



# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

5275 Leesburg Pike, MS: IRTM  
Falls Church, VA 22041



April 23, 2024

Via Email:lpennock@wildearthguardians.org

Lizzy Pennock  
WildEarth Guardians  
PO Box 7516  
Missoula, MT 59807

REF: DOI-FWS-2024-000444

Dear Ms. Pennock:

This letter is regarding your Freedom of Information Act (FOIA) request dated 03/27/2024 and assigned tracking number DOI-FWS-2024-000444. Please cite this number in future communications regarding your request. You are generally seeking records related to the euthanization and relocation of grizzly bears in Montana's Rocky Mountain Front in March 2024

### Response

This is the final response for your request. We have enclosed thirty-five (35) files consisting of thirty-eight (38) pages, which are being released to you in part as described below.

#### Exemption 6

Eighteen (18) pages are released but withheld in part Exemption 6, which allows an agency to withhold “personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” [5 U.S.C. § 552\(b\)\(6\)](#).

The phrase “similar files” covers any agency records containing information about a particular individual that can be identified as applying to that individual. To determine whether releasing records containing information about a particular individual would constitute a clearly unwarranted invasion of personal privacy, we are required to balance the privacy interest that would be affected by disclosure against any public interest in the information.

Under the FOIA, the only relevant public interest to consider under the exemption is the extent to which the information sought would shed light on an agency’s performance of its statutory duties or otherwise let citizens ‘know what their government is up to. The burden is on the requester to establish that disclosure would serve the public interest. When the privacy interest at stake and the public interest in disclosure have been determined, the two competing interests must be weighed against one another to determine which is the greater result of disclosure - the harm to

personal privacy or the benefit to the public. The purposes for which the request for information is made do not impact this balancing test, as a release of information requested under the FOIA constitutes a release to the general public.

The information that has been withheld under Exemption 6 consists of personal information and identifies private property and we have determined that the individuals to whom this information pertains have a substantial privacy interest in withholding it. Additionally, you have not provided information that explains a relevant public interest under the FOIA in the disclosure of this personal information and we have determined that the disclosure of this information would shed little or no light on the performance of the agency's statutory duties. Because the harm to personal privacy is greater than whatever public interest may be served by disclosure, release of the information would constitute a clearly unwarranted invasion of the privacy of these individuals, and we are withholding it under Exemption 6.

### Exemption 7

Exemption 7 protects from disclosure "records or information compiled for law enforcement purposes" if the records fall within one or more of six specific bases for withholding set forth in subparts (A) through (F). 5 U.S.C. § 552(b)(7)(A)-(F). Eighteen (18) pages are released but withheld in part under Exemption 7 because they are protected under the following subparts:

#### 7(C)

Exemption 7(C) protects law enforcement records if their release could reasonably be expected to constitute an unwarranted invasion of personal privacy. It is regularly applied to withhold references to individuals in law enforcement files. To overcome the significant privacy interests that individuals have in withholding information about them that appears in law enforcement records, the courts have ruled that requesters must establish that the information is needed to confirm or refute compelling evidence of agency misconduct.

#### 7(F)

Exemption 7(F) protects law enforcement records if their release could reasonably be expected to endanger the life or physical safety of any individual. For the materials that have been withheld under 7(F), we have determined releasing them could reasonably be expected to endanger the life or physical safety of an individual because it would endanger the life or physical safety of individuals. Absent a showing of compelling evidence of agency misconduct, the courts have concluded that the privacy interests in withholding identifying information in law enforcement files will always outweigh the insubstantial public interest in disclosure, and have authorized agencies to withhold this information based on exemptions (6), (7)(C), and (7)(f).

For the records you are seeking, we have determined that if any such record did exist, releasing them would constitute an unwarranted invasion of privacy because they would identify individuals referenced in law enforcement records and the release of this information would not shed light on an agency's performance of its statutory duties.

We reasonably foresee that disclosure would harm an interest protected by one or more of the nine exemptions to the FOIA's general rule of disclosure.

Kendall Elifrits, U.S. Fish and Wildlife Service Information Disclosure Specialist is responsible for this partial denial. Eric Dude, Attorney-Advisor, in the Office of the Solicitor was consulted.

### **Mediation/Dispute Resolution**

If after contacting us as described below, you need further information or assistance with your request, you may wish to seek dispute resolution services from the Department's FOIA Public Liaison, Natasha Jones by email at [doifoiapublicliaison@sol.doi.gov](mailto:doifoiapublicliaison@sol.doi.gov).

If you need further information or assistance after contacting the Department's FOIA Public Liaison, you may wish to seek dispute resolution services from the Office of Government Information Services (OGIS). The 2007 FOIA amendments created the OGIS to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. You may contact OGIS in any of the following ways:

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road - OGIS  
College Park, MD 20740-6001  
E-mail: [ogis@nara.gov](mailto:ogis@nara.gov)  
Web: <https://www.archives.gov/ogis>  
Telephone: 202-741-5770  
Fax: 202-741-5769  
Toll-free: 1-877-684-6448

Please note that using OGIS services does not affect the timing of filing an appeal with the Department's FOIA & Privacy Act Appeals Officer.

### **Appeal Rights**

You may appeal this response to the Department's FOIA/Privacy Act Appeals Officer. If you choose to appeal, the FOIA/Privacy Act Appeals Officer must receive your FOIA appeal no later than 90 workdays from the date of this final response. Appeals arriving or delivered after 5 p.m. Eastern Time, Monday through Friday, will be deemed received on the next workday.

Your appeal must be made in writing. You may submit your appeal and accompanying materials to the FOIA/Privacy Act Appeals Officer by mail, courier service, fax, or email. All communications concerning your appeal should be clearly marked with the words: "FREEDOM OF INFORMATION APPEAL." You must include an explanation of why you believe this response is in error. You must also include with your appeal copies of all correspondence between you and FWS concerning your FOIA request, including your original FOIA request and this response. Failure to include with your appeal all correspondence between you and FWS will result in the Department's rejection of your appeal, unless the FOIA/Privacy Act Appeals Officer determines (in the FOIA/Privacy Act Appeals Officer's sole discretion) that good cause exists to accept the defective appeal.

Please include your name and daytime telephone number (or the name and telephone number of an appropriate contact), email address and fax number (if available) in case the FOIA/Privacy Act Appeals Officer needs additional information or clarification of your appeal.

DOI FOIA/Privacy Act Appeals Office Contact Information

Department of the Interior  
Office of the Solicitor  
1849 C Street, N.W.  
MS-6556 MIB  
Washington, DC 20240  
Attn: FOIA/Privacy Act Appeals Office  
Telephone: (202) 208-5339  
Fax: (202) 208-6677  
Email: [FOIA.Appeals@sol.doi.gov](mailto:FOIA.Appeals@sol.doi.gov)

**Conclusion**

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of FOIA. See [5 U.S.C. 552\(c\)](#). This response is limited to those records that are subject to the requirements of FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

This is our final response and closes your request DOI-FWS-2024-000444. If you have any questions about our response to your request, you may me, by email at [kendall\\_elifrits@fws.gov](mailto:kendall_elifrits@fws.gov), or by mail at U.S. Fish and Wildlife Service; ATTN: FOIA Office; 5275 Leesburg Pike; MS: IRTM; Falls Church, VA 22041.

Sincerely,

Kendall Elifrits  
FWS FOIA Coordinator

Enclosure