



# United States Department of the Interior



## FISH AND WILDLIFE SERVICE

911 NE 11<sup>th</sup> Avenue  
Portland, Oregon 97232-4181

In Reply Refer to:  
ABA-CGS-FOIA  
FWS-2020-00064

March 30, 2020

*Sent by Email*

Darlene Schanfald  
PO BOX 2664  
Sequim, WA 98282

Dear Darlene:

This letter completes our response to your Freedom of Information Act (FOIA) request dated Oct 23, 2019 regarding the following:

Proposal to farm shellfish from Dungeness Refuge.

We are releasing the following:

- 10 records in full responsive to your request
- 9 records have been partially redacted under Exemption 5, Attorney Client, Exemption 5, Commercial Information
- 1 record is withheld in full under Exemption 5, Attorney Client

### **Ex 5 Commercial Information**

This exemption allows for the redaction of conference call information or similar information.

### **Ex 5 Attorney Client**

The attorney-client privilege protects confidential communications between an attorney and his client relating to a legal matter for which the client has sought professional advice and is not limited to the context of litigation. Moreover, although it fundamentally applies to confidential facts divulged by a client to his/her attorney, this privilege also encompasses any opinions given by an attorney to his/her client based upon, and thus reflecting, those facts, as well as communications between attorneys that reflect confidential client-supplied information.

This decision was made by Frank Wilson, US Solicitor, located in the Portland, Oregon office.

### **Mediation Services**

The 2007 FOIA amendments created the Office of Government Information Services (OGIS) 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. You may contact OGIS 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](mailto:ogis@nara.gov)  
Web: <https://ogis.archives.gov>  
Telephone: (202) 741-5770  
Fax: (202) 741-5769  
Toll-free: 1 (877) 684-6448

Please note that using OGIS services does not affect the timing of filing an appeal with the Department's FOIA & Privacy Act Appeals Officer.

OGIS serves as a bridge between requesters and agencies, particularly in situations where clear, direct communication has been lacking. You can reach OGIS by email at [ogis@nara.gov](mailto:ogis@nara.gov), by phone at 1-877-684-6448, or by fax at (202) 741-5769.

### **Appeal Rights**

You may appeal this partial response to the Department's FOIA/Privacy Act Appeals Officer. If you choose to appeal, the FOIA/Privacy Act Appeals Officer must receive your FOIA appeal **no later than 90 workdays** from the date of this letter. 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 include an explanation of why you believe the FWS's response is in error. You must also include with your appeal copies of all correspondence between you and the FWS concerning your FOIA request, including your original FOIA request and the FWS's response. Failure to include with your appeal all correspondence between you and the 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](mailto:FOIA.Appeals@sol.doi.gov)

For more information on FOIA Administrative Appeals, you may review the Department's FOIA regulations at [43 C.F.R. Part 2, Subpart H](#).

### **Conclusion**

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of FOIA. See [5 U.S.C. 552\(c\)](#). This response is limited to those records that are subject to the requirements of 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 any questions on your FOIA request, please contact me at [john\\_declerck@fws.gov](mailto:john_declerck@fws.gov) or by telephone at 503-231-2072.

Sincerely,

John De Clerck  
U.S. Fish and Wildlife Service  
Pacific Regions FOIA Coordinator  
Region 1 and Region 8