

# OCEANA

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December 23, 2003

Freedom of Information Act Officer  
National Oceanic and Atmospheric Administration  
Public Reference Facility (OFA53)  
1305 East West Highway (SSMC4)  
Room 8627  
Silver Spring, Maryland 20910

Dear FOIA Officer:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the United States Department of Commerce FOIA regulations, 15 C.F.R. part 4, Oceana seeks information concerning documents related to the National Marine Fisheries Service's (Fisheries Service) new National Bycatch Strategy.

Specifically, this request seeks the following documents (including any reports, memoranda, correspondence, e-mail, and records of telephone conversations), whether in draft or final form:

1. All documents dated from February 28, 2002, to the present leading to or relating in any way to the development of the NOAA Fisheries response to Oceana's bycatch petition for rulemaking dated February 28, 2002.
2. All documents dated from April 18, 2002, to the present related to comments received about the bycatch petition.
3. All "regional report cards" on bycatch that were developed in response to the bycatch petition. Specifically, we request all documents dated from April 18, 2002, to the present concerning the status of each region meeting the bycatch reduction and minimization requirements under the Magnuson-Stevens Act, the Marine Mammal Protection Act, the Endangered Species Act, and the Migratory Bird Treaty Act, and all documents used in preparing the regional implementation reports.
4. Any written summaries of the national observer program workshop that took place in Seattle, Washington.

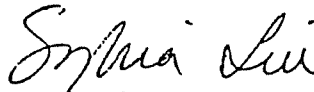
5. The document referred informally as "the Holliday Report," which we understand involves the agency's analysis of the priorities for its bycatch program.

As provided by FOIA and Department of Commerce FOIA regulations, 15 C.F.R. § 4.11, we request a waiver of all search and copying fees associated with answering this request. Oceana is a nonprofit, public-interest marine conservation organization seeking to protect and restore ocean life with no commercial interest in the documents requested. By sharing the documents with other non-profit organizations and the public at large, Oceana will contribute significantly to public understanding of NMFS' activities on the status of bycatch minimization and reduction activities across the country.

Please let me know whether the waiver of all search and copying fees will be granted before complying with this request, or if you need additional information from Oceana. Moreover, if the records described in this request are voluminous, please feel free to contact me to discuss possible ways to satisfy this request in the most efficient manner.

I look forward to your response within twenty days, as required by 5 U.S.C. § 552(a)(6)(A)(i). Thank you for your assistance. Please feel free to contact me at (202) 933-3900 if you have any questions concerning this request.

Very truly yours,



Sylvia Liu  
Senior Attorney

JUN 9 - 2004



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE  
1315 East-West Highway  
Silver Spring, Maryland 20910  
THE DIRECTOR

Ms. Sylvia Liu, Senior Attorney  
Oceana  
2501 M Street, Suite 300  
Washington, DC 20037

*Sylvia*  
Dear Ms. Liu:

This is in response to your Freedom of Information Act (FOIA) request that was received on January 8, 2004, and assigned FOIA case number 200-00164. Your request was for documents concerning the National Marine Fisheries Service's (NMFS's) National Bycatch Strategy.

We have located approximately 12,000 pages of responsive records. You are granted full access to those records, and a copy is enclosed. However, one responsive internal record is exempt from mandatory public disclosure and is being withheld under FOIA Exemption 5.

5 U.S.C. Section 552(b)(5), permits the withholding of information that could be withheld under attorney-client privilege.

You have a right to appeal the denial of this information by submitting a written appeal to the Assistant General Counsel for Administration, U.S. Department of Commerce, Office of General Counsel, Room 5875, 14<sup>th</sup> Street & Constitution Avenue, N.W., Washington, D.C. 20230. Your appeal must be received by the Assistant General Counsel within 30 calendar days from the date of this letter. Both the appeal envelope and the letter should be clearly marked "Freedom of Information Appeal". The appeal must include a copy of the original request; the initial determination, if any; a statement of why the record requested should be made available; and why the initial determination was in error.

If you have any questions regarding your request, you may contact Lee Benaka at (301) 713-2341.

Sincerely,

*Rebecca Hunt*  
*for* William T. Hogarth, Ph.D.

Enclosures



