbursement of funds or stop work orders, and disclosure of the requested records will contribute to their understanding of related issues. 43 C.F.R. § 2.48(a)(2)(iii). Interested people include those with professional interests, such as journalists, scientists, and conservationists; they also include citizens from across the United States and the globe who have a wide variety of personal interests in these matters. As discussed in sections four and five below, the Center is well equipped to disseminate the requested records in an informative manner that will reach a broad, interested audience, thus meeting this requirement for a fee waiver request. *Id.*; and see *Carney v. Dep't of Justice*, 19 F.3d 807, 814 n.4 (2nd Cir. 1994) (“the term public should be applied so as to require a . . . sufficient breadth of benefit beyond [a requester’s] own interests (citation and internal quotation marks omitted)); *W. Watersheds Proj. v. Brown*, 318 F. Supp. 2d 1036, 1040 (D. Idaho 2004) (the organization “adequately specified the public interest to be served, that is, educating the public about the ecological conditions of the land managed by the BLM and also how . . . management strategies employed by the BLM may adversely affect the environment”). *Ettlinger v. FBI*, 596 F.Supp. 867, 876 (D. Mass. 1984) (“Benefit to a population group of some size, which is distinct from the requester alone, is sufficient”).

4. The Center Has the Expertise and Ability to Disseminate the Requested Information in an Informative Way and Reach a Broad, Interested Audience.

The Center’s staff and members have the expertise necessary to comprehend and distribute the requested records in a way that informs the understanding of related trade issues among a broad audience of interested people. 43 C.F.R. § 2.48(a)(2)(iv). Our international program routinely analyzes international conservation policies and advocates for protections for imperiled plant and wildlife species and their habitat. Our staff includes attorneys, scientists, and media specialists, and through our communications with our members and the public, we routinely disseminate information we obtain under the FOIA. Therefore, the Center is not only able to digest and understand the requested records, but to also convey it to other people in an understandable way. *Id.*

5. The Center Has the Ability and Intent to Disseminate the Information to a Reasonably Broad Audience of Interested Persons.

The Center is a non-profit organization that informs, educates, and counsels the public regarding environmental issues, policies, and laws relating to environmental issues. The Center has been substantially involved in the activities of numerous government agencies for more than 30 years and consistently displayed its ability to disseminate information granted to it through FOIA. 43 C.F.R. § 2.48(a)(2)(v).

In consistently granting the Center’s fee waivers, agencies have recognized (1) that the

information requested by the Center contributes significantly to the public's understanding of the government's operations or activities; (2) that the information enhances the public's understanding to a greater degree than currently exists; (3) that the Center possesses the expertise to explain the requested information to the public; (4) that the Center possesses the ability to disseminate the requested information to the general public; (5) and that the news media recognizes the Center as an established expert in the field of imperiled species, biodiversity, and impacts on protected species. The Center's track record of active participation in oversight of governmental activities and decision making—and its consistent contribution to the public's understanding of those activities as compared to prior to disclosure—are well established.

The Center's work appears in about 4,000 news stories online and in print, radio, and TV per month, including regular reporting in such important outlets as *The New York Times*, *CNN*, *The Washington Post*, *National Public Radio*, *the Associated Press*, *Los Angeles Times*, and *USA Today*. Many media outlets have reported on wildlife trade utilizing information obtained by the Center from federal agencies. In 2023, more than 3.6 million people visited the Center's extensive website, viewing pages almost 6 million times. In 2023, more than 1.6 million actions were completed by more than 1.7 million members and supporters. Last year the Center sent over 121,000 printed newsletters to more than 79,000 members. More than 635,000 people follow the Center on Facebook, and there are regular postings regarding wildlife exploitation and trade. The Center also regularly tweets to more than 142,500 followers on Twitter, and has more than 57,100 followers on Instagram. The Center intends to use any or all of these far-reaching media outlets to share with the public information obtained as a result of this request.

Public oversight and enhanced understanding of FWS's duties is absolutely necessary. In determining whether disclosure of requested information will contribute significantly to public understanding, a guiding test is whether the requester will disseminate the information to a reasonably-broad audience of persons interested in the subject. *Carney v U.S. Dept. of Justice*, 19 F.3d 807, 814–15 (2nd Cir. 1994). The Center need not show how it intends to distribute the information, because “[n]othing in FOIA, the [agency’s] regulation[s], or our case law require[s] such pointless specificity.” *Judicial Watch*, 326 F.3d 1309, 1314 (D.C. Cir. 2003). It is sufficient for the Center to show how it distributes information to the public generally. *Id.*

6. Disclosure of the Requested Records Would Enhance the Public's Understanding of This Subject to a Significant Extent.

The Center is not requesting these records merely for their intrinsic informational value. Disclosure of the requested records will enhance the public's understanding of FWS's conservation grant program and its current implementation of that program.

C. Obtaining the Requested Records Is of No Commercial Interest to the Center.

Access to government records through FOIA is essential to the Center's role of educating the general public. Founded in 1989, the Center has been incorporated as a 501(c)(3) nonprofit conservation organization (EIN: 27-3943866) since 1994, and today we have more than 1.7 million members and online activists dedicated to the protection of endangered and threatened

species and wild places. The Center has no commercial interest and will realize no commercial benefit from the release of the requested records.

IV. CONCLUSION

The Center qualifies for a full fee-waiver for all the foregoing reasons. We hope that FWS will immediately grant this fee waiver request and begin to search and disclose the requested records without any unnecessary delays.

If you have any questions, please contact me at my phone number or email address below.

Sincerely,

Sarah Uhlemann
International Program Director
and Senior Attorney
Center for Biological Diversity
120 State Avenue NE #268
Olympia, WA 98501
+1-206-327-2344
suhlemann@biologicaldiversity.org