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United States Department of the Interior

FISH AND WILDLIFE SERVICE
Post Office Box 1306
Albuquerque, New Mexico 87103

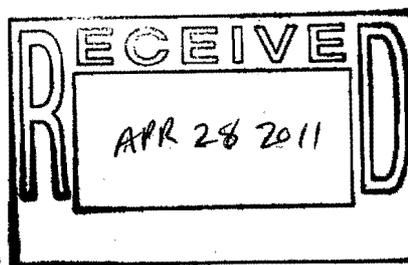


In Reply Refer To:
FWS/R2/BA-IRTM/FOIA/047999
FWS-2008-00140

APR 21 2011

**NO search records attached*

Mr. Michael Robinson
Center for Biological Diversity
Post Office Box 53166
Pinos Altos, New Mexico 88053



Dear Mr. Robinson:

MAY 26 2011

This is a final response to your Freedom of Information Act (FOIA) request dated November 10, 2007. Your request was received in Region 2 of the U.S. Fish and Wildlife Service on November 15, 2007. In this request, you sought information pertaining to the Aspen and Durango Packs of Mexican gray wolves. Specifically, you requested:

- Any of these animals having any interactions with domestic animals, live or dead.
- Any of these animals having contact with or proximity to humans, residences, businesses, and/or private lands.
- Any of these animals sustaining injuries, disease or deaths resulting from control actions and/or subsequently in captivity.
- Any other mortalities or injuries sustained by these animals in the wild, excluding law enforcement records that may properly be withheld.

Your request was forwarded to the New Mexico Ecological Services Field Office (NMESFO) where staff has located and reviewed approximately 142 documents (consisting of approximately 422 pages) responsive to your request. Of these, we are referring 12 pages to the Department of Agriculture, Animal and Plant Health Inspection Service, Wildlife Services, and 11 pages to the Service's Office of Law Enforcement, as described below.

Of the remaining documents, approximately 252 pages, are being released to you in full, and approximately 147 pages have been partially withheld (redacted) pursuant to FOIA Exemptions (b)(6), (b)(7)(C) and/or (b)(7)(E) for reasons discussed below. Information redacted has been identified within each document. An index describing each of these documents and our release determination is also enclosed for your review.

Approximately 17 pages have been redacted pursuant to Exemption (b)(7)(E). Items withheld under this exemption consist of such information as radio telemetry frequencies, radio serial numbers (which can be

used to obtain frequencies), as well as specific information describing techniques used to identify wolves. These data serve a dual purpose and are used by both the biologists and law enforcement personnel.

This information has been redacted pursuant to Exemption (b)(7)(E), on the basis that disclosure of pertinent details related to the identification/tracking techniques could reduce or nullify the effectiveness of certain law enforcement procedures employed during investigations. Disclosure of this information could allow for interference with future investigations, could bring harm to the wolves and/or allow for tampering with evidence and/or locations under investigation. Please note, redactions are identified on each document as "b2/b7E"; however, only exemption (b)(7)(E) applies.

Approximately 135 pages have been redacted pursuant to FOIA Exemption (b)(6). Information, such as the names, home phone numbers, home addresses, and personal email addresses of the private individuals that appear in these documents reveal personal information protectable under Exemption 6. The personal information in the context of these files does not directly reveal Government operations or activities or "shed light on [our] agency's performance of its statutory duties" (*U.S. Dep't of Justice v. Reporters Comm. For Freedom of the Press*, 489 U.S. 749, (1989)). Nor does this information contribute to the FOIA's core purpose, "...that the Government's activities be opened to the sharp eye of public scrutiny, not that information about private citizens that happens to be in the warehouse of the Government be so disclosed." *Id.* Further, your request does not articulate a public interest that would be served by disclosure of this particular information and we are unaware of any other substantial public interest to be served by releasing this personal information. Therefore, in light of these factors, we have determined the balancing of the interest weighs in favor of non-disclosure of this personal information under FOIA Exemption 6 (5 U.S.C. §552 (b)(6)).

Additionally, approximately 19 pages have been redacted under both Exemptions (b)(6) and (b)(7)(C). In these cases, the names and/or contact information of agents of the Service identified to assist with law enforcement issues, as well as law enforcement personnel, have been withheld. Under Exemption (b)(7)(C), agencies may withhold information that "could reasonably be expected to constitute an unwarranted invasion of personal privacy" (U.S.C. §552(b)(7)(C)). Due to the sensitive nature of law enforcement's involvement with the wolf program and activities, the Service believes the release of this information could "violate the privacy of the subject individual, and/or cause injury or embarrassment to the individual" (383 DM 15, 5.8(b)).

Six documents (consisting of 11 pages) are being referred to the Fish and Wildlife Service's Office of Law Enforcement (OLE) for a final release determination and direct response to you. Based on our review, these documents may be part of, or make direct reference to, an investigative file maintained by the Service's OLE. Because the Chief, OLE, is the official custodian of all investigative records, your request is being referred to their office by copy of this letter. They will respond to you directly concerning these documents. Please direct inquiries regarding this referral to the Freedom of Information Act Officer, at the U.S. Fish and Wildlife Service, Office of Law Enforcement, 4401 N. Fairfax Drive, MS LE-3000, Arlington, Virginia 22203, telephone 703-358-1949.

Lastly, we have located six documents (consisting of 12 pages) that originated with the Department of Agriculture, Animal and Plant Health Inspection Service, Wildlife Services. Therefore, by copy of this letter, and in accordance with the Department of the Interior's FOIA regulation (43 C.F.R. §2.22), we are referring these documents to their agency for a direct response to you. Please direct inquiries regarding this referral to Tonya Woods, FOIA Director or Celeste Camp, Assistant Director, USDA - Animal and

Mr. Michael Robinson

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Plant Health Inspection Service, Legislative and Public Affairs, Freedom of Information Act, 4700 River Road, Unit 50, Riverdale, MD 20737, Phone: 301-734-8296, Fax: 301-734 -5941, Email: foia.officer@aphis.usda.gov

This response to your request was made in consultation with Justin Tade, Attorney-Advisor, Office of the Solicitor, U.S. Department of the Interior. You may appeal this partial denial to the FOIA Appeals Officer. The FOIA Appeals Officer must receive your FOIA appeal no later than 30 workdays from the date of this final letter responding to your FOIA request. Appeals arriving or delivered after 5 p.m. E.T., Monday through Friday, will be deemed received on the next workday. Your appeal must be in writing and addressed to:

Freedom of Information Act Appeals Officer
U.S. Department of the Interior
Office of the Solicitor
1849 C Street, NW, MS 6556
Washington, DC 20240

You must include, with your appeal, copies of all correspondence between you and the Service concerning your FOIA request including a copy of your original FOIA request and this letter. Failure to include this documentation with your appeal will result in the Department's rejection of your appeal. The appeal should be marked on both the envelope and the face of the letter with the legend, "FREEDOM OF INFORMATION APPEAL." Your letter should include in as much detail as possible any reason(s) why you believe the Service's response is in error.

This completes Region 2's response to your request. In accordance with 43 C.F.R. §2.19 and Appendix D, your request for a fee waiver was approved. If you have any questions, please contact our Regional FOIA Coordinator, Lisa Krabbe, at 505-248-6289 or by e-mail at lisa_krabbe@fws.gov.

Sincerely,



ACTING Regional Director

Enclosure

Mr. Michael Robinson

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cc: FOIA Director, USDA – Animal and Plant Health Inspection Service
FOIA Officer, Office of Law Enforcement, Region 9
Special Agent in Charge, Region 2
FOIA Coordination, ES, Region 2
FOIA Coordinator, NMESFO, Region 2
Mexican Wolf Program Coordinator, NMESFO, Region 2
Regional Solicitor, Albuquerque, New Mexico
Native American Liaison, Region 2, Albuquerque, New Mexico
Law Office of Robert C. Brauchli., Tucson, Arizona
Sensitive Species Biologist, White Mountain Apache Tribe
Senior Biologist, San Carlos Apache Tribe