

**NOAA-NMFS-2013-0056**  
**Docket No. 130321272-4020-01**

**EXHIBIT G TO THE  
PEER REVIEW COMMENTS  
OF MIAMI SEAQUARIUM**

**May 23, 2014**

## Preview Request

### Agency Selection

Agency : U.S. Department of Commerce  
Sub-Agency : National Oceanic and Atmospheric Administration

### Contact Information

Prefix : Mr.	Mailing Address Location : United States/U.S. Territories
First Name : James	Address Line 1 : 1156
Middle Initial : H	15th
Last Name : Lister	Street
Organization : Birch Horton	Address Line 2 : Suite 1020
Bittner and Cherot, PC - Behalf of Miami Seaquarium	City : Washington
Email Address : jlistner@dc.bhb.com	State/Province : District of Columbia
Phone Number : 202-659-5800	Zip Code/Postal Code : 20005
Fax Number :	

### Processing Fees

Will Pay Up To : \$ 400.00

### Description :

See attached requests for documents under FOIA

### Request a Fee Waiver

### Request Expedited Handling

Make Request ? No

Make Request ? No

**Attach Supporting Files**

Attached File	Type	Size (MB)
<a href="#">00053771.DOCX</a>	Microsoft Word	0.02

- ☒ Agree to [Privacy Act Statement](#). I have read the Privacy Act Statement and agree to the terms set forth.
- ☒ Affirmation. Pursuant to 28 USC § 1746, I declare and affirm that under penalty of perjury under the laws of the United States of America that all of the foregoing information, statements, and signatures submitted in connection with this request and in any supporting documents are true and correct to the best of my knowledge.

**FOIA Request by Birch Horton Bittner and Cherot, P.C. on Behalf of Miami Seaquarium  
to National Marine Fisheries Service**  
(to be submitted via webform through FOIA Online)

In this Freedom of Information Act request, the term “Lolita Petition” refers to the petition filed by People for the Ethical Treatment of Animals and others in January, 2013 asking NMFS to include the killer whale known as Lolita housed at Miami Seaquarium in the Endangered Species Act listing of the Southern Resident Killer Whales. “12 Month Finding” refers to the document the National Marine Fisheries Service (“NMFS”) published at 79 Fed.Reg. 4913 (Jan. 27, 2014) finding that including Lolita in the “endangered” listing of the Southern Resident Killer Whales is warranted and seeking public comment on proposed rules relating to the finding. Office of Protected Resources Branch Chief Lynne Barre in the NMFS Seattle Office is familiar with this matter.

Please provide the following documents:

1. The personal communication with Dr. A.R. Hoelzel cited by NMFS in the 12 Month Finding at 79 Fed. Reg. 4313, 4316 (Jan. 27, 2014), including any email, notes or other documents that constituted or reflected or recorded or summarized the communication.
2. The personal communication with Candice Emmons cited by NMFS in the 12 Month Finding at 79 Fed. Reg. 4313, 4316, including any email, notes or other documents that constituted or reflected or recorded or summarized the communication.
3. The “new genetic analysis, available since the original 2005 listing, which indicates that Lolita has a genotype consistent with a Southern Resident origin” described by NMFS in the 12 Month Finding, 79 Fed.Reg. 4313, 4316.
4. Any recordings or other documents reflecting “Lolita’s acoustical calls” as described by NMFS in the 12 Month Finding, 79 Fed.Reg. 4313, 4316.

We already have, and so do not need, the 2013 Status Review Report referenced in the 12 Month Finding.

Miami Seaquarium is a private corporation and will pay costs of up to \$400 in conjunction with that request. If you anticipate that costs will exceed that amount, please call James H. Lister at 202-659-5800 to discuss approval of a higher cost amount or whether the request may be modified.

Please direct all copies and questions to Miami Seaquarium’s attorney:

James H. Lister  
Birch Horton Bittner and Cherot, P.C.  
Suite 1020, 1156 15<sup>th</sup> Street, NW  
Washington, DC 20005  
[jlister@dc.bhb.com](mailto:jlister@dc.bhb.com)  
202-659-5800