

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

GWICH'IN STEERING COMMITTEE,
ALASKA WILDERNESS LEAGUE,
DEFENDERS OF WILDLIFE, and THE
WILDERNESS SOCIETY,

Plaintiffs,

v.

U.S. DEPARTMENT OF THE INTERIOR,
U.S. BUREAU OF LAND MANAGEMENT,
and U.S. FISH AND WILDLIFE SERVICE,

Defendants.

Civ. A. No. 19-2978 (CJN)

JOINT STATUS REPORT

The parties, by and through counsel, submit the following Joint Status Report pursuant to the Court's Order dated January 28, 2020.

The Status of Plaintiffs' FOIA Requests

This matter involves a total of nine Freedom of Information Act (FOIA) requests that Plaintiffs submitted to three separate components of the Department of the Interior: (1) four requests to the Alaska State Office of U.S. Bureau of Land Management (BLM); (2) four requests to the Office of the Secretary of the Department of the Interior (OS); and (3) a single request to the Alaska Region of the U.S. Fish and Wildlife Service (FWS). Since the parties' second Joint Status Report dated January 17, 2020, BLM, OS, and FWS have all released two interim record productions and Plaintiffs have emailed to discuss specific concerns with previous disclosures. Parties continue to work towards the resolution of outstanding issues as described below.

The BLM Requests

BLM issued a response for the “BLM S.O. 3355 Request” (BLM-2019-00324) on October 15, 2019. Parties are working together to address Plaintiffs’ concerns regarding the sufficiency of BLM’s response to BLM S.O. 3355 Request. Parties will attempt to resolve this dispute without the Court’s involvement.

For the “BLM Government Shutdown Request” (BLM-2019-00963), BLM released 671 responsive pages of the 1,000 total potentially responsive pages on December 19, 2019. BLM subsequently released a second batch of records totaling 1,114 pages responsive to the BLM Government Shutdown Request and the “BLM Draft EIS Deliverable Request” (BLM-2019-00383) on January 30, 2020. This release completed production for the BLM Government Shutdown Request, and was the first interim production of 831 pages of responsive records for the BLM Draft EIS Deliverable Request. As the productions proceed, the parties will continue to confer on any open issues concerning the sufficiency of completed productions and attempt to resolve disputes without the Court’s involvement.

BLM has completed searches for the two outstanding BLM requests. Defendants estimated a total of 13,819 potentially responsive pages remain for the two requests: 4,419 pages for the BLM Draft EIS Deliverable Request and 9,400 pages for the “BLM Seismic Communications Request” (BLM-2019-00483) in the January 17, 2020 Joint Status Report. Currently, Defendants have committed to a processing rate of 500 pages per month. Parties do not agree on the processing rate for these remaining requests; their positions are set out below.

Defendants Position

The BLM Alaska FOIA office’s resources are already overextended as it processes requests for this case, for the related *Defenders of Wildlife v. DOI, et al.*, Civ. A. No. 18-2572 (CJN) (*Defenders*) case, and for dozens of other related requests that are not in litigation. The

fastest rate at which BLM Alaska can process potentially responsive records is the current rate of 500 pages per month. However, BLM is willing to work with Plaintiffs to further narrow and/or prioritize material within each request, so that material of most interest to Plaintiffs is provided first, and which will likely shorten the overall time required to process all records of interest.

Plaintiffs Position

Disclosure at a rate of 500 pages per month will take over 2.5 years for these requests. Plaintiffs stress that this is too long as the records are relevant to an ongoing administrative proceeding and are sought to increase public understanding and engagement now, and to provide public oversight of BLM's activities related to the implementation of an oil and gas leasing program on the Coastal Plain of the Arctic National Wildlife Refuge. After Plaintiffs receive Defendants' search parameters, they will work with Defendants to facilitate timely disclosure and may be able to prioritize records or narrow the scope of the searches to reduce the number of documents that must be produced. Plaintiffs may also seek quicker release of these records.

Parties' Agreement on Processing the BLM Draft EIS Deliverable Request and the BLM Seismic Communications Request

While parties do not agree on the disclosure rate for these requests, in an attempt to resolve this issue without Court involvement, Defendants commit to provide the Plaintiffs with the search parameters for these requests by February 24, 2020. Parties will work collaboratively after Plaintiffs' receipt of the search parameters.

The OS Requests

The OS issued a final response for the "DOI Government Shutdown Request" (OS-2019-00520) on October 15, 2019. As with the BLM S.O. 3355 Request, Parties are working together to address Plaintiffs' concerns regarding the sufficiency of OS's response to DOI Government Shutdown Request. Parties will attempt to resolve this dispute without the Court's involvement.

The OS completed its production and issued a final response for the “DOI Porcupine Caribou Herd Request” (OS-2019-0378) releasing 35 pages on January 14, 2020. Plaintiffs emailed Defendants detailing their concerns about the sufficiency of OS’s response to the DOI Porcupine Caribou Herd Request on January 22, 2020. Defendants have yet to substantively respond to this email, but previously indicated their willingness to work with Plaintiffs on these issues. Defendants intend to generate a response to Plaintiffs’ concerns by February 21, 2020.

The OS produced records for the “DOI S.O. 3355 Request” (OS-2019-0314) totaling 469 pages and the “DOI Seismic Communications Request” (OS-2019-0565) totaling 742 pages on February 10, 2020. The OS commits to conduct supplemental searches for all the OS requests described in this section. Parties commit to work together to develop terms and parameters for the supplemental searches and a supplemental production schedule for additional records. The OS commits to provide the Plaintiffs with the search parameters for all the OS requests by February 28, 2020 to facilitate this discussion. The OS commits to produce all records gathered as of the date of this filing by the end of March 2020. As noted above, the parties plan to confer on any open issues as Defendants’ productions proceed.

The FWS Request

As detailed in the December 13th Joint Status Report, the parties disagree about the extent to which the Plaintiffs’ request to FWS — the “FWS Seismic Communications Request” (FWS-2019-00782) — overlaps with another FWS request at issue in the *Defenders* case also before this Court. Parties have yet to resolve this issue,¹ but are working to narrow this issue.

¹ The parties maintain their respective position statements from the December 13, 2019 Joint Status Report.

Defendants emailed Plaintiffs a description of the search process and the search parameters on January 31, 2020. Plaintiffs requested subsequent searches be performed and the resultant records be released concurrent with the Defenders' litigation on February 13, 2020. Parties will attempt to resolve the matter without Court involvement.

For the time being, parties agree to carry out their current agreement outlined in the December 13th Joint Status Report. Plaintiffs received the most recent FWS disclosure from the *Defenders* case on January 31, 2020.

The Parties' Joint Proposed Schedule

The parties request that the Court direct the parties to file another Joint Status Report on or before March 18, 2020, to update the Court on the status of Defendants' productions and any other issues the parties wish to bring to the Court's attention, and to propose a schedule for further proceedings. A proposed order adopting the terms of this status report is attached.

Dated: February 18, 2020

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