

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

WILDEARTH GUARDIANS)	
516 Alto St.)	
Santa Fe, NM 87501)	
)	
Plaintiff,)	Case No. 1:17-cv-1160
)	
v.)	
)	
BUREAU OF LAND MANAGEMENT)	
1849 C St. NW)	
Washington, D.C., 20240,)	
)	
Defendant.)	

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

INTRODUCTION

1. Defendant United States Bureau of Land Management (“BLM”) has violated the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 *et seq.* by failing to provide a determination on Plaintiff WildEarth Guardians’ (“Guardians”) FOIA request within the time limits provided by the FOIA. This lawsuit requests an order that declares that BLM has violated FOIA by withholding documents responsive to Guardians’ request, enjoins the agency to immediately provide a determination on Guardians’ FOIA request, and enjoins the agency to provide Guardians with the files it has requested by a date certain.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to the Freedom of Information Act, 5 U.S.C. § 552(a)(4)(B). This Court also has jurisdiction over this action pursuant to 28 U.S.C. § 1331 (federal question).

3. This Court has authority to grant declaratory relief pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201. This Court has authority to grant injunctive relief pursuant to 28 U.S.C. § 2202 and 5 U.S.C. § 552(a)(4)(B).

4. This Court has authority to award costs and attorney fees pursuant to 28 U.S.C. § 2414 and 5 U.S.C. § 552(a)(4)(E).

5. Venue is appropriate under 5 U.S.C. § 552(a)(4)(B), 703, and 28 U.S.C. § 1391.

PARTIES

6. Plaintiff WILDEARTH GUARDIANS (“Guardians”) is a non-profit conservation organization dedicated to protecting and restoring the wildlife, wild places, wild rivers, and health of the American West. Guardians has offices in Colorado, Montana, New Mexico, Arizona, Washington, and Oregon. With more than 200,000 members and supporters, Guardians works to sustain a transition from fossil fuels to clean energy in order to safeguard the West. The records sought in this action are requested in support of these efforts.

7. Guardians works in furtherance of its goals in part by acquiring information regarding federal programs and activities through the federal Freedom of Information Act. Guardians then compiles and analyzes that information and, subsequently, disseminates that information to its membership, the general public, and public officials through various sources including publications, reports, its website and newsletter, general news media coverage, and public presentations. Guardians’ successful efforts at educating the public on issues concerning federal government program and activities that affect the environment contribute significantly to the public’s understanding of governmental operations and activities. Guardians also uses the information that it acquires through FOIA to participate in federal decision making processes, to

file administrative appeals and civil actions, and generally to ensure that federal agencies comply with federal environmental laws.

8. Guardians and its members are directly injured by BLM's failure to comply with the statutory requirements of FOIA and a favorable outcome of this litigation will redress that injury. Guardians bring this action on behalf of itself, its staff, and its members.

9. Defendant BUREAU OF LAND MANAGEMENT ("BLM") is a federal agency within the United States Department of Interior. It is in possession and control of the records sought by Guardians, and as such, it is subject to FOIA pursuant to 5 U.S.C. § 552(f).

FACTUAL AND LEGAL BACKGROUND

10. FOIA requires federal agencies to "determine within 20 days . . . after the receipt of any [FOIA] request whether to comply with such request and . . . immediately notify the person making such request of such determination and the reasons therefor." 5 U.S.C. §552(a)(6)(A)(i).

11. On January 12, 2017, Guardians submitted a Freedom of Information Act request to BLM. Guardians submitted the FOIA via email. The FOIA request was for any and all records associated with BLM's decision rejecting Guardians' petition that the agency prepare a programmatic environmental review of its oil and gas leasing program and place a moratorium on new oil and gas leasing until the programmatic review was completed. The request was limited to records created, modified, or acquired on or after January 20, 2016, and excluded records that are already publicly available online.

12. On January 31, 2017, Guardians received confirmation via e-mail that the FOIA request was received and being processed. The request number was listed as, "BLM-2017-00251." According to the e-mail, Guardians' FOIA request was being processed on the "normal"

track which would be processed in 6-20 business days. BLM did not assert in this communication that any “unusual circumstances” were present that would merit a 10 work day extension. Additionally, BLM did not request that Guardians limit the scope of the request or agree to an alternative time period for processing.

13. On February 25, 2017, Guardians appealed BLM’s failure to respond to its January 12, 2017, FOIA request within the statutory time limits.

14. When BLM did not respond to Guardians’ appeal within 20 working days as required by FOIA, 5 U.S.C. § 552(a)(6)(A)(ii), on March 24, 2017, Guardians sent an e-mail to the BLM Appeals Office requesting a status update on the pending appeal. BLM did not respond.

15. On May 31, 2017, Guardians sent another email to BLM requesting a status update on the pending appeal. BLM did not respond.

16. Guardians has fully exhausted its administrative remedies under 5 U.S.C. § 552(a)(6)(C) for its FOIA request. Guardians now turns to this Court to enforce the remedies and public access to agency records guaranteed by FOIA.

CLAIM FOR RELIEF

Violation of FOIA—Failure to Respond to Guardians’ FOIA Request Within the Statutory Time Frame

17. All previous paragraphs are incorporated herein by reference.

18. BLM’s failure to respond to Guardians’ FOIA request within the 20-day statutory time frame violated FOIA. 5 U.S.C. § 552(a)(6)(A)(i).

19. BLM continues to violate FOIA by failing to respond to Guardians’ request for documents and records relating to BLM’s denial of Guardians’ petition.

20. Unless enjoined and made subject to a declaration of Guardians' legal rights by this Court, BLM will continue to violate the Guardians' rights to receive public records under FOIA.

21. Guardians is entitled to reasonable costs of litigation, including attorney fees pursuant to FOIA, for this violation. 5 U.S.C. § 552(a)(4)(E).

REQUEST FOR RELIEF

WHEREFORE, WildEarth Guardians respectfully requests that this Court:

- A. Declare that BLM violated FOIA by failing to make a timely determination on Guardians' records request;
- B. Order BLM to immediately make a determination on Guardians' records request and provide Guardians with the records responsive to its request;
- C. Maintain jurisdiction over this action until BLM complies with FOIA;
- D. Award Guardians its costs and reasonable attorney fees incurred in prosecuting this action, 5 U.S.C. § 552(a)(4)(E); and
- E. Grant such other and additional relief as the Court deems just and proper.

Respectfully submitted on the 14th day of June 2017,

/s/ Samantha Ruscavage-Barz
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