



June 6, 2024

VIA ELECTRONIC MAIL

Crystal Matta  
Mississippi Department of Marine Resources  
1141 Bayview Avenue  
Biloxi, MS 39530  
crystal.matta@dmr.ms.gov

Re: Mississippi Public Records Act Request: Blue Crab Traps & Diamondback Terrapin

Dear Ms. Matta:

The Center for Biological Diversity (“Center”) is a non-profit organization that works to secure a future for all species hovering on the brink of extinction through science, law, and creative media, and to fulfill the continuing educational goals of its membership and the general public in the process. The Center makes this request pursuant to Mississippi Public Records Act<sup>1</sup>, which requires state agencies to promptly respond to requests for public records.

REQUESTED RECORDS

The Center requests from the Mississippi Department of Marine Resources (“MDMR”) from January 1, 2013 to December 31, 2023 to the records documenting the:

1. Number of licensed commercial crabbers;
2. Number of participants in recreational crabbing;
3. Number of crab pots used daily by the entire commercial fishery;
4. Number of crab pots in use by recreational crabbers;
5. Number of derelict/ghost crab pots in state waters;
6. Crabbing effort by location; and/or
7. Reported terrapin bycatch.

*Please note: this request excludes email communications.*

Should you decide to invoke a Public Records Act exemption, please include in your full or partial denial letter sufficient information for us to appeal the denial, including:

1. Basic factual material about each withheld item, including the originator, date, length, general subject matter, and location of each item; and

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<sup>1</sup> Miss. Code Ann. 25-61-1 *et seq.*

2. Complete explanations and justifications for the denial, including the category within the governing statutory provision under which the record (or portion thereof) was withheld and a full explanation of how each exemption fits the withheld material. Such statements will be helpful in deciding whether to appeal an adverse determination. Your written justification may help to avoid litigation.

If you determine that portions of the requested records are exempt from disclosure, we request that you produce the remainder portions of such records and mail the remaining records to my attention at the address below location within the statutory time limit.<sup>2</sup>

### FORMAT OF REQUESTED RECORDS

The Center requests that MDMR provide records in a readily accessible electronic format. “Readily-accessible” means text-searchable and OCR-formatted. Please provide all records in a readily accessible, electronic .pdf format. Additionally, please provide the records either in (1) load-ready format with a CSV file index or excel spreadsheet, or if that is not possible; (2) in .pdf format, without any “profiles” or “embedded files.” Profiles and embedded files within files are not readily accessible. Please do not provide the records in a single, or “batched,” .pdf file. We appreciate the inclusion of an index.

If MDMR determines that the requested records are subject to a still-valid exemption, we would further request that: (1) MDMR exercise discretion to disclose some or all of the records notwithstanding the exemption; and (2) with respect to records containing both exempt and nonexempt content; that MDMR redact the exempt content and disclose the rest. Should MDMR elect to withhold any documents, please explain under which provision this is justified.

### RECORD DELIVERY

If the MDMR is unable to promptly provide a response promptly after receipt of this request, we ask that you certify that fact in writing and set a date and hour within a reasonable time when the information will be available for inspection.

Please provide a complete reply as expeditiously as possible. You may email or mail copies of the requested records to:

Ann K. Brown  
Center for Biological Diversity  
P.O. Box 11374  
Portland, OR 97211  
foia@biologicaldiversity.org

If you find that this request is unclear, or if the responsive records are voluminous, please email me to discuss the scope of this request.

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<sup>2</sup> Md. Code Ann. §§ 4-101 to 4-601.

## REQUEST FOR FEE WAIVER

The Center requests a waiver of all fees because the disclosure of the requested records is in the public interest. Disclosure of the requested records will allow the Center to convey information to the public about unregulated recreational and commercial blue crab traps in many Atlantic and Gulf Coast states. These traps lack comprehensive regulations and monitoring, which has led to tens of thousands of derelict crab traps in Atlantic and Gulf Coast waters, bays, and estuaries. As a result, these “ghost traps” are causing the mortality of tens of thousands of imperiled diamondback terrapins annually. In addition, active crab traps are also causing significant diamondback terrapin mortality. State and federal government agencies have failed to take significant actions to address diamondback terrapin mortality due to crab traps, and they have provided scant public data about the number of recreational and commercial crab traps deployed. Responsive records will help the public understand the extent of unregulated crab traps and their potential impact on a declining and imperiled species. Once the information is made available, the Center will analyze it and present it to its 1.7 million members and online activists and the general public in a manner that will meaningfully enhance the public’s understanding of this topic.

### I. The Center Qualifies for A Fee Waiver.

While we are not requesting photocopies at this time, the Center respectfully requests a waiver for any fees associated with this matter. The Center is a non-profit conservation organization dedicated to protecting the environment, and educating the public about environmental resources and threats to those resources. The Center has members throughout Mississippi. Once the records are made available, the Center will analyze and use them in a manner that will meaningfully enhance the public’s understanding of the importance of conserving diamondback terrapin. Through the Center’s synthesis and dissemination (by means discussed in Section II, below), disclosure of information contained and gleaned from the requested records will contribute to a broad audience of persons who are interested in the subject matter. We believe that a fee waiver is consistent with the letter and spirit of the law.

### II. The Center has a Demonstrated Ability To Disseminate The Requested Information Broadly.

The Center will use the requested records for outreach and education, including media, as well as or other legal efforts. The Center is a non-profit organization that informs, educates, and counsels the public regarding environmental issues, policies, and laws relating to environmental issues. The Center has been substantially involved in the activities of numerous government agencies for over 30 years, and has consistently displayed its ability to disseminate information granted to it through public records requests.

In consistently granting the Center’s fee-waivers, agencies have recognized: (1) that the information requested by the Center contributes significantly to the public’s understanding of the government’s operations or activities; (2) that the information enhances the public’s understanding to a greater degree than currently exists; (3) that the Center possesses the expertise to explain the requested information to the public; (4) that the Center possesses the ability to

disseminate the requested information to the general public; (5) and that the news media recognizes the Center as an established expert in the field of imperiled species, biodiversity, and impacts on protected species. The Center's track record of active participation in oversight of governmental activities and decision making, and its consistent contribution to the public's understanding of those activities as compared to the level of public understanding prior to disclosure are well established.

The Center's work appears in about 4,000 news stories online and in print, radio, and TV per month, including regular reporting in such important outlets as *The New York Times*, *CNN*, *The Washington Post*, *National Public Radio*, *the Associated Press*, *Los Angeles Times*, and *USA Today*. Many media outlets have reported on the plight of endangered and threatened species utilizing information obtained by the Center from state and federal agencies. In 2023, more than 3.6 million people visited the Center's extensive website, viewing pages almost 6 million times. In 2023, more than 1.6 million actions were completed by more than 1.7 million members and supporters. Last year the Center sent over 121,000 printed newsletters to more than 79,000 members. More than 635,000 people follow the Center on Facebook, and there are regular postings regarding the protection of species at risk of imminent extinction. The Center also regularly tweets to more than 142,500 followers on Twitter, and has more than 57,100 followers on Instagram.

The Center intends to use any or all of these far-reaching media outlets to share with the public information obtained as a result of this request.

### III. Conclusion

The Mississippi Public Records Act requires an agency to complete a record request response by the seventh working day after the request is made. We hope that MDMR will immediately grant this fee waiver request and begin to search and disclose the requested records without any unnecessary delays.

If you have any questions, please contact me at foia@biologicaldiversity.org. All records and any related correspondence should be sent to my attention at the address below.

Sincerely,



Ann K. Brown  
Open Government Coordinator  
CENTER FOR BIOLOGICAL DIVERSITY  
P.O. Box 11374  
Portland, OR 97211-0374  
foia@biologicaldiversity.org