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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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STAR PUBLISHING COMPANY;
TONY DAVIS,

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Plaintiffs,

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vs.

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UNITED STATES FISH AND
WILDLIFE SERVICE; UNITED
STATES DEPARTMENT OF
THE INTERIOR,

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Defendants.

No. CIV 13-080-TUC-CKJ

ORDER

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On July 8, 2014, Magistrate Judge D. Thomas Ferraro issued a Report and Recommendation (Doc. 48) in which he recommended that this Court find Defendants have complied with their obligations under the Freedom of Information Act. Plaintiffs have filed an Objection and Defendants have filed a response.

I. Report and Recommendation

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The magistrate judge summarized the procedural history of the case, including the additional proceedings since this matter was referred back to the magistrate judge for further proceedings. The magistrate judge found the current redacted version of Document Three (Interview Transcript) and Document Five sufficiently protect privacy interests without redacting additional non-identifying material. The magistrate judge stated Defendants have provided a copy of the final redactions to Plaintiffs.

1 II. *In Camera Review*

2 The Court has reviewed the documents that are the subject of this litigation. As stated
3 by the magistrate judge, the magistrate judge forwarded these documents and the emails
4 between the magistrate judge and counsel for Defendants to this Court.

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6 III. *Privacy Interests – Names of Public Officials and Other Private Individuals*

7 Plaintiffs again argue the names of employees of the United States Fish and Wildlife
8 Service ("Service") involved in the Macho B case should be disclosed in Document Three
9 and Document Five. Indeed, Plaintiffs argue that additional transparency is needed because
10 the Document Three transcript shows that an Arizona Game and Fish Department ("AGFD")
11 "is at least as concerned how state and federal officials manage the 'story' of the capture and
12 death of 'Macho B' as finding out what happened." Objection , Doc. 49, p. 2. Further,
13 Plaintiffs incorporate previous arguments they have made.

14 In "balanc[ing] the privacy interests of the individuals protected against the public
15 interest at stake[.]" *Rosenfeld v. U.S. Dep't of Justice*, 57 F.3d 803, 808 (9th Cir. 1995), the
16 Court considers that the public interest in the disclosure of the names and identifying
17 information does not greatly advance the public interest and the disclosure of names and
18 identifying information will not appreciably further the public's right to monitor Defendants'
19 actions. However, the disclosure of the names and identifying information would constitute
20 a clearly unwarranted invasion of privacy under 5 U.S.C. § 522(b)(6) and could reasonably
21 be expected to constitute an unwarranted invasion of personal privacy under 5 U.S.C. §
22 552(b)(7). *See Lahr v. Nat'l Transp. Safety Bd.*, 569 F.3d 964, 975-77 (9th Cir. 2009) (a
23 person's privacy interest is highest when disclosure would reveal information collected about
24 them in conjunction with a criminal inquiry; protection from unwanted contact such as by
25 media entities and commercial solicitors "facilitated by disclosure of a connection to
26 government operations and investigations is a cognizable privacy interest[;] persons "retain
27 an interest in keeping private their involvement in investigations of especially controversial

1 events”); *Hunt v. F.B.I.*, 972 F.2d 286, 289 (1992). The Court again finds the disclosure of
2 the names and identifying information would constitute a clearly unwarranted invasion of
3 privacy under 5 U.S.C. § 522(b)(6) and could reasonably be expected to constitute an
4 unwarranted invasion of personal privacy under 5 U.S.C. § 552(b)(7).

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6 Accordingly, IT IS ORDERED:

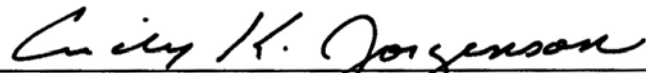
7 1. The Report and Recommendation (Doc. 48) is ADOPTED.

8 2. The Court finds Defendants have complied with their obligations under the
9 Freedom of Information Act and need not further redact the documents at issue.

10 3 The Court’s staff shall return the *in camera* documents (discussed in this Order
11 and the Court’s April 23, 2014, Order) and the emails between the magistrate judge and
12 Defendants’ counsel to counsel for Defendants. Counsel for Defendants shall retain the
13 documents for any appellate review.

14 4. The Clerk of Court shall enter judgment and shall then close its file in this
15 matter.

16 DATED this 3rd day of September, 2014.

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20 Cindy K. Jorgenson
21 United States District Judge
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