

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

BORN FREE USA)	
8737 Colesville Road, Suite 715)	
Silver Spring, MD 20910)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 1:18-cv-567
)	
U.S. FISH AND WILDLIFE SERVICE)	
1849 C Street, N.W.)	
Washington, D.C. 20240)	
)	
Defendant.)	

COMPLAINT

1. Plaintiff Born Free USA (“BFUSA”) brings this action under the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), seeking access to records maintained by Defendant United States Fish and Wildlife Service (“FWS”).

2. The records at issue concern FWS’ establishment of the International Wildlife Conservation Council (the “IWCC”), which, among other things, is intended to “advise the Secretary of the Interior on the *benefits* that international recreational hunting has on foreign wildlife and habitat conservation, anti-poaching and illegal wildlife trafficking programs, and other ways in which international hunting benefits human populations in these areas.” *See* Press Release, “Secretary Zinke Announces the Creation of the International Wildlife Conservation Council” (Nov. 8, 2017) (emphasis added), a true and correct copy of which is attached hereto as Exhibit 1. In other words, the stated purpose of the IWCC presupposes that activities like trophy hunting create these benefits, rather than providing balanced information from multiple

perspectives to advise Secretary Zinke of any potential benefits, as well as the known drawbacks, of international hunting. Because trophy hunting eliminates wildlife and has limited, if any, proven long-term conservation value, the establishment of a purely pro-international hunting body puts the lives of wild animals at risk.

3. The FOIA Request at issue seeks documents related to the duties of the IWCC, the circumstances under which it was established, and under what criteria its members were selected.

4. FWS not only has ignored the statutory deadline for responding to this FOIA Request, but it unilaterally gave itself an extension of time, which it then also missed. Yet, the first meeting of the IWCC is scheduled to take place on March 16, 2018.

5. Moreover, the members of the IWCC have now been made public, which includes officers of Safari Club International and National Rifle Association. Given these entities' close relationship with Secretary Zinke, including support during campaigns, it is perhaps not surprising that FWS has been pushing a pro-hunting agenda, including the creation of the IWCC. It also is not surprising that FWS has chosen not to be transparent about the IWCC prior to its first public meeting.

6. By failing to provide a final determination on the foregoing FOIA Request or to produce non-exempt portions of responsive records in a timely manner, FWS has withheld records to which BFUSA has a right. This action seeks to compel disclosure of this critical wildlife information under FOIA.

JURISDICTION AND VENUE

7. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. §§ 1331, 2201.

8. Venue is proper pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e).

PARTIES

9. BFUSA is a national animal advocacy non-profit 501(c)(3) organization with a mission to end the suffering of wild animals in captivity, rescue individual animals in need, protect wildlife in their natural habitats, and encourage compassionate conservation globally. In carrying out its mission, BFUSA uses various investigative and legal tools to educate the public about the challenges facing wildlife.

10. FWS is a federal government agency within the meaning of 5 U.S.C. § 552(f)(1) and is a bureau within the U.S. Department of the Interior (“DOI”). FWS has possession, custody, and control of records to which BFUSA seeks access and which are the subject of this Complaint.

FACTS

11. Via FWS’ website, BFUSA submitted a FOIA request to FWS on November 21, 2017 (the “FOIA Request”) for the following records:

- (1) all documents relating to the creation of the IWCC, including the authority or basis for the creation of the IWCC;
- (2) all documents relating to the duties of the IWCC;
- (3) all documents relating to the selection criteria for, and selection and confirmation of, the members of the IWCC; and
- (4) all documents to, from, or on which Secretary of the Interior Ryan Zinke is copied/blind copied relating to the creation of and selection criteria for the IWCC.

The relevant time period for this FOIA Request is January 1, 2017 to November 21, 2017.

12. That same day, BFUSA received an e-mail from DOI confirming receipt of the FOIA Request (and including a copy of the complete text of the FOIA Request). *See* E-mail from DOI to [REDACTED] (BFUSA) dated Nov. 21, 2017, a true and correct copy of which is attached hereto as Exhibit 2.

13. On November 27, 2017, BFUSA received an e-mail from FWS' "Headquarters Freedom of Information Act Office," again acknowledging receipt of the FOIA Request on November 21, 2017, and including the contact information for Shaunta Nichols for "any questions or concerns." *See* E-mail from Sheri S. Williams to [REDACTED] (BFUSA) dated Nov. 27, 2017, a true and correct copy of which is attached hereto as Exhibit 3.

14. The November 27, 2017 e-mail included the prior (November 21, 2017) e-mail from DOI to BFUSA, as well as the statement: "The results of this submission may be viewed at: <https://www.doi.gov/node/11498/submission/314572>." *See id.*

15. On December 21, 2017, having received no response to the FOIA Request, BFUSA called the phone number provided in the November 27, 2017 e-mail. A recording stated that the phone number was "disconnected or is no longer in service."

16. On December 21, 2017, BFUSA sent an e-mail to Ms. Nichols (the FWS' contact provided to BFUSA) to inquire about the status of the FOIA Request. *See* E-mail from [REDACTED] (BFUSA) to Shaunta Nichols (FWS) dated Dec. 21, 2017, a true and correct copy of which is attached hereto as Exhibit 4.

17. More than one month later, on January 29, 2018, Ms. Nichols sent a virtually blank e-mail to BFUSA, addressed in the body to "Ms. Bale," attaching a letter from "FWS FOIA Officer" Carrie Hyde-Michaels to BFUSA dated January 29, 2018. *See* E-mail from Shaunta Nichols (FWS) to [REDACTED] (BFUSA) dated Jan. 29, 2018, a true and

correct copy of which is attached hereto as Exhibit 5. The letter yet again acknowledged receipt of the FOIA Request, but unilaterally indicated that the FOIA Request “falls into the Complex processing track[,]” so FWS “expect[s] that we will dispatch a determination to you by February 20, 2018.” *Id.*

18. That same day, BFUSA responded to Ms. Nichols’ e-mail, acknowledging the letter and stating that: “[w]hile Born Free USA is disappointed in receiving documents within a 60-day time frame, we will agree to this, and look forward to receiving all responsive documents on or before February 20, 2018.” *See* E-mail from ██████████ (BFUSA) to FOIA, FWHQ dated Jan. 29, 2018, a true and correct copy of which is attached hereto as Exhibit 6.

19. On March 9, 2018, BFUSA sent another e-mail to Ms. Nichols, inquiring as to the status of FWS’ response to the FOIA Request, including sending responsive documents to BFUSA, which was to be done by February 20, 2018 – approximately three weeks back. *See* E-mail from ██████████ (BFUSA) to Shaunta Nichols dated March 9, 2018, a true and correct copy of which is attached hereto as Exhibit 7.

20. On March 12, 2018, BFUSA received a phone call from FWS FOIA Officer Carrie Hyde-Michaels. Ms. Hyde-Michaels did not explain why FWS missed both the statutory and its own self-extended deadlines, other than to say that FWS has been busy and that the FOIA Request was “complex.” She informed BFUSA that FWS is still working on the FOIA Request, and would have an update by March 30, 2018 (and that there may be some responsive documents produced to BFUSA in the near future with respect to one of the items in the FOIA Request). However, Ms. Hyde-Michaels could not provide any specific dates for a final determination or release of all responsive records, or any meaningful update as to the other three items in the FOIA Request.

21. No final determination has been received by BFUSA regarding this FOIA Request. No responsive documents have been made available to BFUSA regarding this FOIA Request. And, as of March 12, 2018, the webpage identified in the November 27, 2017 e-mail does not work; instead, an error message appears that states, “The page you requested does not exist.”

22. The FOIA Request that is the subject of this Complaint is overdue. The FOIA Request has been pending for more than 20 business days.

COUNT I
(Failure to Comply with Statutory Requirements)

23. BFUSA re-alleged and incorporates all preceding paragraphs as if fully set forth herein.

24. FOIA requires an agency to accept, process, and respond to any valid request for access to agency records within twenty (20) business days. 5 U.S.C. § 552(a)(6)(A)-(B). If an agency requires additional time, FOIA mandates that the agency provide the requester “an opportunity to arrange with the agency an alternative time frame for processing the request[.]” *Id.*

25. FWS has failed to issue a final determination on or produce records responsive to BFUSA’s FOIA Request within the applicable FOIA time limits (including the self-provided extension to February 20, 2018). *Id.*

26. The Court should compel FWS to promptly make a determination on BFUSA’s FOIA Request and disclose all responsive records.

RELIEF REQUESTED

WHEREFORE, BFUSA respectfully requests and prays that this Court:

- a. Order FWS to process BFUSA's FOIA Request and issue a determination on that request within ten (10) business days of the date of the Order;
- b. Order FWS to produce all responsive records within five (5) business days of issuing its final determination on BFUSA's FOIA Request;
- c. Award BFUSA its costs and/or reasonable attorney fees incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and
- d. Grant such other relief as the Court may deem just and proper.

Dated: March 14, 2018

Respectfully submitted,

/s/ Prashant K. Khetan
Prashant K. Khetan, Esq.
D.C. Bar No. 477636
Born Free USA
8737 Colesville Road, Suite 715
Silver Spring, MD 20910
prashant@bornfreeusa.org

Attorney for Plaintiff

EXHIBIT 1



U.S. Department of the Interior

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Secretary Zinke Announces the Creation of the International Wildlife Conservation Council

11/8/2017

Date: November 8, 2017

Contact: Interior_Press@ios.doi.gov

WASHINGTON – Today, U.S. Secretary of the Interior Ryan Zinke announced the creation of the International Wildlife Conservation Council. The Council will provide advice and recommendations to the Secretary of the Interior. It will focus on increased public awareness domestically regarding conservation, wildlife law enforcement, and economic benefits that result from U.S. citizens traveling abroad to hunt.

“Built on the backs of hunters and anglers, the American conservation model proves to be the example for all nations to follow for wildlife and habitat conservation,” **Secretary**

Zinke said. “The conservation and long-term health of big game crosses international boundaries. This council will provide important insight into the ways that American sportsmen and women benefit international conservation from boosting economies and creating hundreds of jobs to enhancing wildlife conservation.”

The Council will advise the Secretary of the Interior on the benefits that international recreational hunting has on foreign wildlife and habitat conservation, anti-poaching and illegal wildlife trafficking programs, and other ways in which international hunting benefits human populations in these areas.

The duties of the Council will be solely advisory and will include, but not be limited to:

- Develop a plan for public engagement and education on the benefits of international hunting.
- Review and make recommendations for changes, when needed, on all Federal programs, and/or regulations, to ensure support of hunting as:
 - An enhancement to foreign wildlife conservation and survival;
 - An effective tool to combat illegal trafficking and poaching;
 - An economic engine and job-creating force for local communities.
- Develop strategies to benefit the U.S. Fish and Wildlife Service’s permit office in receiving timely country data and information so as to remove barriers that impact consulting with range states.
- Recommend removal of barriers to the importation into the United States of legally hunted wildlife.
- Ongoing review of import suspension/bans and provide recommendations that seek to resume the legal trade of those items, where appropriate.
- Review seizure and forfeiture actions/practices and provide recommendations to regulations that will lead to a reduction of unwarranted actions.
- Review the Endangered Species Act’s foreign listed species and interaction with the Convention on International Trade in Endangered Species of Wild Flora and Fauna, with the goal of eliminating regulatory duplications.
- Recommend streamlining/expedite process of import permits.

You may submit comments and/or nominations by any of the following methods:

- Mail or hand-carry nominations to Joshua Winchell, U.S. Fish and Wildlife Service, National Wildlife Refuge System, 5275 Leesburg Pike, Falls Church, VA 22041-3803; or Email nominations to: joshua_winchell@fws.gov

The Council will meet approximately two times annually, and at such other times as designated by the Designated Federal Officer. The Council will terminate 2 years from the date the Charter is filed, unless, prior to that date, it is renewed in accordance with the provisions of Section 14 of the Federal Advisory Committee Act (FACA).

The Council will not meet or take any action without a valid current charter. The Council is established in furtherance of 43 U.S.C. 1457, the Fish and Wildlife Act of 1956 (16 U.S.C. §§ 742a-742j), and other Acts applicable to specific bureaus. This Council is regulated by the FACA, as amended, 5 U.S.C. Appendix 2.

PRESS RELEASE



Secretary Zinke Approves Initial Plan to Build a Life-Saving Road for Alaska Native Village of King Cove

[Read more](#)

PRESS RELEASE



Secretary Zinke Approves the Shawnee Tribe's Fee-to-Trust Application for a Gaming Facility

[Read more](#)

PRESS RELEASE



Department of the Interior Names New National Park Service Deputy Director

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U.S. Department of the Interior, 1849 C Street NW, Washington, DC 20240. feedback@ios.doi.gov

EXHIBIT 2

[REDACTED]

From: U.S. Department of the Interior <doi-webforms@ios.doi.gov>
Sent: Tuesday, November 21, 2017 4:16 PM
To: [REDACTED]
Subject: Thank you for submitting a FOIA request.

Submitted on Tuesday, November 21, 2017 - 4:15pm Submitted form:

Your Name: [REDACTED]

Mailing Address: 8737 Colesville Rd., Suite 715

City: Silver Spring

State or Country: MD

Zip or Postal Code:

Address Type: Business

Daytime Phone Number: [REDACTED]

Fax Number:

E-mail Address: [REDACTED]

Confirm E-mail Address : [REDACTED] Your Organization: Born Free USA Are you filing the request on behalf of another party? Yes If so, who are you filing the request on behalf of? Born Free USA Contact Information Certification: Bureau/Office: Fish & Wildlife Service (FWS) Relevant park, refuge, site or other location:

Request Description:

1) All documents (including but not limited to communications, notes, reports, etc.) referring or relating to the creation of the International Wildlife Conservation Council ("Council"), including the authority or basis for the creation of the Council. The relevant time period for this request is January 1, 2017 to date.

2) All documents (including but not limited to communications, notes, reports, etc.) referring or relating to the duties of the Council. The relevant time period for this request is January 1, 2017 to date.

3) All documents (including but not limited to communications, notes, reports, etc.) referring or relating to the selection criteria for, and selection and confirmation of, the members of the Council. The relevant time period for this request is January 1, 2017 to date.

4) All documents to, from, or on which Secretary of the Interior Ryan Zinke is copied/blind copied (including but not limited to communications, notes, reports, etc.) referring or relating to the creation of and selection criteria for the Council. The relevant time period for this request is January 1, 2017 to date.

Requester's Communication Preferences: Electronic communication via email Document Disclosure Preferences:

Electronic copies via email Select the applicable reason why you are requesting expedited processing:

Justification for Expedited Processing:

Expedited Processing Certification:

Please select the appropriate statement: I am requesting a waiver or reduction of fees.

I agree to pay fees up to this particular amount:

To assist in determining my requester category to assess fees, you should know that I am: affiliated with a private corporation and am seeking information for use in the company's business Affiliated Organization:

Check the boxes to the right to confirm that you meet the Department's fee waiver criteria: 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.

Please explain why your request for a waiver of fees or a reduction in fees is justified.:

Born Free USA requests a waiver of any and all applicable fees pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). This provision provides that requested records shall be furnished 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. The requested records would clarify the "operations or activities of the government," namely the U.S. Department of the Interior's policies and procedures with records involving the International Wildlife Conservation Council.

To date, the U.S. Department of the Interior has not disclosed to the public how it established the International Wildlife Conservation Council. These records would "contribute significantly" to the public's understanding of the U.S. Department of the Interior's operations.

Born Free USA's staff members have expertise in investigations and federal public interest litigation, and they will analyze the information provided and potentially share the resulting analysis with a reasonably broad public audience through Born Free USA's email list, reports, press releases, or by other means of outreach.

Born Free USA, a non-profit organization as defined under Section 501(c)(3) of the Internal Revenue Code, does not have a commercial interest in making this request. The requested information will be used solely to educate the general public regarding U.S. Department of the Interior's policy and procedures for establishing the International Wildlife Conservation Council.

EXHIBIT 3

[REDACTED]

From: sheri_s_williams@fws.gov on behalf of FOIA, FWHQ <fwhq_foia@fws.gov>
Sent: Monday, November 27, 2017 11:56 AM
To: [REDACTED]
Cc: Shaunta Nichols
Subject: New Request FWS-2018-00213; Fwd: FOIA from: [REDACTED]

Dear [REDACTED]

The United States Fish and Wildlife Service (FWS) Headquarters FOIA Office received your FOIA request dated November 21, 2017. We have assigned your request FOIA number FWS-2018-00213; please refer to this number when inquiring about your request. The response to your request will be coordinated by our HQ's FOIA office.

If you have any questions or concerns; please contact Shaunta Nichols at 703-358-2372 or shaunta_nichols@fws.gov.

Respectfully,

United States Fish and Wildlife Service
Headquarters Freedom of Information Act Office
MS: IRTM
5275 Leesburg Pike
Falls Church, VA 22041

----- Forwarded message -----

From: U.S. Department of the Interior <doi-webforms@ios.doi.gov>
Date: Tue, Nov 21, 2017 at 4:15 PM
Subject: FOIA from: [REDACTED]
To: fwhq_foia@fws.gov

Submitted on Tuesday, November 21, 2017 - 4:15pm
Submitted by anonymous user: [10.156.8.158]
Submitted values are:

Your Name: [REDACTED]
Mailing Address: 8737 Colesville Rd., Suite 715
City: Silver Spring
State or Country: MD
Zip or Postal Code:
Address Type: Business
Daytime Phone Number: [REDACTED]
Fax Number:
E-mail Address: [REDACTED]
Confirm E-mail Address : [REDACTED]
Your Organization: Born Free USA
Are you filing the request on behalf of another party? Yes
If so, who are you filing the request on behalf of? Born Free USA
Contact Information Certification:
Bureau/Office: Fish & Wildlife Service (FWS)
Relevant park, refuge, site or other location:

Request Description:

1) All documents (including but not limited to communications, notes, reports, etc.) referring or relating to the creation of the International Wildlife Conservation Council ("Council"), including the authority or basis for the creation of the Council. The relevant time period for this request is January 1, 2017 to date.

2) All documents (including but not limited to communications, notes, reports, etc.) referring or relating to the duties of the Council. The relevant time period for this request is January 1, 2017 to date.

3) All documents (including but not limited to communications, notes, reports, etc.) referring or relating to the selection criteria for, and selection and confirmation of, the members of the Council. The relevant time period for this request is January 1, 2017 to date.

4) All documents to, from, or on which Secretary of the Interior Ryan Zinke is copied/blind copied (including but not limited to communications, notes, reports, etc.) referring or relating to the creation of and selection criteria for the Council. The relevant time period for this request is January 1, 2017 to date.

Requester's Communication Preferences: Electronic communication via email

Document Disclosure Preferences: Electronic copies via email

Select the applicable reason why you are requesting expedited processing:

Justification for Expedited Processing:

Expedited Processing Certification:

Please select the appropriate statement: I am requesting a waiver or reduction of fees.

I agree to pay fees up to this particular amount:

To assist in determining my requester category to assess fees, you should know that I am: affiliated with a private corporation and am seeking information for use in the company's business

Affiliated Organization:

Check the boxes to the right to confirm that you meet the Department's fee waiver criteria: 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.

Please explain why your request for a waiver of fees or a reduction in fees is justified.:

Born Free USA requests a waiver of any and all applicable fees pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). This provision provides that requested records shall be furnished 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. The requested records would clarify the "operations or activities of the government," namely the U.S. Department of the Interior's policies and procedures with records involving the International Wildlife Conservation Council.

To date, the U.S. Department of the Interior has not disclosed to the public how it established the International Wildlife Conservation Council. These records would "contribute significantly" to the public's understanding of the U.S. Department of the Interior's operations.

Born Free USA's staff members have expertise in investigations and federal public interest litigation, and they will analyze the information provided and potentially share the resulting analysis with a reasonably broad public audience through Born Free USA's email list, reports, press releases, or by other means of outreach.

Born Free USA, a non-profit organization as defined under Section 501(c)(3) of the Internal Revenue Code, does not have a commercial interest in making this request. The requested information will be used solely to educate the general public regarding U.S. Department of the Interior's policy and procedures for establishing the International Wildlife Conservation Council.

The results of this submission may be viewed at:
<https://www.doi.gov/node/11498/submission/314572>

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United States Fish and Wildlife Service
Headquarters Freedom of Information Act Office
MS: IRTM
5275 Leesburg Pike
Falls Church, VA 22041

EXHIBIT 4

[REDACTED]

From: [REDACTED]
Sent: Thursday, December 21, 2017 12:22 PM
To: Shaunta Nichols
Subject: RE: New Request FWS-2018-00213; Fwd: FOIA from: [REDACTED]

Dear Ms. Nichols,

I submitted a FOIA request (FOIA number FWS-2018-00213) on behalf of Born Free USA, dated November 21, 2017. It is Born Free USA's understanding that FWS would send a response to this request within 20 business days. However, yesterday (December 20, 2017) was the 20th day, and we have yet to receive a response. I also just called the phone number provided for you in the email below, but heard a recording stating that the number was disconnected or no longer in service.

In addition, the FOIA submission confirmation email that I received from the U.S. Department of the Interior (below) states that the results of this submission may be viewed at <https://www.doi.gov/node/11498/submission/314572>. However, when I click that link, it takes me to a page that says "The page you requested does not exist."

Please let me know the status of this FOIA request so that I know how to proceed.

Thank you,

[REDACTED]
[REDACTED] Born Free USA
[REDACTED]

From: sheri_s_williams@fws.gov [mailto:sheri_s_williams@fws.gov] On Behalf Of FOIA, FWHQ
Sent: Monday, November 27, 2017 11:56 AM
To: [REDACTED] <[REDACTED]>
Cc: Shaunta Nichols <shaunta_nichols@fws.gov>
Subject: New Request FWS-2018-00213; Fwd: FOIA from: [REDACTED]

Dear [REDACTED]

The United States Fish and Wildlife Service (FWS) Headquarters FOIA Office received your FOIA request dated November 21, 2017. We have assigned your request FOIA number FWS-2018-00213; please refer to this number when inquiring about your request. The response to your request will be coordinated by our HQ's FOIA office.

If you have any questions or concerns; please contact Shaunta Nichols at 703-358-2372 or shaunta_nichols@fws.gov.

Respectfully,

United States Fish and Wildlife Service
Headquarters Freedom of Information Act Office
MS: IRTM
5275 Leesburg Pike
Falls Church, VA 22041

----- Forwarded message -----
From: U.S. Department of the Interior <doi-webforms@ios.doi.gov>

Date: Tue, Nov 21, 2017 at 4:15 PM

Subject: FOIA from: [REDACTED]

To: fwbu_foia@fws.gov

Submitted on Tuesday, November 21, 2017 - 4:15pm

Submitted by anonymous user: [10.156.8.158]

Submitted values are:

Your Name: [REDACTED]

Mailing Address: 8737 Colesville Rd., Suite 715

City: Silver Spring

State or Country: MD

Zip or Postal Code:

Address Type: Business

Daytime Phone Number: [REDACTED]

Fax Number:

E-mail Address: [REDACTED]

Confirm E-mail Address: [REDACTED]

Your Organization: Born Free USA

Are you filing the request on behalf of another party? Yes

If so, who are you filing the request on behalf of? Born Free USA

Contact Information Certification:

Bureau/Office: Fish & Wildlife Service (FWS)

Relevant park, refuge, site or other location:

Request Description:

1) All documents (including but not limited to communications, notes, reports, etc.) referring or relating to the creation of the International Wildlife Conservation Council ("Council"), including the authority or basis for the creation of the Council. The relevant time period for this request is January 1, 2017 to date.

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3) All documents (including but not limited to communications, notes, reports, etc.) referring or relating to the selection criteria for, and selection and confirmation of, the members of the Council. The relevant time period for this request is January 1, 2017 to date.

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Requester's Communication Preferences: Electronic communication via email

Document Disclosure Preferences: Electronic copies via email

Select the applicable reason why you are requesting expedited processing:

Justification for Expedited Processing:

Expedited Processing Certification:

Please select the appropriate statement: I am requesting a waiver or reduction of fees.

I agree to pay fees up to this particular amount:

To assist in determining my requester category to assess fees, you should know that I am: affiliated with a private corporation and am seeking information for use in the company's business

Affiliated Organization:

Check the boxes to the right to confirm that you meet the Department's fee waiver criteria: 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.

Please explain why your request for a waiver of fees or a reduction in fees is justified.:

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The results of this submission may be viewed at:

<https://www.doi.gov/node/11498/submission/314572>

--

United States Fish and Wildlife Service
Headquarters Freedom of Information Act Office
MS: IRTM
5275 Leesburg Pike
Falls Church, VA 22041

EXHIBIT 5

[REDACTED]

From: shaunta_nichols@fws.gov on behalf of FOIA, FWHQ <fwhq_foia@fws.gov>
Sent: Monday, January 29, 2018 11:36 AM
To: [REDACTED]
Subject: FWS-2018-00213: Acknowledgement Letter
Attachments: FWS-2018-00213_Ack Ltr.final.signed.pdf

Ms. Bale:

Please see attached.

Thank You,
Shaunta Nichols

--
United States Fish and Wildlife Service
Headquarters Freedom of Information Act Office
MS: IRTM
5275 Leesburg Pike
Falls Church, VA 22041



United States Department of the Interior

FISH AND WILDLIFE SERVICE

5275 Leesburg Pike, MS: IRTM
Falls Church, VA 22041



IN REPLY REFER TO:
FWS-2018-00213

January 29, 2018

[REDACTED]
Born Free USA
8737 Colesville Road
Suite 715
Silver Spring, MD
Email: [REDACTED]

Dear Ms. [REDACTED]

The United States Fish and Wildlife Service (FWS) FOIA office received your Freedom of Information Act (FOIA) request, dated November 21, 2017 and assigned it control number FWS-2018-00213. Please cite this number in any future communications with our office regarding your request.

You requested the following:

"...All documents (including but not limited to communications, notes, reports, etc.) referring or relating to the creation of the International Wildlife Conservation Council ("Council"), including the authority or basis for the creation of the Council. The relevant time period for this request is January 1, 2017 to date.

All documents (including but not limited to communications, notes, reports, etc.) referring or relating to the duties of the Council. The relevant time period for this request is January 1, 2017 to date.

All documents (including but not limited to communications, notes, reports, etc.) referring or relating to the selection criteria for, and selection and confirmation of, the members of the Council. The relevant time period for this request is January 1, 2017 to date.

All documents to, from, or on which Secretary of the Interior Ryan Zinke is copied/blind copied (including but not limited to communications, notes, reports, etc.) referring or relating to the creation of and selection criteria for the Council. The relevant time period for this request is January 1, 2017 to date"

We have granted your fee waiver. We have classified you as an "other-use" requester.

We use Multitrack Processing to process FOIA requests. The Simple track is for requests that can be processed in one to five workdays. The Normal track is for requests that can be processed in six to twenty workdays. The Complex track is for requests that can be processed in twenty-one to sixty workdays. The Exceptional/Voluminous track is for requests requiring more than sixty workdays for processing. The Expedited track is for requests that have been granted expedited processing. Within each track, requests are usually processed on a first-in, first-out basis.

Your request falls into the Complex processing track. You may narrow the scope of your request to obtain quicker processing in your currently-assigned track or move the request into a faster track (which may have the effect of reducing the cost of processing your request). If you have any questions about this, please contact us.

Because we will need to search for and collect requested records from other establishments that are separate from the office processing the request, we are taking a 10-workday extension under 43 C.F.R. § 2.19. We therefore expect that we will dispatch a determination to you by February 20, 2018.

As yet, we have been unable to make a determination on your request. We apologize for this delay. Although we hope that you will wait so that we can complete our search process, please note that you may seek dispute resolution services from our FOIA Public Liaison, Carrie Hyde-Michaels at (703) 358-2291 and/or seek dispute resolution services from the Office of Government Information Services (OGIS).

If you choose to contact OGIS, you may do so in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road - OGIS
College Park, MD 20740-6001
E-mail: ogis@nara.gov
Web: <https://ogis.archives.gov>
Telephone: 202-741-5770
Fax: 202-741-5769
Toll-free: 1-877-684-6448

You may also file an appeal with the Department's FOIA/Privacy Act Appeals Officer regarding this delay. If you choose to appeal this delay, you may do so anytime between now and the date we make our determination on the FOIA request. Appeals arriving or delivered after 5 p.m. Eastern Time, Monday through Friday, will be deemed received on the next workday.

Your appeal must be made in writing. You may submit your appeal and accompanying materials to the FOIA/Privacy Act Appeals Officer by mail, courier service, fax, or email. All communications concerning your appeal should be clearly marked with the words: "FREEDOM OF INFORMATION APPEAL." You must also include with your appeal copies of all correspondence between you and FWS concerning your FOIA request, including your original FOIA request and FWS' response. Failure to include with your appeal all correspondence between you and FWS will result in the Department's rejection of your appeal, unless the FOIA/Privacy Act Appeals Officer determines (in the FOIA/Privacy Act Appeals Officer's sole discretion) that good cause exists to accept the defective appeal.

Please include your name and daytime telephone number (or the name and telephone number of an appropriate contact), email address and fax number (if available) in case the FOIA/Privacy Act Appeals Officer needs additional information or clarification of your appeal.

DOI FOIA/Privacy Act Appeals Office Contact Information

Department of the Interior
Office of the Solicitor
1849 C Street, N.W.
MS-6556 MIB
Washington, DC 20240

Attn: FOIA/Privacy Act Appeals Office

Telephone: (202) 208-5339
Fax: (202) 208-6677
Email: FOIA.Appeals@sol.doi.gov

We regret the delay and appreciate your consideration. For more information on FOIA Administrative Appeals, you may review the Department's FOIA regulations at 43 C.F.R. Part 2, Subpart H. If you have any questions, you may contact Shaunta Nichols by phone at (703) 358-2374 or email at shaunta_nichols@fws.gov.

Sincerely,

CARRIE
HYDE-
MICHAELS

Digitally signed by
CARRIE HYDE-
MICHAELS
Date: 2018.01.29
11:14:40 -05'00'

Carrie Hyde-Michaels
FWS FOIA Officer

EXHIBIT 6

[REDACTED]

From: [REDACTED]
Sent: Monday, January 29, 2018 2:52 PM
To: 'FOIA, FWHQ'
Subject: RE: FWS-2018-00213: Acknowledgement Letter

Dear Ms. Nichols,

Thank you for your email and for granting our fee waiver request. Because you have classified Born Free USA as an "other-use" requester, please let us know before you incur any charges.

While Born Free USA is disappointed in receiving documents within a 60-day time frame, we will agree to this, and look forward to receiving all responsive documents on or before February 20, 2018.

Best,

[REDACTED]
Born Free USA

From: shaunta_nichols@fws.gov [mailto:shaunta_nichols@fws.gov] On Behalf Of FOIA, FWHQ
Sent: Monday, January 29, 2018 11:36 AM
To: [REDACTED] <[REDACTED]>
Subject: FWS-2018-00213: Acknowledgement Letter

Ms. Bale:

Please see attached.

Thank You,
Shaunta Nichols

--
United States Fish and Wildlife Service
Headquarters Freedom of Information Act Office
MS: IRTM
5275 Leesburg Pike
Falls Church, VA 22041

EXHIBIT 7

[REDACTED]

From: [REDACTED]
Sent: Friday, March 9, 2018 3:24 PM
To: 'shaunta_nichols@fws.gov'
Subject: RE: FWS-2018-00213: Acknowledgement Letter

Dear Ms. Nichols,

I'm writing to follow up with you because Born Free USA did not receive the requested documents that the FWS FOIA office said we would be given by February 20, 2018. Can you please provide any updates about our request? We would like to know the status to help us determine if we will pursue a lawsuit.

Thank you,

[REDACTED]
Born Free USA

From: [REDACTED]
Sent: Monday, January 29, 2018 2:52 PM
To: 'FOIA, FWHQ' <fwhq_foia@fws.gov>
Subject: RE: FWS-2018-00213: Acknowledgement Letter

Dear Ms. Nichols,

Thank you for your email and for granting our fee waiver request. Because you have classified Born Free USA as an "other-use" requester, please let us know before you incur any charges.

While Born Free USA is disappointed in receiving documents within a 60-day time frame, we will agree to this, and look forward to receiving all responsive documents on or before February 20, 2018.

Best,

[REDACTED]
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From: shaunta_nichols@fws.gov [mailto:shaunta_nichols@fws.gov] On Behalf Of FOIA, FWHQ
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Ms. Bale:

Please see attached.

Thank You,
Shaunta Nichols

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United States Fish and Wildlife Service
Headquarters Freedom of Information Act Office